



Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 11)

I, Kathryn Miller, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 14 April 2021

Kathryn Miller
National Manager, Legal and Enforcement
Australian Transaction Reports and Analysis Centre

Contents

1 Name.....	3
2 Commencement	3
3 Cessation.....	3
4 Authority.....	3
5 Definitions	3
6 Application	5
7 Exempt provisions	5
8 Conditions.....	5
9 Schedules	6
Schedule 1—Confidentiality table	8
Schedule 2—Confidentiality undertaking	9
Schedule 3—Repeals	12

1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 11)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

Two years from the date of the making of this instrument.

4 Authority

This instrument is:

- (a) made under paragraph 248(1)(a) of the Act; and
- (b) subject to conditions as authorised under paragraph 248(2)(b) of the Act.

5 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) corporate group;
- (b) person.

In this instrument:

Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Burswood means Burswood Nominees Limited (ACN 078 250 307) as trustee for the Burswood Property Trust.

Crown corporate group means the corporate group consisting of Crown Resorts and its related bodies corporate.

Crown entity means any of the following companies in the Crown corporate group:

- (a) Burswood;
- (b) Crown Melbourne;
- (c) Crown Resorts;
- (d) Crown Sydney.

Crown Melbourne means Crown Melbourne Limited (ACN 006 973 262).

Crown Resorts means Crown Resorts Limited (ACN 125 709 953).

Crown Sydney means Crown Sydney Gaming Pty Ltd (ACN 166 326 843)

legal practitioner means a person who is:

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- (a) a legal practitioner (howsoever described) engaged by, or on behalf of, a Crown entity; or
 - (b) employed by, or contracted to, a person described in paragraph (a);
- in connection with a matter.

matter means any of the following:

- (a) the AUSTRAC Enforcement Investigation disclosed to the ASX by Crown Resorts on 19 October 2020, and any related requests for information or documents made by AUSTRAC to a Crown entity;
- (b) the Inquiry by the Honourable Patricia Bergin SC under section 143 of the *Casino Control Act 1992* (NSW) established by *Instrument of Appointment* dated 14 August 2019;
- (c) the proceedings in the Supreme Court of Victoria in case number S ECI 2020 04566, and any appeal arising from these proceedings;
- (d) the Royal Commission into Crown Melbourne's suitability to hold its Victorian casino licence, as well as the suitability of its associates, including Crown Resorts, established by letters patent issued in Victorian Government Gazette No. S 83, Monday 22 February 2021; or
- (e) the Royal Commission established by letters patent issued in the Western Australian Government Gazette No. 45, Friday 12 March 2021; or
- (f) an investigation, review or inquiry that has been announced but is yet to commence or is in progress at the commencement of this instrument in relation to the affairs of a member of the Crown corporate group:
 - (i) by the Victorian Commission for Gambling and Liquor Regulation; or
 - (ii) by or at the direction of the Gaming and Wagering Commission of Western Australia or the Western Australian Minister for Racing, Gaming and Liquor; or
 - (iii) by the Australian Criminal Intelligence Commission; or
 - (iv) by the Australian Federal Police; or
 - (v) by the Australian Securities and Investments Commission.

suspicious matter material means any information, the disclosure of which would engage subsections 123(1)–(3) of the Act, and includes information and documents requested by authorised persons under section 49 of the Act relating to a suspicious matter report.

suspicious matter report means a report given to the AUSTRAC CEO under subsection 41(2) of the Act.

third party expert means:

- (a) a person engaged by, or on behalf of, a Crown entity or legal practitioner to provide expert advice in connection with a matter; or

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- (b) employed by a person described in paragraph (a) in connection with the matter.

6 Application

This instrument applies to the disclosure of suspicious matter material by the following persons:

- (a) Burswood;
 - (b) Crown Melbourne;
 - (c) a legal practitioner;
- in connection with a matter.

7 Exempt provisions

- (1) Burswood is exempt from subsections 123(1)–(3) of the Act.
- (2) Crown Melbourne is exempt from subsections 123(1)–(3) of the Act.
- (3) A legal practitioner is exempt from subsection 123(5A) of the Act.

8 Conditions

- (1) This section specifies conditions that apply to the exemption.
- (2) A person exempt from one or more provisions of the Act under section 7 (*exempt person*) may only disclose suspicious matter material to the following persons:
 - (a) an employee or director of Burswood;
 - (b) an employee or director of Crown Melbourne;
 - (c) an employee or director of Crown Sydney;
 - (d) an employee or director of Crown Resorts
 - (e) a legal practitioner;
 - (f) a third party expert.

provided that the recipient of the material has provided a confidentiality undertaking in the form set out in Schedule 2 prior to the disclosure of the material

Note: A person is not required to sign a confidentiality undertaking for each subsequent disclosure of suspicious matter material.

- (3) Each exempt person must:
 - (a) maintain a list in the form of the confidentiality table set out in Schedule 1 of all persons who have received suspicious matter material; and
 - (b) update the list as soon as is practicable after each disclosure of suspicious matter material to an additional person; and
 - (c) send the list to the AUSTRAC CEO within 14 days after creating the list or updating the list.

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- (4) Each exempt person must take all reasonable steps after the conclusion of a matter to:
 - (a) obtain all physical copies of suspicious matter material held by each recipient; and
 - (b) request the deletion of all electronic copies of suspicious material in the possession (actual or constructive) of each recipient; and
 - (c) ensure that suspicious matter material is not disclosed, or caused to be disclosed, outside of Australia.
 - (5) Each exempt person must, in writing, notify the AUSTRAC CEO within 14 days of any event that may affect their ability to comply with this instrument.

9 Schedules

Each instrument that is specified in Schedule 3 to this instrument is repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Important Notice to the person named in this instrument

1. Under subsection 248(3) of the Act, a person granted an exemption subject to one or more conditions must comply with the conditions specified in the instrument. Failure to comply with subsection 248(3) is a civil penalty provision and may result in any or all of the following:
 - the exemption ceasing to apply to the person during any period in which the person does not comply with the relevant condition/s;
 - the exemption being revoked;
 - the AUSTRAC CEO applying to the Federal Court of Australia for a civil penalty order requiring the person to pay a pecuniary penalty in respect of the breach.
2. Under sections 136 and 137 of the Act, it is an offence to provide false or misleading information or documents. If any of the information submitted by the applicant or its representatives is found to be false or misleading, the exemption may be revoked and action initiated against the applicant.
3. The person granted the exemption may request the AUSTRAC CEO to revoke or vary the exemption at any time.
4. Any request to vary or extend this exemption must be submitted to the AUSTRAC CEO or an approved delegate no later than 90 days before the date the change is requested to commence.
5. This exemption does not preclude the person from making communications or disclosures that are otherwise permitted by law.

Schedule 1—Confidentiality table

Name	Position	Address	Date that name was provided to AUSTRAC	In relation to which specified matter

Schedule 2—Confidentiality undertaking

I, _____,

of _____

undertake to AUSTRAC to:

- (1) keep suspicious matter material disclosed to me confidential at all times; and
- (2) not make public or disclose, and not cause to be made public or disclosed, suspicious matter material to any person, either directly or indirectly, unless the disclosure is permitted by this undertaking; and
- (3) securely store any record of suspicious matter material disclosed to me, or which I otherwise have access to; and
- (4) only disclose suspicious matter material to the following persons:
 - (a) an employee or director of Burswood;
 - (b) an employee or director of Crown Melbourne;
 - (c) an employee or director of Crown Sydney;
 - (d) an employee or director of Crown Resorts;
 - (e) a legal practitioner;
 - (f) a third party expert;in connection with a matter; and
- (5) after the conclusion of a matter, return any physical copies of documents containing suspicious matter material to Burswood, Crown Melbourne or a legal practitioner (as applicable) immediately upon request; and
- (6) after the conclusion of a matter, take all reasonable steps to delete all electronic copies of documents containing suspicious matter material immediately upon request by Burswood, Crown Melbourne or a legal practitioner.

For the avoidance of doubt, this undertaking does not preclude me from disclosing suspicious matter material under the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2021 (No. 11)*, or making disclosures that are otherwise permitted by law.

In this undertaking:

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- (b) employed by, or contracted to, a person described in paragraph (a);

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- (b) the Inquiry by the Honourable Patricia Bergin SC under section 143 of the *Casino Control Act 1992* (NSW) established by *Instrument of Appointment* dated 14 August 2019;
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- (d) the Royal Commission into Crown Melbourne's suitability to hold its Victorian casino licence, as well as the suitability of its associates, including Crown Resorts, established by letters patent issued in Victorian Government Gazette No. S 83, Monday 22 February 2021; or
- (e) the Royal Commission established by letters patent issued in the Western Australian Government Gazette No. 45, Friday 12 March 2021; or
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 - (i) by the Victorian Commission for Gambling and Liquor Regulation; or
 - (ii) by or at the direction of the Gaming and Wagering Commission of Western Australia or the Western Australian Minister for Racing, Gaming and Liquor; or
 - (iii) by the Australian Criminal Intelligence Commission; or
 - (iv) by the Australian Federal Police; or
 - (v) by the Australian Securities and Investments Commission.

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suspicious matter report means a report given to the AUSTRAC CEO under subsection 41(2) of the Act.

third party expert means:

- (a) a person engaged by, or on behalf of, a Crown entity or legal practitioner to provide expert advice in connection with a matter; or
- (b) employed by a person described in paragraph (a) in connection with the matter.

Schedule 3—Repeals

Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Crown Entities) Instrument 2020 (No. 14)

1 The whole of the instrument

Repeal the instrument