



Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Export Finance Australia) Instrument 2021 (No. 10)

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

Dated 1 April 2021

A handwritten signature in blue ink that reads 'K. Miller'. The signature is written in a cursive, flowing style.

Kathryn Miller
National Manager, Legal and Enforcement
AUSTRAC

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1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Export Finance Australia) Instrument 2021 (No. 10)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases to have effect on 31 March 2029.

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) ADI;
- (b) guarantee;
- (c) loan.

In this instrument:

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

Australian ADI means an ADI that is not a foreign ADI.

Australian exporter means an Australian-based exporter that is eligible to receive a guarantee under the EGS.

EFA (short for Export Finance Australia) means Export Finance and Insurance Corporation trading as Export Finance Australia ABN 96 874 024 697.

EGS (short for Export Guarantee Scheme) means the scheme under which EFA guarantees a loan to an Australian exporter to allow the exporter to access finance from an ADI.

foreign ADI has the same meaning as in the *Banking Act 1959*.

6 Application

This instrument applies to EFA in relation to the provision of the designated services described in items 48 and 49 of table 1 in subsection 6(2) of the Act.

7 Exempt provisions

EFA is exempt from the following provisions of the Act:

- (a) Part 2;
- (b) Division 3 of Part 3;
- (c) subparagraph 84(1)(b)(ii) and subsection 84(3).

8 Conditions

- (1) This section specifies conditions that apply to the exemption.
- (2) EFA must:
 - (a) be the guarantor of the loan; and
 - (b) provide the guarantee under the EGS within 3 years following the commencement of this instrument.
- (3) The lender of the loan must be an Australian ADI.
- (4) The borrower of the loan must be an Australian exporter.
- (5) The provision of the loan and any repayments must not involve cash.
- (6) All loan repayments must be paid into an account with an Australian ADI by way of electronic funds transfer.
- (7) EFA must, in writing, notify the AUSTRAC CEO within 14 days of any event that may affect its ability to comply with this instrument.

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.