



# **Anti-Money Laundering and Counter-Terrorism Financing (Exemption—AMP Designated Business Group) Instrument 2021 (No. 13)**

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

Dated 6 August 2021

A handwritten signature in blue ink, appearing to read 'K. Miller'.

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—AMP Designated Business Group) Instrument 2021 (No. 13)*.

## 2 Commencement

This instrument commences on the day after it is signed.

## 3 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.

## 4 Definitions

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

- (a) AML/CTF Rules;
- (b) customer;
- (c) designated service;
- (d) person;
- (e) reporting entity.

In this instrument:

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

**AML/CTF services** (short for anti-money laundering and counter-terrorism financing services) means the following services that AMP Services provides as agent of each AMP DBG member:

- (a) monitor AMP customers and transactions relating to the provision of designated services to those customers;
- (b) form suspicions about matters referred to in subsection 41(1) of the Act on behalf of the AMP DBG member;
- (c) escalate suspicious matters to the AMP DBG member to determine if a suspicious matter reporting obligation has arisen;
- (d) submit suspicious matter reports to AUSTRAC on behalf of the AMP DBG member if a suspicious matter reporting obligation has arisen;
- (e) implement measures to mitigate and manage money laundering or financing of terrorism risks in relation to AMP customers if instructed to do so by the AMP DBG member, including ongoing customer due diligence and enhanced customer due diligence.

**AMP** means AMP Limited ACN 079 354 519.

Note: AMP is not a member of the AMP DBG.

**AMP customer** means a customer of any AMP DBG member.

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**AMP DBG** (short for AMP Designated Business Group) means the designated business group established by AMP under Chapter 2 of the AML/CTF Rules.

**AMP DBG member** means a reporting entity that is, or becomes, a member of the AMP DBG from time to time.

**AMP Services** means AMP Services Limited ACN 081 143 786.

Note: AMP Services is not a member of the AMP DBG.

**suspicious matter material** means any information the disclosure of which would engage subsections 123(1) or (2) of the Act, and includes the following information:

- (a) the formation of an applicable suspicion mentioned in subsection 41(1) of the Act;
- (b) information communicated to the AUSTRAC CEO under subsection 41(2) of the Act;
- (c) information or 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.

## 5 Application

This instrument applies to each AMP DBG member in relation to the provision of the designated services described in items 1–7, 14, 17–18A, 29, 30, 33–35, 37–46 and 54 of table 1 in subsection 6(2) of the Act (as applicable).

## 6 Exempt provisions

Each AMP DBG member is exempt from subsections 123(1) and (2) of the Act.

## 7 Conditions

- (1) This section specifies conditions that apply to the exemption.

### *Prohibitions*

- (2) Except as permitted under section 123 of the Act or this section, an AMP DBG member must not communicate, or make disclosures of, suspicious matter material to any person.
- (3) An AMP DBG member may disclose suspicious matter material to AMP in connection with the board's responsibilities for the oversight, governance and risk management of AMP DBG members.
- (4) An AMP DBG member may disclose suspicious matter material to AMP Services in connection with the provision of the AML/CTF services.

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*Confidentiality agreements*

- (5) A reporting entity that wishes to rely on the exemption in section 6 must enter into a confidentiality agreement with AMP and AMP Services at the following time:
- (a) if the reporting entity is an AMP DBG member on the day that this instrument commences—within 3 months of the commencement of this instrument;
  - (b) if the reporting entity is not a member of the AMP DBG on the day that this instrument commences—before the reporting entity becomes an AMP DBG member.

Note: A confidentiality agreement between AMP Services and an AMP DBG member may be a stand-alone agreement or form part of the agreement for the provision of the AML/CTF services.

- (6) The AMP DBG member must provide the AUSTRAC CEO with a copy of the confidentiality agreement within 14 days of both parties signing the agreement.
- (7) The confidentiality agreement must:
- (a) remain in force for as long as the reporting entity is an AMP DBG member; and
  - (b) be enforceable by injunction or damages.

*Obligations of confidence*

- (8) A confidentiality agreement between AMP and an AMP DBG member must incorporate the following obligations:
- (a) AMP must not communicate, or make disclosures of, suspicious matter material relating to the customers of the AMP DBG member to any person other than:
    - (i) the AMP DBG member; or
    - (ii) if the AMP DBG member is permitted to disclose the material to a person mentioned in section 123 of the Act—that person; or
    - (iii) if the AMP DBG member is permitted to disclose the material to AMP Services under this instrument—AMP Services; or
    - (iv) the AUSTRAC CEO; or
    - (v) a member of the staff of AUSTRAC;
  - (b) AMP must:
    - (i) keep suspicious matter material confidential at all times; and
    - (ii) securely store any record of suspicious matter material; and
    - (iii) put in place adequate safeguards to protect suspicious matter material from unauthorised use or access.
- (9) A confidentiality agreement between AMP Services and an AMP DBG member must incorporate the following obligations:
- (a) AMP Services must not communicate, or make disclosures of, suspicious matter material relating to the customers of the AMP DBG member to any person other than:
    - (i) the AMP DBG member; or

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- (ii) if the AMP DBG member is permitted to disclose the material to a person mentioned in section 123 of the Act—that person; or
  - (iii) if the AMP DBG member is permitted to disclose the material to AMP under this instrument—AMP; or
  - (iv) the AUSTRAC CEO; or
  - (v) a member of the staff of AUSTRAC;
- (b) AMP Services must:
- (i) keep suspicious matter material confidential at all times; and
  - (ii) securely store any record of suspicious matter material; and
  - (iii) put in place adequate safeguards to protect suspicious matter material from unauthorised use or access.

*Other lawful disclosures*

- (10) To avoid doubt, entry into a confidentiality agreement does not preclude AMP or AMP Services from communicating, or making disclosures of, suspicious matter material that are otherwise permitted by law.

*Notify AUSTRAC CEO of inability to comply*

- (11) An AMP DBG member must, in writing, notify the AUSTRAC CEO within 14 days of any event that may affect the ability of the AMP DBG member to comply with this instrument.

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**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.