



Anti-Money Laundering and Counter-Terrorism Financing (Exemption— HSF Capital Pty Ltd) Instrument 2022 (No. 9 of 2022)

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

Dated 17 June 2022

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— HSF Capital Pty Ltd) Instrument 2022 (No. 9 of 2022)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases to have effect on 31 July 2026.

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) designated service;
- (c) loan;
- (d) money.

In this instrument:

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

capital contributions means the contributions made by a partner to HSF, where the contributions are calculated in the same manner for each partner.

HSF means the partnership named Herbert Smith Freehills ABN 98 773 882 646.

HSF Capital means HSF Capital Pty Ltd ACN 654 902 833.

partner means a partner of HSF.

6 Application

This instrument applies to HSF Capital in relation to the provision of the designated services described in items 6 and 7 of table 1 in subsection 6(2) of the Act, where the customer of the designated service is a partner.

7 Exempt provisions

HSF Capital is exempt from the following provisions of the Act:

- (a) Divisions 2 to 7 of Part 2 (other than section 39);
- (b) Division 5 of Part 3;
- (a) Divisions 2 to 4 of Part 7 (other than section 93);

(d) Divisions 2 to 6 of Part 10.

8 Conditions

- (1) This section specifies conditions that apply to the exemption.
- (2) HSF Capital may only provide the designated services to a partner for the purpose of the partner making capital contributions to HSF.
- (3) HSF Capital may only obtain loan facilities from an ADI.
- (4) HSF Capital must ensure that loan proceeds are deposited by an ADI directly into an account held by HSF.
- (5) HSF Capital must ensure that all repayments of principal, and payments of interest and fees, are made to the ADI on behalf of the partner by HSF.
- (6) HSF Capital must be owned by Freehills Holdings Pty Ltd ACN 100 612 539, and ultimately beneficially owned by HSF.
- (7) HSF Capital must, in writing, notify the AUSTRAC CEO within 14 days of an 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. This exemption is specific to, or is based on an assessment of the:
 - information or documents provided by, or on behalf of, the person to AUSTRAC in support of the exemption application; and
 - facts and circumstances relevant to the exemption application, including the nature and type of business activities the person undertakes at the time of the application.
3. Under sections 136 and 137 of the Act, it is an offence to provide false or misleading information or documents to the AUSTRAC CEO. 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.
4. The person granted the exemption may request the AUSTRAC CEO to revoke or vary the exemption at any time.
5. 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.
6. This exemption does not preclude the person from making communications or disclosures that are otherwise permitted by law.