



Anti-Money Laundering and Counter-Terrorism Financing (Modification—HSBC Designated Business Group) Declaration 2023 (No. 3)

I, Jennifer Ermert, a delegate of the AUSTRAC CEO make the following declaration.

Dated 16 February 2023

A handwritten signature in black ink, appearing to read 'Jennifer Ermert', written in a cursive style.

Jennifer Ermert
Acting General Counsel, Legal and Enforcement
AUSTRAC

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1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Modification—HSBC Designated Business Group) Declaration 2023 (No. 3)*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 7 and anything in the instrument not covered elsewhere by this table	The day this instrument is signed.	
2. Schedule 1	The day after this instrument is signed.	
3. Schedule 2	The day after this instrument is signed.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Cessation

This instrument ceases to have effect on 16 February 2026.

4 Authority

This instrument is made under paragraph 248(1)(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) AML/CTF Rules;
- (b) designated business group;
- (c) reporting entity.

In this instrument:

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

HSBC DBG (short for HSBC Designated Business Group) means the designated business group established by HSBC Bank Australia Limited ACN 006 434 162 under Chapter 2 of the AML/CTF Rules.

6 Application

This instrument applies to a reporting entity that is, or becomes, a member of the HSBC DBG from time to time.

7 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Modification

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

1 After subsection 123(7AC)

Insert:

Exception—HSBC DBG

- (7AD) Subsections (1) and (2) do not apply to the disclosure of information by a reporting entity (the **first entity**) if:
- (a) the first entity is a member of the HSBC DBG; and
 - (b) the information relates to the affairs of a person who is, or was, a customer of the first entity or who made inquiries referred to in subparagraph 41(1)(c)(i) of the first entity; and
 - (c) the disclosure is made to an employee of a Global Service Centre for the purpose of enabling the Global Service Centre to provide AML/CTF services to the first entity; and
 - (d) the employee is:
 - (i) employed to provide AML/CTF services; and
 - (ii) subject to training equivalent to the risk awareness training program implemented by each member of the HSBC DBG in accordance with Part 9.2 of the AML/CTF Rules; and
 - (iii) subject to screening and re-screening processes and procedures equivalent to the processes and procedures under the employee due diligence program implemented by each member of the HSBC DBG in accordance with Part 9.3 of the AML/CTF Rules; and
 - (iv) approved, in writing, by either:
 - (A) the Compliance Officer; or
 - (B) Head of Financial Crimeto access or receive the information; and
 - (e) prior to making the disclosure, the first entity entered into an agreement with the Global Service Centre to protect the confidentiality of the information; and
 - (f) the agreement satisfies the conditions specified in subsection (7AE); and
 - (g) the information is:
 - (i) handled, stored, used and disclosed in accordance with the information security policies and procedures of the HSBC Group at all times; and
 - (ii) securely stored in HSBC data centres in either:
 - (A) Hong Kong SAR; or
 - (B) the United Kingdom of Great Britain and Northern Ireland;and
 - (iii) accessed through an encrypted connection.

Note: A reference to ‘employee’ also includes ‘employees’ (see section 23 of the *Acts Interpretation Act 1901*).

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- (7AE) The following conditions are specified for the purposes of paragraph 123(7AD)(f):
- (a) the agreement must prohibit the Global Service Centre from disclosing the information, either directly or indirectly, to any person other than:
 - (i) the first entity; or
 - (ii) if the first entity is permitted to disclose the information to another person under this section—that person;
 - (b) the agreement must require the Global Service Centre to:
 - (i) keep the information confidential at all times; and
 - (ii) use the information only in connection with the provision of AML/CTF services; and
 - (iii) treat the information in accordance with the requirements in paragraph (7AD)(g); and
 - (iv) put in place adequate safeguards to protect the information from unauthorised use or access; and
 - (v) if the Global Service Centre receives a request to disclose the information to another person, government or other body of any kind (however described or constituted) under a law of a foreign country—notify HBAU within 48 hours of receiving the request;
 - (c) the agreement must continue in force until the Global Service Centre:
 - (i) ceases to provide AML/CTF services to the first entity; and
 - (ii) is not in possession of the information;
 - (d) the agreement must provide that, upon expiry or termination of the agreement, the Global Service Centre must:
 - (i) delete all electronic copies of the information held by the Global Service Centre; and
 - (ii) surrender or otherwise remove the Global Service Centre’s system access to copies of the information held by the HSBC DBG; and
 - (iii) return or destroy any physical copies of the information; within 30 business days upon request by the first entity;
 - (e) the agreement is capable of enforcement by injunction or damages;
 - (f) the agreement is governed by the laws of the State or Territory in which the registered office of the first entity is located;
 - (g) a copy of the agreement must be given to the AUSTRAC CEO:
 - (i) if a new agreement is signed, within 14 days of both parties signing the agreement; or
 - (ii) if an agreement is already in place, within 14 days of this instrument coming in effect.
- (7AF) The Compliance Officer must, in writing, notify the AUSTRAC CEO within 5 business days of becoming aware of one or more of the following events occurring:
- (a) any event that may affect the ability of a member of the HSBC DBG to satisfy one or more of the requirements in subsection (7AD);

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- (b) any event that may affect the ability of a Global Service Centre to comply with one or more of the conditions of an agreement entered into for the purposes of paragraph (7AD)(e);
 - (c) the expiry or termination of an agreement;
 - (d) a Global Service Centre receiving a request (however described) to disclose the information to another person, government or body of any kind (however described or constituted) under a law of a foreign country;
 - (e) a Global Service Centre ceases to provide AML/CTF services to a member of the HSBC DBG;
 - (f) a Global Service Centre has deleted, returned or destroyed the information in accordance with a request made by a member of the HSBC DBG.

(7AG) The Compliance Officer must:

- (a) monitor each member of the HSBC DBG that relies on the exception in subsection (7AD) for compliance with the requirements under that subsection; and
- (b) monitor each Global Service Centre for compliance with the conditions of any agreement entered into for the purposes of paragraph (7AD)(e); and
- (c) take active steps to remedy non-compliance; and
- (d) provide periodic reporting to the board and senior management of HBAU in relation to the monitoring and actions undertaken by the Compliance Officer under subsection 7AG(a), (b) and (c), to enable the board and senior management of HBAU to have oversight of HBAU's compliance with this instrument.

(7AH) HBAU must:

- (a) if subsection (7AD) applies to a member of the HSBC DBG—undertake an annual independent review of the member's compliance with the requirements under that subsection; and
- (b) undertake an annual independent review of each Global Service Centre's compliance with the conditions of any agreement entered into for the purposes of paragraph (7AD)(e); and
- (c) provide the AUSTRAC CEO with a copy of the results of the independent review within 14 business days of the review being presented to the HBAU board.

(7AI) To avoid doubt, HBAU may, as agent of another member of the HSBC DBG, do any of the following things on behalf of that member:

- (a) if the requirements in subsection (7AD) apply to the member—disclose information relating to the member's customers to a Global Service Centre;
- (b) enter into an agreement with a Global Service Centre for the purposes of paragraph (7AD)(e);
- (c) exercise the rights and obligations of the member under the agreement;
- (d) any other thing that is necessary for the member to comply with subsection (7AD).

2 Subsection 123(12)

Repeal the subsection, insert:

(12) In this Act:

AML/CTF services (short for anti-money laundering and counter-terrorism financing services) means:

- (a) in relation to HDPI—Level 1, 2 or 3 investigation services, triage investigation services or related quality assurance services; or
- (b) in relation to HDPG—the following services:
 - (i) Level 1, 2 or 3 investigation services under a business continuity plan with HDPI;
 - (ii) customer risk monitoring.

Compliance Officer means the AML/CTF Compliance Officer appointed by HBAU under Part 9.5 of the AML/CTF Rules.

customer risk monitoring means the analysis of high-risk customer populations to identify potential financial crime risk, which may warrant referral to Level 3 investigation services.

employee means an individual employed directly by the Global Service Centre on either a permanent or fixed term contract basis.

Global Service Centre means any of the following companies:

- (a) HSBC Electronic Data Processing India Private Limited (Corporate Identification Number U72200AP2000PTC033858), HSBC House, Plot No. 8, Survey No. 64 (Part), Hitech City Layout, Madhapur, Hyderabad 500081, India (**HDPI**);
- (b) HSBC Electronic Data Processing (Guangdong) Limited (Unified Social Credit Code 914401016174106599), 4-17/F, Office Tower 2, Taikoo Hui, No. 381 Tian He Road, Tian He District, Guangzhou, Guangdong, China (**HDPG**);

HBAU means HSBC Bank Australia Limited ACN 006 434 162.

Head of Financial Crime means the person holding, from time to time the role “Head of Financial Crime, HSBC Bank Australia Limited” or an equivalent role.

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

Level 1 investigation services means the initial analysis of an automated transaction monitoring alert to determine if the transaction presents unusual customer activity, which may result in the escalation of the alert to an employee who provides Level 2 investigation services.

Level 2 investigation services means the enhanced analysis of an automated transaction monitoring alert to determine if the transaction presents a money laundering, financing of terrorism or other serious crime risk, which may result in the escalation of the alert to an employee who provides Level 3 investigation services.

Level 3 investigation services means the review and investigation of an automated transaction monitoring alert escalated by an employee who provides

Level 2 investigation services, or the review and investigation of direct referrals for investigation, which may result in the lodgement of a report under subsection 41(2) of the AML/CTF Act. Direct referrals for investigation include, but are not limited to Unusual Activity Reports (UARs); third party requests which may include external intelligence referrals, law enforcement enquiries and legal notices; name screening alerts; and other manual referrals.

quality assurance services means risk-based reviews on closed investigations and cases to ensure investigations are undertaken consistently and at an appropriate quality.

registered office has the same meaning as in the *Corporations Act 2001*.

triage investigation services means the review and referral of financial crime risk concerns to the relevant investigation team. Activities include but are not limited to confirming suitability of the referral for investigation, standardising the referral, enhancing the referral with additional information and directing the referral to the relevant investigation team.

Schedule 2—Repeals

Anti-Money Laundering and Counter-Terrorism Financing (Exemption) Instrument 2022 (No. 8)

1 The whole of the instrument

Repeal the instrument.

Exemption 6 of 2015

2 The whole of the instrument

Repeal the instrument.

Important Notice to the person named in this instrument

1. 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 modification may be revoked and action initiated against the applicant.
2. The person granted the modification may request the AUSTRAC CEO to revoke or vary it at any time.
3. Any request to vary this modification 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.