



Anti-Money Laundering and Counter-Terrorism Financing (Exemption — National Australia Bank Limited) Instrument 2024 (No. 2)

I, Daniel Mossop, National Manager, Reform Policy and Mutual Evaluation, and delegate of the AUSTRAC CEO, make the following exemption instrument.

Dated

29 January 2024

A handwritten signature in blue ink, appearing to read 'D. Mossop', is positioned below the date.

Daniel Mossop
National Manager, Reform Policy and Mutual Evaluation
Australian Transaction Reports and Analysis Centre

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1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption — National Australia Bank Limited) Instrument 2024 (No. 2)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases three months from the date of commencement of this instrument.

4 Authority

This instrument is:

- (1) made under paragraph 248(1)(a) of the Act; and
- (2) subject to the conditions in section 8 of this instrument, 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) Person.

In this instrument:

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

NAB means National Australia Bank Limited (ACN 004 044 937).

NAB's legal representatives means Allens (ABN 47 702 595 758), and Mr Kane Loxley (ABN 29 910 726 409).

Sun Capital Pty Ltd & Ors v NAB means *Sun Capital Pty Ltd & Ors v National Australia Bank Limited* (VID795/2023)

suppression order application means the application made by NAB on 29 November 2023 in *Sun Capital Pty Ltd & Ors v NAB*.

suspicious matter material refers to any information, the disclosure of which would contravene paragraph 123(1)(b) or 123(5A) of the AML/CTF Act.

6 Application

This instrument applies to the disclosure of suspicious matter material by NAB and NAB's legal representatives in connection with, or for the purposes of, its suppression order application in *Sun Capital Pty Ltd & Ors v NAB*.

7 Scope of exemption

Subject to the conditions specified in paragraph 8 of this instrument:

- (1) NAB is exempted from paragraph 123(1)(b) of the Act; and
- (2) NAB's legal representatives are exempted from paragraph 123(5A) of the Act.

8 Conditions

This Instrument is subject to the following conditions:

- (1) NAB and NAB's legal representatives may only disclose in relation to *Sun Capital Pty Ltd & Ors v NAB*, that the relevant provision underlying NAB's suppression application dated 29 November 2023 is paragraph 123(1)(b) of the Act, and that NAB has made an application to AUSTRAC under section 248 of the Act for an exemption from paragraph 123(1)(b) of the Act.
- (2) NAB and NAB's legal representatives must not communicate, or make disclosures of, any other suspicious matter material to any person, except as permitted by the Act.
- (3) NAB 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. 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 application made under subsection 248(1) of the Act; and
 - facts and circumstances relevant to the 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.