Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Pacific Custodians Pty Limited) Instrument 2026 (No. 17)

I, Daniel Mossop, National Manager, make the following instrument as a delegate of the AUSTRAC CEO.

Dated 21 August 2026

Daniel Mossop
National Manager, Policy, Rules and Guidance
Australian Transaction Reports and Analysis Centre

Contents

1 Name

This instrument is the *Anti-Money Laundering and Counter-Terrorism Financing (Exemption—Pacific Custodians Pty Limited) Instrument 2026 (No. 17)*.

2 Commencement

This instrument commences on the day after it is signed.

3 Cessation

This instrument ceases to have effect 3 years after the day it is signed.

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) designated service;
(b) FATF Recommendations;
(c) person;
(d) security.

In this instrument:

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

ASIC Regulatory Guide 49 means ASIC Regulatory Guide 49 published by the Australian Securities and Investments Commission in November 2015 as at the date of this instrument.

Employee Share Plan means an employee share scheme administered in Australia with the same meaning given by subsection 83A-10(2) of the *Income Tax Assessment Act 1997* (Cth).

Pacific Custodians means Pacific Custodians Pty Limited ABN 66 009 682 866.

Share Sale Facility means a platform that allows persons who hold securities through an Employee Share Plan to sell those securities.

6 Application

This instrument applies to Pacific Custodians in relation to the provision of designated services covered by item 54 of table 1 in subsection 6(2) of the Act.

7 Exempt provisions

Pacific Custodians is exempt from the following provisions of the Act:

(1) Section 28.

8 Conditions

This instrument is subject to the following conditions:

(1) The exemption only applies in the following circumstances:

a) The Employee Share Plan is of a type listed in Schedule 1;

b) Pacific Custodians is involved in arranging for the sale of securities in the Employee Share Plan;

c) The Share Sale Facility only applies to Employee Share Plans for publicly listed companies;

d) The Share Sale Facility only applies to Employee Share Plans which operate in accordance with ASIC Regulatory Guide 49; and

e) The employee participant is domiciled in Australia, or a jurisdiction with laws that give effect to the FATF Recommendations.

(2) Pacific Custodians must, in writing, notify the AUSTRAC CEO within 14 days of any event that may affect its ability to comply with this instrument.

9 Schedules

Each instrument that is specified in Schedule 2 to this instrument is repealed in accordance with Schedule 2.

Schedule 1—Types of Employee Share Plans

Type of plan	Description
Gift	Participating employer gifts participating employee securities.
Contribution (usually deferred plan)	Participating employer allows participating employee to purchase securities - usually from pre-tax contributions for a deferred plan.
Loan	Participating employer lends participating employee funds for the purchase of securities via the Employee Share Plan. If the employee leaves, the loan becomes repayable - it is either recourse or non-recourse beyond the proceeds of the sale of the securities.
Partly paid shares	The participating employee has a window to make a call and pay all or part of the balance remaining on the securities. If they leave, a call is placed automatically on the balance.
Performance rights	Employee Share Plan involving the grant of zero priced options.
Deferred share grants	Participating employer makes grants of securities for nil consideration. The distinction with a performance rights plan is that the participating employee has immediate entitlement to dividends. Deferred share grants are often legally structured as rights or zero exercise price options to acquire shares in the future, rather than issued shares themselves, with vesting and transferability deferred until service and/or performance conditions are satisfied.
Options	Employee Share Plan involving the grant of options.

Schedule 2—Repeals

Exemption 3 of 2009

Repeal the whole of the 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 six (6) months 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.