



Objectives

In this module we will address the following:

- What is an AML/CTF program?
- What is Part A of an AML/CTF program?
- What is Part B of an AML/CTF program?
- When should a customer be identified?
- How are existing customers treated?
- What if it is a low-risk service?
- When can a reporting entity rely on another reporting entity's customer identification?
- What are General exemptions?

Your key learning objectives will be to correctly answer each of the questions listed above.

What is an AML/CTF program?

The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) requires reporting entities to adopt, maintain and comply with an anti-money laundering and counter-terrorism financing (AML/CTF) program.

This requirement is central to the risk-based approach of the AML/CTF Act.

An AML/CTF program is divided into Part A (general) and Part B (customer identification).

The primary purpose of Part A of an AML/CTF program is to identify, mitigate and manage the risk a reporting entity may reasonably face in providing a designated service that might involve or facilitate money laundering or terrorism financing (ML/TF risk).

The purpose of Part B of an AML/CTF program is to set out the applicable identification procedures in relation to different types of customers.

There are three types of AML/CTF program: standard, joint and special.

A standard AML/CTF program applies to an individual reporting entity. Parts A and B are both required.

A joint AML/CTF program applies to each reporting entity that is a member of a designated business group where those members elect to have a joint program. Both Parts A and B are required, but different provisions can be included for the different reporting entities if required.

A special AML/CTF program only applies if a reporting entity holds an Australian financial services licence (AFSL) and the only 'designated service' it provides under the AML/CTF Act is to arrange for persons to receive other designated services. Instead of Parts A and B, a special AML/CTF program only sets the reporting entity's applicable customer identification procedures. This is the equivalent of having Part B without Part A.

Risk considerations

The AML/CTF Rules require that in identifying its ML/TF risk a reporting entity must consider the following:

- **its customer types, including any politically exposed persons.** For example, a reporting entity may assess the potential exposure to ML/TF risk posed by an individual to be different from that of an offshore trust
- **the types of designated services it provides.** For example, a reporting entity may assess that the potential exposure to ML/TF risk in providing a deposit account is different to the ML/TF risk in providing an international funds transfer service to a person who does not hold an account with the reporting entity
- **the methods by which it delivers designated services.** For example, a reporting entity may assess the potential exposure to ML/TF risk for face-to-face transactions as being less than the ML/TF risk for remote access high value funds transfer transactions (e.g. internet banking)
- **the foreign jurisdictions with which it deals.** A reporting entity will need to be aware of differences in the legal framework (of foreign jurisdictions with which it deals) that relate to controls against ML/TF and factor these into its AML/CTF program
- **the provision of designated services through any permanent establishments of the reporting entity in a foreign country.** A reporting entity will need to be aware of differences in the legal framework of foreign jurisdictions in which it conducts operations, relating to controls against ML/TF. These should be factored into the AML/CTF program.

AML/CTF programs – Part A (general)

An AML/CTF program must include the following:

- **a risk awareness training program for employees.** This should include the obligations the reporting entity has under the AML/CTF Act and Rules, as well as the consequences of non-compliance. The training should also cover the ML/TF risk the reporting entity may reasonably face (and potential consequences of that risk) and the processes and procedures in the reporting entity's AML/CTF program that are relevant to the functions of the work carried out by the employee
- **an employee due diligence program.** A reporting entity should consider the potential ML/TF risks associated with prospective employees and apply screening procedures if appropriate. This also applies to assessing the need for re-screening employees who are transferred or promoted. For example, a reporting entity may determine that frontline staff present a different potential for ML/TF risk than staff in a capital markets area or private banking unit. Similarly, in a casino, cashier staff may present a different ML/TF risk to bar staff
- **oversight by boards and senior management.** Part A of a reporting entity's AML/CTF program must be approved by its governing board and senior management. Under a joint program, if each member of the designated business group is related to each other, then the approval may be given by the board and senior management of the main holding company of the group
- **an AML/CTF compliance officer.** A reporting entity must designate an 'AML/CTF Compliance Officer' at management level. Under a joint program this officer can represent the entire designated business group
- **an independent review.** Part A of a reporting entity's AML/CTF program must undergo regular independent review by either an internal or external party. The review is to assess Part A's effectiveness regarding the reporting entity's ML/TF risk, whether Part A complies with the AML/CTF Rules and has been effectively implemented and whether the reporting entity has itself complied with Part A. A report must be given to the governing board and senior management of the reporting entity
- **AUSTRAC feedback.** Feedback from AUSTRAC about the reporting entity's ML/TF risk management performance must be taken into consideration by the reporting entity. Such feedback could be given in a number of ways such as an audit of the reporting entity by AUSTRAC
- **permanent establishments in a foreign country.** If a reporting entity has a 'permanent establishment' outside Australia, only the following aspects of Part A of the AML/CTF program also relate to the permanent establishment:
 - oversight by governing board and senior management
 - AML/CTF Compliance Officer
 - independent review
 - AUSTRAC feedback

If the permanent establishment is in a jurisdiction with AML/CTF laws comparable to Australia's, only minimal additional systems and controls need to be considered.

AML/CTF Programs – Part B (Customer identification)

The AML/CTF Rules for Part B of an AML/CTF program set out the minimum 'know your customer' (KYC) information a reporting entity must collect and verify about its customers. Additional KYC information may need to be collected depending on the reporting entity's risk assessment of each customer.

A reporting entity should have 'appropriate risk-based systems and controls' to assist in meeting its Part B requirements. These systems and controls are based on the nature, size and complexity of the reporting entity's business and the ML/TF risk faced.

The AML/CTF Rules set different identification and verification requirements for different types of customers:

- individuals
- companies (both domestic and registered foreign companies)
- trustees
- partnerships
- incorporated and unincorporated associations
- registered cooperatives
- government bodies

The use of 'reliable and independent' documentation and/or electronic data sources is common to the various methods of verification. A reporting entity determines what is 'reliable and independent' according to its own risk-based systems and controls.

Any discrepancies arising during the verification of KYC information must be addressed to ensure the reporting entity is satisfied that an individual customer is who they claim to be, or that a non-individual customer exists and has provided other required details (for example, about company owners or trust beneficiaries).

In addition, for medium and lower risk individuals, the AML/CTF Rules provide 'safe harbour' procedures which a reporting entity may choose to use. The safe harbour procedures set less complex verification methods after the minimum KYC information has been collected. Similarly, the AML/CTF Rules provide optional 'simplified' verification procedures for certain companies and trustees.

There are also specific requirements in the AML/CTF Rules for identifying agents and 'verifying officers' of customers.

For more information on the [AML/CTF Rules and customer identification and verification](#) click on the link.

NOTE: Reporting entities need to consider their obligations under other legislation, such as the *Privacy Act 1988*, when deciding what information to collect from customers.

Customer due diligence

When should a customer be identified?

The AML/CTF Act requires a reporting entity to verify a customer's identity before providing a 'designated service' to the customer.

Only in special circumstances specified in the AML/CTF Rules may the procedure be carried out after the provision of a designated service.

Existing customers

Under the AML/CTF Act 'pre-commencement customers' are not required to be identified unless a suspicious matter reporting obligation arises in relation to that customer.

'Pre-commencement' means prior to the relevant section of the AML/CTF Act coming into effect, which in this case is 12 December 2007.

The suspicious matter reporting obligation under the AML/CTF Act comes into effect in December 2008.

Low-risk services

If, under the AML/CTF Rules, a designated service is taken to be a low-risk service, it is not necessary to identify a customer of that service unless a suspicious matter reporting obligation arises in relation to that customer.

Reporting entity relying on another reporting entity's customer identification

Under the AML/CTF Act it is possible for a reporting entity to rely on an applicable customer identification procedure carried out by another reporting entity.

This can occur when a reporting entity has identified a customer in accordance with the AML/CTF Rules (for example, by correctly undertaking the procedures in Part B of the reporting entity's AML/CTF program).

The customer then becomes a customer of a second reporting entity. The AML/CTF Act can then be considered to apply as if the second reporting entity had carried out the customer identification procedure itself.

However, the second reporting entity must still comply with the record-keeping requirements of the AML/CTF Act.

Any additional conditions set by the AML/CTF Rules must also be satisfied.

Ongoing customer due diligence

Effective from 12 December 2008 reporting entities have ongoing customer due diligence (OCDD) obligations under the AML/CTF Act and AML/CTF Rules. These obligations relate to monitoring customers in relation to ML/TF risk. For more information about OCDD see the *Know Your Customer* module of this course.

General exemptions

The AML/CTF Rules can specify certain exemptions from the customer identification obligations of the AML/CTF Act.

These include exempting a designated service from:

- all identification provisions
- some identification provisions
- all identification provisions in specified circumstances
- some identification provisions in specified circumstances

The AML/CTF Act also exempts reporting entities' permanent establishments in foreign countries (that is, not in Australia).

Certain designated services relating to pensions, annuities, superannuation and retirement savings accounts are also exempt. This includes an AFSL holder arranging for any of those services to be provided to a person (where that is the extent of the service provided by the AFSL holder).

Summary

The AML/CTF Act requires reporting entities to adopt, maintain and comply with an anti-money laundering and counter-terrorism financing program, which is divided into Part A (general) and Part B (customer identification).

AUSTRAC has produced guidance notes on a range of topics relating to AML/CTF programs. These include:

- AML/CTF Compliance Officers
- Designated business groups
- Record-keeping requirements, and
- Risk management and AML/CTF programs, and exemptions and modifications under the AML/CTF Act.

For further information about AML/CTF programs you may also wish to view:

- chapters 3 and 4 of the [AUSTRAC Regulatory Guide](#), and
- AUSTRAC's [AML/CTF programs e-learning course](#).

AML/CTF programs quiz

This quiz will test your understanding of AML/CTF programs.

Question 1

Select the single correct response.

The AML/CTF Act:

- a) suggests that reporting entities may opt to participate in an AML/CTF program.
- b) requires reporting entities to adopt, maintain and comply with an AML/CTF program.

Question 2

Which AML/CTF program applies to the following:

Reporting entities that are members of a designated business group may elect to have this type of program apply to the group:

- a) special
- b) joint
- c) standard

Question 3

Indicate whether or not the following is true or false.

A special AML/CTF program applies:

- a) to all individual reporting entities. Parts A and B are both required.
- b) only if a reporting entity holds an Australian Financial Service Licence and makes arrangements for customers to receive other designated services.

Question 4

Select the single correct response.

Part B of an AML/CTF program:

- a) sets out applicable customer identification procedures.
- b) must include feedback from AUSTRAC.

Question 5

What must be considered when identifying ML/TF risks?

Select the **incorrect** response from the alternatives below.

- a) methods for delivery of designated services.
- b) the foreign jurisdictions being dealt with.
- c) customer's bank balance.
- d) the designated service provided.

Question 6

Part A of an AML/CTF program does **not** include:

- a) risk awareness training programs for employees.
- b) requirements for identification and verification for different types of customers.
- c) AUSTRAC feedback.
- d) AML/CTF Compliance Officer.
- e) employee due diligence program.

Question 7

Indicate whether or not the following is True or False.

As part of the employee due diligence program, only new employees must be assessed and screened for AML/CTF risks.

Question 8

Indicate whether or not the following is True or False.

A reporting entity can rely on another reporting entity's customer identification procedure.

Question 9

Indicate whether or not the following is True or False.

Reporting entities providing designated services at permanent establishments in foreign countries are exempt from an AML/CTF program.

Answers - AML/CTF programs quiz

1. False – Correct. The AML/CTF Act requires reporting entities to adopt, maintain and comply with an AML/CTF program.
2. b) Correct
3. b) Correct. A special AML/CTF program only applies if a reporting entity holds an Australian Financial Service Licence and makes arrangements for customers to receive other designated services.
4. a) Correct
5. c) Correct
6. b) Correct
7. False – Correct. Employees who are transferred or promoted within the organisation may present a different AML/CTF risk therefore need to be re-screened.
8. True – Correct. However, the AML/CTF Act and AML/CTF Rules set certain requirements that must be followed.
9. False – Correct. The AML/CTF Rules set certain requirements for permanent establishments.

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AUSTRAC Help Desk via:

help_desk@austrac.gov.au or Telephone 1300 021 037.

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