



Introduction

Under subsection 47(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) a reporting entity is required to periodically provide an anti-money laundering and counter-terrorism financing (AML/CTF) compliance report to AUSTRAC. The compliance report sets out a reporting entity's compliance with the AML/CTF Act, regulations and AML/CTF Rules.

AUSTRAC performs part of its statutory function as administrator of the AML/CTF Act through the compliance report. AML/CTF compliance reports contribute to AUSTRAC's monitoring of ongoing industry compliance with the AML/CTF Act, regulations and AML/CTF Rules.

Reporting period

The responses you provide in your compliance report should be for your activities during the reporting period. The reporting period for the 2008 compliance report is:

1 January 2008–31 December 2008

Lodgement period

The compliance report should be completed and submitted to AUSTRAC during the lodgement period. The lodgement period for the 2008 compliance report is:

1 January 2009 – 31 March 2009

It is AUSTRAC's strong preference for the AML/CTF compliance report to be completed online. However, provisions have been made for the completion and submission of paper-based compliance reports.

Key terms

For the purposes of completing the 2008 compliance report:

- terms and expressions used in the compliance report will have the meanings given to them in the AML/CTF Act or AML/CTF Rules unless indicated otherwise
- a *reporting entity* is a person that provides a designated service
- a *designated service* is a service that is listed in section 6 of the AML/CTF Act
- the terms *you* and *your* refer to the reporting entity
- the term *customer* is defined in section 5 of the AML/CTF Act and includes a prospective customer
- a *politically exposed person* is a term used by the Financial Action Task Force to refer to individuals who are or have been entrusted with prominent public functions in a foreign country. For example heads of state, senior politicians, senior government, judicial or military officers, senior executives of state-owned corporations, and important political party officials.

Designated business groups

Subsections 47(6) and 47(7) of the AML/CTF Act allow a member of a designated business group to lodge group compliance reports. The term designated business group is defined in section 5 of the AML/CTF Act.

Help

For further information, please contact the AUSTRAC Help Desk on:

Telephone (within Australia): 1300 021 037
Telephone (international): +61 2 9950 0827
Email: help_desk@austrac.gov.au

TTY access (telephone typewriter for the hearing and speech impaired) within Australia:

National Relay Service

- TTY/voice: 133 677 and ask for 1300 021 037
- Speak & listen (SSR): 1300 555 727 and ask for 1300 021 037

Anti-money laundering and counter-terrorism financing programs – Part A

1. Did you have a written AML/CTF program on 31 December 2008?

All persons who provide designated services as defined in section 6 of the AML/CTF Act are legally required to adopt and maintain a written AML/CTF program. AML/CTF programs set out how a reporting entity complies with its obligations under the AML/CTF legislation.

This question requires you to indicate if you had a written AML/CTF program in place as at 31 December 2008.

Please refer to the following resources for further information:

- AML/CTF Act, Part 7 – ‘Anti-money laundering and counter-terrorism financing programs’
- AUSTRAC *Regulatory Guide* – chapters 2, 3 and 4
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’.

2. For each component of your AML/CTF program, indicate your status on 31 December 2008.

AML/CTF programs are comprised of two parts, being Part A and Part B. There are several components that make up Part A of the AML/CTF program and this question requires you to indicate the level of implementation for each of the listed components as at 31 December 2008.

The ratings used in this question are:

- **Not commenced**
- **Partially implemented** – this component of the program was under development, though there were major shortcomings, with a significant element of the requirements not implemented.
- **Implemented** – this component was essentially fully implemented.

Please refer to the following resources for further information:

- AML/CTF Act, Part 7 – ‘Anti-money laundering and counter terrorism financing programs’
- *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)* (AML/CTF Rules Instrument 2007 (No.1) – chapters 8 and 9
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’.

3 (a) From the following list, please select the customer types to whom you provided a designated service:

Individuals; companies; trustees; partnerships; incorporated and unincorporated associations; registered co-operatives; government bodies.

Place a tick in response to 3(a) for each customer type applicable.

(b) Did you assess the money laundering / terrorism financing risks posed by these customer types

In order to identify your money laundering and terrorism financing risk you are required to conduct a risk assessment of the customer types to whom you provide designated services.

Question 3(a) requires you to indicate your particular customer types and 3(b) asks if a risk assessment had been conducted for each of these customer types selected, as at 31 December 2008.

Responses for question 3(b) are only required for each customer type selected in 3(a).

For further information please refer to the following resources:

- AML/CTF Act, section 84 and 85 – ‘Standard anti-money laundering and counter-terrorism financing programs’ and ‘Joint anti-money laundering and counter-terrorism financing programs’
- AML/CTF Rules Instrument 2007 (No.1) – chapters 4, 8 and 9
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’
- AUSTRAC risk management tool – for small-to-medium sized reporting entities.

4. Did you assess the money laundering / terrorism financing risk of your designated services?

In order to identify your money laundering and terrorism financing risk you are required to conduct a risk assessment of your designated services.

This question requires you to indicate whether you had assessed the risk of the designated services that you provided, being used to facilitate money laundering and/or terrorism financing.

For further information please refer to the following resources:

- AML/CTF Rules Instrument 2007 (No.1) – parts 4.1, 8.1 and 9.1
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’
- AUSTRAC risk management tool – for small-to-medium sized reporting entities.

5. Did you have a procedure to assess the money laundering / terrorism financing risk of any new designated services before making them available to customers?

In order to identify your money laundering and terrorism financing risk you are required to conduct a risk assessment of any new designated services before you offer them to your customers.

This question requires you to indicate whether you had a procedure in place as at 31 December 2008, to assess the risk of how a new designated service may be used to facilitate money laundering and/or terrorism financing.

For further information please refer to the following resources:

- AML/CTF Rules Instrument 2007 (No.1) – chapters 8 and 9
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’.

6 (a) Did you provide designated services from a permanent establishment in a foreign country?

This question requires you to indicate if you provided any designated services through an overseas permanent establishment during the reporting period. You may wish to refer to the AML/CTF Act, section 6 – ‘Geographical link’.

(b) Did you assess the money laundering / terrorism financing risk posed by the provision of designated services in a foreign country?

Providing designated services in a foreign country may pose different money laundering and terrorism financing risks which are required to be assessed. Reporting entities that provide services through a permanent establishment overseas are required to implement systems and controls to manage those risks effectively.

A response for question 6(b) is only required if you responded ‘Yes’ to question 6(a).

For the definition of a *permanent establishment*, please refer to the AML/CTF Act, section 21.

7. Did you assess the money laundering / terrorism financing risk posed by the methods used to deliver your designated services?

Some examples of delivery methods are:

- face-to-face
- internet, telephone, mail, fax or email

via a third party such as an agent, broker or intermediary.

In order to identify your money laundering and terrorism financing risk you are required to conduct a risk assessment of the methods you employ to deliver your designated services to your customers. For example, the risks posed by providing designated services face-to-face would differ from providing them via the internet.

This question requires you to indicate whether you had assessed the risk of how the methods you had utilised to provide designated services may have been used to facilitate money laundering and/or terrorism financing.

For further information refer to the following resources:

- AML/CTF Rules Instrument 2007 (No.1) – chapters 4, 8 and 9
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’
- AUSTRAC risk management tool – for small-to-medium sized reporting entities.

8. Did you have a procedure to assess the money laundering / terrorism financing risk of any new delivery methods before making them available to your customers?

In order to identify your money laundering and terrorism financing risk you are required to conduct a risk assessment of any new methods of delivering your designated services, before you make them available to your customers.

This question requires you to indicate whether you had implemented a procedure to assess the money-laundering and/or terrorism financing risk posed by any new methods of delivery of your designated services, before you made them available to your customers.

For further information refer to the following resources:

- AML/CTF Rules Instrument 2007 (No.1) – chapters 4, 8 and 9
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’
- AUSTRAC risk management tool – for small-to-medium sized reporting entities.

9. Have all members of your designated business group adopted a joint AML/CTF program?

Reporting entities who are related to one another as per the provisions in chapter 2 of the AML/CTF Rules Instrument 2007 (No.1), can elect to form a designated business group (DBG) and adopt a joint AML/CTF program.

A response for question 9 is only required if you belonged to a designated business group during the reporting period.

If you belonged to a DBG, indicate if you had adopted a joint AML/CTF program with the other members of your DBG during the reporting period.

For further information please refer to the following resources:

- AML/CTF Act, Part 7 – ‘Anti-money laundering & counter - terrorism financing programs’
- AML/CTF Rules Instrument 2007 (No.1) – chapters 2 and 9
- AUSTRAC guidance note – ‘Designated business groups’.

10 (a) Did you screen employees who were in a position to facilitate money laundering or terrorism financing?

In order to reduce money laundering and terrorism financing risks you are required to implement a process to determine in what instances you may need to:

- screen new employees who may be in a position to facilitate money laundering or terrorism financing offences
- re-screen employees who are promoted or transferred into a new position.

(b) Did you have a procedure in place to manage employee non-compliance with your AML/CTF program?

Reporting entities must implement a procedure to manage any employee who fails to adhere to their AML/CTF program.

Question 10 requires you to indicate if your AML/CTF program included any or all of the listed provisions in paragraphs 8.3 or 9.3 of the AML/CTF Rules Instrument 2007 (No.1).

You may also wish to refer to the AUSTRAC guidance note – ‘Risk management and AML/CTF programs’.

Important note:

Reporting entities should note the Privacy Commissioner’s information sheet in relation to the handling of employee information, which is available at www.privacy.gov.au

11. Was an independent review of your AML/CTF program conducted by:

(a) an internal party?

(b) an external party?

Because an AML/CTF program may need to be revised due to changes within your operations, your AML/CTF program must include a procedure for it to be reviewed from time-to-time. This review can either be conducted by a person within the organisation or by an external party.

This question establishes whether the review of your AML/CTF program was conducted by an internal or external party as per the requirements of chapter 8.6 or 9.6 of the AML/CTF Rules Instrument 2007 (No.1).

Please refer to the following resources for further information:

- AML/CTF Act, Part 7 – ‘Anti-money laundering & counter terrorism financing programs’
- AML/CTF Rules Instrument 2007 (No.1) – parts 8.6 and 9.6
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’.

Anti-money laundering and counter-terrorism financing programs – Part B

12. For each of your customer types, indicate if you had procedures to:

- **Collect the minimum know your customer (KYC) information?**
- **Verify the minimum KYC information?**
- **Identify if additional KYC information needed to be collected?**
- **Identify if additional KYC information needed to be verified?**

Part B of an AML/CTF program sets out the applicable customer identification and/or verification procedures for your customer types. Chapter 4 of the AML/CTF Rules Instrument 2007 (No.1) sets out what the minimum customer identification and verification requirements are, with regard to all customer types. This gathering and verifying of customer information is also referred to as KYC procedures.

The table in this question indicates compliance with collection and verification of KYC information across the different customer types to whom you provide designated services.

KYC information is defined in chapter 1 of the AML/CTF Rules Instrument 2007 (No.1).

Responses to question 12 are only required for each customer type that was selected in question 3(a).

Refer to the following for further information:

- AML/CTF Act, Part 2 – ‘Identification procedures etc.’
- AML/CTF Rules Instrument 2007 (No.1) – chapters 1, 4, 5 and 6
- *AUSTRAC Regulatory Guide*, chapter 4 – ‘AML/CTF programs – Part B (customer identification)’

13. Did you have procedures in place to respond to discrepancies that arose in the course of verifying KYC information?

If a discrepancy were to occur during the course of verifying a customer’s identification, your AML/CTF program is required to have a procedure to address that discrepancy.

This question requires you to indicate if you had implemented such a procedure.

KYC information is defined in chapter 1 of the AML/CTF Rules Instrument 2007 (No.1).

Please refer to the following resources for further information:

- AML/CTF Act, Part 2 – ‘Identification procedures etc.’
- AML/CTF Rules Instrument 2007 (No.1) – chapters 1, 4, 5 and 6
- *AUSTRAC Regulatory Guide*, chapter 4 – ‘AML/CTF programs – Part B (customer identification)’

14. Did you have procedures in place to identify agents of customers?

Part B of your AML/CTF program sets out what the applicable customer identification and/or verification procedures are for your customers. This includes circumstances where your customer is represented by an agent.

This question requires you to indicate if you had procedures in place to identify agents of customers to whom you provided any designated services.

Please refer to the following resources for further information:

- AML/CTF Act, section 89 – ‘Applicable customer identification procedures – agent of customer’
- AML/CTF Rules Instrument 2007 (No.1) – chapters 4.11.

15. Did you have any high risk customers or groups of customers (including politically exposed persons)?

This question requires you to indicate if you may have provided designated services to any customers who could be considered to be a high risk of facilitating money laundering or terrorism financing. This will be determined by your own risk assessment within your AML/CTF program.

Please refer to the following resources for further information:

- AML/CTF Act, Part 7 – ‘Anti-money laundering and counter-terrorism financing programs’
- AML/CTF Rules Instrument 2007 (No.1) – chapters 4, 8 and 9
- AUSTRAC guidance note – ‘Risk management and AML/CTF programs’.

16. Did you outsource any of your customer identification or verification procedures?

Chapter 7 of the AML/CTF Rules Instrument 2007 (No.1) sets out the circumstances where one reporting entity can rely on the applicable customer identification procedure carried out by another reporting entity under section 38 of the AML/CTF Act. This includes an Australian financial services licence holder or another member of your designated business group. However, where the circumstances in the AML/CTF Rules are not satisfied, a reporting entity may be able to use an agent to carry out a customer identification and/or verification procedure on its behalf.

It is important to note that a reporting entity can outsource responsibility, but not accountability.

This question asks if any of your customer identification collection and/or verification procedures were carried out by an external party or agent.

Please refer to the following resources for further information:

- AML/CTF Act, section 37 – ‘Applicable customer identification procedures may be carried out by an agent of a reporting entity’
- AML/CTF Rules Instrument 2007 (No.1) – chapter 7
- *AUSTRAC Regulatory Guide*, chapter 4 – ‘AML/CTF programs – Part B (customer identification)’

17. Did members of your designated business group rely on the customer identification and verification procedures carried out by another member?

Part 7.3 of the AML/CTF Rules Instrument 2007 (No.1) sets out the circumstances where one reporting entity can rely on the applicable customer identification procedure carried out by another reporting entity within its own designated business group (DBG).

A response for question 17 is only required if you belonged to a DBG during the reporting period.

If you belonged to a DBG, this question requires you to indicate if your customer identification and/or verification procedures were carried out by another member of your DBG.

Please refer to the following resource for further information:

- AML/CTF Rules Instrument 2007 (No.1) – chapter 7
- *AUSTRAC Regulatory Guide*, chapter 4 – ‘AML/CTF programs – Part B (customer identification)’

18. Did you make and retain records of all customer identification information?

On 12 December 2007, record keeping requirements commenced as outlined in the AML/CTF Act Part 10, Division 3.

This question requires you to indicate if you had kept records of the customer identification information that was required to be collected when providing your designated services.

The third response option for question 18 (‘Done by another DBG member’) is only applicable if you belonged to a DBG during the reporting period.

For further information on what your record keeping requirements are, please refer to the following resources:

- AML/CTF Act, Part 10, Division 3 – ‘Records of identification procedures’
- AML/CTF Rules Instrument 2007 (No.1) – chapter 20
- AUSTRAC guidance note – ‘Record-keeping requirements’

New AML/CTF obligations

Ongoing customer due diligence

19. Indicate your progress in meeting the following aspects of this new obligation as at 31 December 2008.

(a) Transaction monitoring program to identify suspicious customer activity

(b) Enhanced customer due diligence program to be applied when there is high money laundering / terrorism financing risk or when a suspicion has arisen in regard to a customer.

On 12 December 2008, new obligations to implement ongoing customer due diligence (OCDD) systems and controls commenced for reporting entities. OCDD is part of a reporting entity's overall customer due diligence obligations to collect and verify their customer's identification and then implement systems and controls to monitor customers and their transactions on an ongoing basis.

This question asks you to indicate your level of implementation for each point as at 31 December 2008.

For further information on what your enhanced customer due diligence requirements are, please refer to the following resources:

- AML/CTF Act, Part 2, Division 6 – 'Ongoing customer due diligence'
- AML/CTF Rules Instrument 2007 (No.1) – chapter 15
- *AUSTRAC Regulatory Guide*, chapter 8 – 'Ongoing customer due diligence'.

Reporting of international funds transfer instructions, threshold transactions, suspicious matters

20. Indicate whether you have procedures in place to report the following, as at 31 December 2008:

(a) International funds transfer instructions

(b) Threshold transactions

(c) Suspicious matters.

On 12 December 2008, new obligations to report certain transactions to AUSTRAC commenced for reporting entities. Reporting entities were required to implement procedures to ensure that these reports were generated and submitted to AUSTRAC in accordance with the requirements outlined in the AML/CTF Act, Part 3.

This question asks you to indicate your level of implementation of these procedures for each report type.

For further information on what your transaction reporting requirements are, please refer to the following resources:

- AML/CTF Act, Part 3 – 'Reporting obligations'
- AML/CTF Rules Instrument 2007 (No.1) – chapters 16, 17, 18 and 19
- AUSTRAC explanatory notes for Threshold Transaction Reports, Suspicious Matter Reports and International Funds Transfer Instruction Reports are available at your AUSTRAC Online account. If you do not have access to your AUSTRAC Online account, please contact the AUSTRAC Help Desk on 1300 021 037 or email to help_desk@austrac.gov.au
- AUSTRAC Public Legal Interpretation No.6 – Suspect transactions and suspicious matter reports
- *AUSTRAC Regulatory Guide*, chapter 9 – 'Reporting obligations'.

Correspondent banking relationships and electronic funds transfer instructions

Correspondent banking relationships

21. How many correspondent banking relationships did you have with overseas financial institutions on 31 December 2008?

A response for question 21 is only required if you are a:

- bank
- building society
- credit union, or
- other authorised deposit-taking institution.

For a definition of *correspondent banking*, please refer to the AML/CTF Act, section 5.

For further information and guidance in relation to correspondent banking please refer to the following resources:

- AML/CTF Act, Part 8 – ‘Correspondent banking’
- AML/CTF Rules Instrument 2007 (No.1) – chapter 3
- AUSTRAC guidance note – ‘Correspondent banking’
- *AUSTRAC Regulatory Guide*, chapter 6 – ‘Correspondent banking’.

22. (a) Did you conduct preliminary risk assessments of all correspondent banking relationships?

(b) Did you conduct due diligence assessments of all correspondent banking relationships?

(c) Did you have a procedure to terminate a correspondent banking relationship?

Responses for questions 22(a), (b) and (c) only apply if you are a:

- bank
- building society
- credit union, or
- other authorised deposit-taking institution.

and have a correspondent banking relationship (i.e. you responded to question 21 with a number of 1 or more).

For a definition of *correspondent banking*, please refer to the AML/CTF Act, section 5.

For further information and guidance in relation to correspondent banking please refer to the following resources:

- AML/CTF Act, Part 8 – ‘Correspondent banking’
- AML/CTF Rules Instrument 2007 (No.1) – chapter 3
- AUSTRAC guidance note – ‘Correspondent banking’
- *AUSTRAC Regulatory Guide*, chapter 6 – ‘Correspondent banking’.

Electronic funds transfer instructions

23. Did you keep records of the required payer information for all electronic funds transfer instructions?

A response for question 23 is only required if you are a:

- bank
- building society
- credit union, or
- other authorised deposit-taking institution

and you accepted and processed electronic funds transfer instructions during the reporting period.

Please refer to the following resources for further information:

- AML/CTF Act, Part 5 – ‘Electronic funds transfer instructions’ and Part 10, Division 4 – ‘Records about electronic funds transfer instructions’
- AUSTRAC guidance note – ‘Record-keeping requirements’
- *AUSTRAC Regulatory Guide*, chapter 10 – ‘Electronic funds transfer instructions (EFTIs)’.