



Australian Government

Australian Transaction Reports  
and Analysis Centre

# Guidance note 08/03

## Gambling services

*Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

### 1 Introduction

- 1.1 The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) is designed to assist in combating money laundering and the financing of terrorism. To achieve these aims, the AML/CTF Act places certain obligations on 'reporting entities' (defined in section 5 of the Act).
- 1.2 Under section 229 of the AML/CTF Act, the Chief Executive Officer (CEO) of the Australian Transaction Reports and Analysis Centre (AUSTRAC) may, in writing, make Anti-Money Laundering/Counter-Terrorism Financing Rules (AML/CTF Rules). The AML/CTF Rules are legislative instruments and are therefore binding.
- 1.3 The purpose of this guidance note is predominantly to provide information and assistance to gambling sector reporting entities required to comply with Chapter 10 of the AML/CTF Rules in *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* and certain related obligations under the AML/CTF Act.
- 1.4 References to 'currency' in this guidance note relate to Australian dollars or the foreign currency equivalents.

### 2 Chapter 10 of the AML/CTF Rules

- 2.1 The need for the AML/CTF Rules in Chapter 10 arose due to the differing business practices in the gambling sector, compared with those in the financial sector. Chapter 10 modifies some of the customer identification and record-keeping requirements in the AML/CTF Act for the gambling sector.
- 2.2 Chapter 10 of the AML/CTF Rules applies to:
  - (a) casinos
  - (b) on-course bookmakers
  - (c) totalisator agency boards (TABs)
  - (d) controllers of gaming machine venues
  - (e) providers of accounts for online gambling services.

### 3 Relevant definitions – Part 1.2 of the AML/CTF Rules

- 3.1 On-course bookmaker: 'means a person who carries on a business of a bookmaker or a turf commission agent at a racecourse.'
- 3.2 Online gambling service:

means a designated service of a kind described in table 3 of section 6 of the AML/CTF Act that is provided to a customer using any of the means referred to

in paragraph 5(1)(b) of the *Interactive Gambling Act 2001* and includes an excluded wagering service as defined in section 8A of the *Interactive Gambling Act 2001* but does not include a "telephone betting service" as defined in section 4 of the *Interactive Gambling Act 2001*.

- 3.3 Totalisator agency board (TAB): 'means a board or authority established, or a company holding a licence, under a law of a State or Territory for purposes that include the purpose of operating a betting service.'

## 4 Casinos

### *Customer identification*

- 4.1 Under Chapter 10 of the AML/CTF Rules, casinos are required to identify customers:

- (a) from whom they receive or accept a bet, or on whose behalf they make or place a bet of \$10,000 or more, unless the bet is effected by an exchange of gaming chips or tokens only
- (b) who are accepted into a game of chance or mixed chance and skill for money or other value (item 6 in table 3 of section 6 of the AML/CTF Act) on payment of \$10,000 or more, unless the customer enters the game by paying with gaming chips or tokens only
- (c) who are paid winnings or awarded a prize of \$10,000 or more in respect of a bet or a game, unless the customer is paid or awarded gaming chips or tokens only
- (d) who exchange money for gaming chips or tokens if the amount is \$10,000 or more
- (e) who exchange or redeem gaming chips or tokens for money if the amount is \$10,000 or more.

- 4.2 As a separate obligation to the Chapter 10 AML/CTF Rules, casinos also need to identify customers who:

- (a) open accounts or become signatories to accounts for the provision of a gambling service
- (b) exchange currency at a casino (\$500<sup>1</sup> or more in Australian currency or the foreign currency equivalent, as per Chapter 14 of the AML/CTF Rules)
- (c) receive from a casino any designated service covered in table 1 of section 6 of the AML/CTF Act.

- 4.3 Despite subparagraphs 4.1(a) and (b) above, a casino must identify a customer who places a bet of less than \$10,000, or who is accepted into a game on payment of less than \$10,000, where the casino determines it should obtain and verify any 'know your customer' (KYC) information in accordance with its enhanced customer due diligence program.

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<sup>1</sup> As at the publication date of this guidance note, draft AML/CTF Rules to change this threshold to \$1,000 had been released for public consultation.

### *Record-keeping exemptions*

- 4.4 Casinos are exempt from the requirements of the AML/CTF Act with respect to maintaining records of designated services and transaction information (see sections 106 and 107 of the AML/CTF Act) in relation to any of the following services:
- (a) receiving or accepting a bet placed or made by a customer
  - (b) placing or making a bet on behalf of a customer
  - (c) accepting a customer into a game of chance or skill for money or other value (except where the game is played on a gaming machine at an eligible gaming machine venue)
  - (d) paying out winnings of a bet only with gaming chips or tokens.

## **5 On-course bookmakers and TABs**

### *Customer identification*

- 5.1 Under Chapter 10 of the AML/CTF Rules, on-course bookmakers and TABs need to identify customers who are paid out winnings of \$10,000 or more. As a separate obligation to Chapter 10, on-course bookmakers and TABs also need to identify customers who:
- (a) open accounts or become signatories to accounts for the provision of a gambling service
  - (b) exchange currency (\$500<sup>2</sup> or more in Australian currency or the foreign currency equivalent, as per Chapter 14 of the AML/CTF Rules)
  - (c) receive from an on-course bookmaker or TAB any designated service covered in table 1 of section 6 of the AML/CTF Act.
- 5.2 However, where the on-course bookmaker or TAB determines it should obtain and verify any KYC information in accordance with its enhanced customer due diligence program, it will need to do so even when the winnings are less than \$10,000, or where the designated service is that of receiving or accepting a bet, or placing or making a bet on behalf of the person.

### *Record-keeping exemptions*

- 5.3 On-course bookmakers and TABs are exempt from the requirements of the AML/CTF Act with respect to maintaining records of designated services and transaction information (see sections 106 and 107 of the AML/CTF Act) in relation to any of the following services:
- (a) receiving or accepting a bet placed or made by a customer
  - (b) placing or making a bet on behalf of a customer
  - (c) accepting a customer into a game of chance or skill for money or other value (except where the game is played on a gaming machine at an eligible gaming machine venue).

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<sup>2</sup> As at the publication date of this guidance note, draft AML/CTF Rules to change this threshold to \$1,000 had been released for public consultation.

## **6 Gaming machines**

### *Customer identification*

6.1 Customer identification procedures do not apply to an 'eligible gaming machine venue' where both of the following apply:

- (a) a person plays a game on a gaming machine at the venue
- (b) the game is provided as a business

or where all the following apply:

- (a) the game is played for money or anything else of value
- (b) the game is a game of chance or of mixed chance and skill
- (c) the game is provided as a business
- (d) the game is not played on a gaming machine located at the venue

except when the customer is paid out winnings to the value of \$10,000 or more.

6.2 An 'eligible gaming machine venue' is one where both of the following apply:

- (a) a person is in control of a particular venue but is not an owner or lessee of the gaming machines at that venue
- (b) one or more gaming machines are located at the venue.

6.3 However, where the gaming machine venue determines it should obtain and verify any KYC information in accordance with its enhanced customer due diligence program, it will need to do so whether or not the above conditions apply and even where winnings paid out are less than \$10,000.

## **7 Online gambling services**

### *Customer identification*

7.1 Reporting entities who offer accounts for online gambling services have 90 days from the day a customer account is opened, in which to identify that customer. This applies where the customer opens an account to obtain the online gambling service and the reporting entity does not allow the customer to withdraw funds from the account prior to the customer identification procedure having been carried out. A customer may withdraw funds within the 90-day period if the customer identification procedure has been carried out within a shorter period.

## **8 Verification of customer identification**

8.1 Chapter 10 of the AML/CTF Rules sets certain requirements for casinos, on-course bookmakers and TABs regarding the verification of customer identification.

### *Verification of identity of customers*

8.2 After carrying out a customer identification procedure, if a circumstance arises where the reporting entity suspects on reasonable grounds that the customer is not who they claim to be, then the reporting entity must perform either of the following, within 14 days (starting on the day after forming the suspicion), or before the reporting entity commences to provide another designated service to the customer:

- (a) collect KYC information about the customer
- (b) verify, from a reliable and independent source, certain existing KYC information about the customer.

8.3 The 'reliable and independent' source may be in the form of documentation or electronic data. A reporting entity must include in Part B of its AML/CTF program appropriate risk-based systems and controls for it to determine, where applicable:

- (a) what reliable and independent documentation or electronic data the reporting entity will require a customer to produce for the purpose of verification
- (b) whether and in what circumstances the reporting entity is prepared to rely upon a copy of a reliable and independent document
- (c) in what circumstances a reporting entity will take steps to determine whether a document produced by a customer may have been forged, tampered with, cancelled or stolen and if so, what steps the reporting entity will take to establish whether or not the document has been forged, tampered with, cancelled or stolen
- (d) whether the reporting entity will use any authentication service that may be available in respect of a document
- (e) whether and how to confirm KYC information collected from a customer by independently initiating contact with the person that the customer claims to be
- (f) whether a document is sufficiently up-to-date for use in verification
- (g) whether the electronic data is reliable and independent, taking into account:
  - (i) the accuracy of the data
  - (ii) how secure the data is
  - (iii) how the data is kept up-to-date
  - (iv) how comprehensive the data is (for example, by reference to the range of persons included in the data and the period over which the data has been collected)
  - (v) whether the data has been verified from a reliable and independent source
  - (vi) whether the data is maintained by a government body or pursuant to legislation
  - (vii) whether the electronic data can be additionally authenticated
- (h) the reporting entity's pre-defined tolerance levels for matches and errors with regard to the documentation or electronic data.

Further information about reliable and independent sources can be found in AUSTRAC's guidance note *Risk management and AML/CTF programs*.

### *Pre-commencement customers*

- 8.4 'Pre-commencement' customers are those to whom designated services were being provided prior to the customer identification provisions of the AML/CTF Act coming into effect (12 December 2007). If, after 12 December 2008, a suspicious matter reporting obligation arises relating to a pre-commencement customer, then the reporting entity must perform one or more of the following, within 14 days (starting on the day after forming the suspicion), or before the reporting entity commences to provide another designated service to the customer:
- (a) carry out the applicable customer identification procedure, if not already carried out
  - (b) collect KYC information about the customer
  - (c) verify, from a reliable and independent source, certain existing KYC information about the customer.

### *Low-risk service customers*

- 8.5 If a suspicious matter reporting obligation (from 12 December 2008) arises relating to a customer receiving a low-risk designated service, then the reporting entity must perform one or more of the following, within 14 days (starting on the day after forming the suspicion), or before the reporting entity commences to provide another designated service to the customer:
- (a) carry out the applicable customer identification procedure, if not already carried out
  - (b) collect KYC information about the customer
  - (c) verify, from a reliable and independent source, certain existing KYC information about the customer.

## **9 Enhanced customer due diligence**

- 9.1 Reporting entities may need to identify customers in other circumstances where necessary for enhanced customer due diligence purposes. This obligation comes into effect on 12 December 2008 (see Chapter 15 of the AML/CTF Rules).

### **Further information**

AUSTRAC officers are able to assist reporting entities, their staff and the public in providing general information relating to the AML/CTF Act. Enquiries can be directed to the AUSTRAC Help Desk via:

- email to [help\\_desk@austrac.gov.au](mailto:help_desk@austrac.gov.au)
- telephone 02 9950 0827 or 1300 021 037 (a local call within Australia).

The information contained in this document is intended only to provide a summary and general overview on these matters. It is not intended to be comprehensive. It does not constitute, nor should it be treated as, legal advice or opinions. This document may contain statements of policy which reflect AUSTRAC's administration of the legislation in carrying out its statutory functions. The Commonwealth accepts no liability for any loss suffered as a result of reliance on this publication. AUSTRAC recommends that independent professional advice be sought.

The information contained herein is current as at the date of this document.

Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the *Privacy Act 1988*, including the requirement to comply with the National Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to <http://www.privacy.gov.au> or call 1300 363 992.

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Australian Transaction Reports and Analysis Centre (AUSTRAC)  
PO Box 5516  
West Chatswood NSW 1515

Telephone: 1300 021 037  
Facsimile: 02 9950 0071  
Website: [www.austrac.gov.au](http://www.austrac.gov.au)  
Email: [help\\_desk@austrac.gov.au](mailto:help_desk@austrac.gov.au)