



Australian Government

Australian Transaction Reports
and Analysis Centre

Guidance note 10/01

Identification requirements in Threshold Transaction Reports (TTRs) from 1 October 2011

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 guidance note provides further information on the additional details required in threshold transaction reports from 1 October 2011.

2 Additional details in Threshold Transaction Reports effective 1 October 2011

- 2.1 From 1 October 2011, reporting entities will be required to provide additional details in a threshold transaction report (TTR). The additional details relate to an individual (other than the customer of a designated service) that conducts a threshold transaction; for example, a third party or a person authorised by the customer (agent).
- 2.2 The additional details do not alter the existing requirement to collect the details of a customer of a designated service.
- 2.3 Providing the details of authorised agents or third parties in cash transaction reports has been a requirement in jurisdictions such as the USA and Canada for many years. A number of reporting entities already comply with these requirements in their overseas operations. For consistency, the reportable details of authorised agents or third parties required by AUSTRAC closely align with existing requirements overseas.

3 Customer identification and verification requirements

- 3.1 Reporting entities must have systems and processes in place to ensure that the customer of a designated service has been identified before commencing to provide that designated service. Customer identification requirements are set out in Part 2 of the AML/CTF Act and Chapter 4 of the AML/CTF Rules.
- 3.2 The systems and processes used to collect and verify customer identification information is a matter for the individual reporting entity. Under the AML/CTF Act, each reporting entity must collect and verify the required customer identification necessary to satisfy the reporting entity that the customer is who they claim to be.

Further information may be required to be collected and verified, under Part 2, in order to identify, mitigate and manage the risk that the reporting entity's services and products might be used to launder money or finance terrorism. Chapter 15 of the AML/CTF Rules set out the requirements for ongoing customer due diligence.

4 Determining whether the individual conducting the threshold transaction is the customer of a designated service

- 4.1 Unlike many aspects of the AML/CTF Act, determining the customer of a transaction is not risk-based and will depend on the facts available to the reporting entity and the type of designated service provided.
- 4.2 AUSTRAC expects reporting entities to apply rigour in ascertaining who the customer of a designated service is, however, it is not the responsibility of the reporting entity to prove that the individual conducting the threshold transaction is not the customer.
- 4.3 It is reasonable for a reporting entity to accept that the individual conducting the transaction is the customer and carry out the applicable customer identification procedure for that individual where there is a complete absence of doubt (the reporting entity has no reason to believe the individual is not the customer) and where:
- (a) the transaction does not appear unusual; and
 - (b) the individual has not disclosed that they are not the customer; and
 - (c) the reporting entity is not aware, through other information reasonably available to it, that the individual is not the customer.
- 4.4 AUSTRAC considers the following list of indicators as examples of information reasonably accessible to a reporting entity in determining whether the individual conducting the threshold transaction is the customer:
- (a) an account is held in the name of a business or company;
 - (b) the customer is familiar to reporting entity staff, however, the individual undertaking the threshold transaction is a different person;
 - (c) a difference noted between the physical appearance of a person and the details of an account (for example, an obvious difference in age or gender to that of the account holder);
 - (d) where a transaction is not consistent with the known financial profile or previous activity of the customer;
 - (e) a transaction undertaken at a location not normally associated with the customer (for example, a withdrawal interstate).

5 Identifying a customer that is not present at the time of the threshold transaction

- 5.1 In circumstances where it has been determined that the individual conducting the threshold transaction is not the customer of the designated service, it may be that the customer is not present at the time of the transaction (for example, a person carrying out a transaction on behalf of a friend that is not present). Further, it may be the customer is not known to the reporting entity (that is, there is no pre-existing relationship between the reporting entity and the customer and the customer has not been identified previously).

- 5.2 In order to collect the required customer identification information when the customer is not present and has not been previously identified, a reporting entity may:
- (a) collect the required customer information from the individual conducting the transaction and verify the information prior to the designated service being provided; or
 - (b) not provide the designated service in circumstances where the required customer information cannot be collected.
- 5.3 Where pre-existing customer information is available to the reporting entity, and has been verified to the standard required under the reporting entity's applicable customer identification procedure, a reporting entity may rely upon that information to satisfy the identification requirements prior to the designated service being provided.
- 5.4 Where a reporting entity is suspicious that the individual conducting the transaction has deliberately refrained from providing information about themselves and/or the customer, it should consider whether it is required to submit a suspicious matter report to AUSTRAC giving the reportable details of the transaction. A designated service must not be provided unless the customer identification has been completed.

6 Identification requirements for the individual conducting the threshold transaction

- 6.1 If it is determined that the individual conducting the transaction is not the customer of the designated service, the details of the individual must be reported to AUSTRAC.
- 6.2 An example would be where a customer has authorised an agent such as a broker or financial adviser to act on its behalf or perhaps engaged a relative, friend or associate to conduct a transaction. In some cases, the customer may not be aware that an individual has undertaken a transaction, for example, an individual depositing money into the customer's account.
- 6.3 From 1 October 2011, reporting entities must disclose in a TTR:
- (a) if an individual conducted the transaction; and
 - (b) if the individual conducting the transaction is not the customer of the designated service, the details of that individual and any business they may represent in accordance with the Chapter 19 Rules, unless the threshold transaction was conducted in non-face to face circumstances and the reporting entity is unable to determine who conducted the transaction.
- 6.4 Similar to the customer identification requirements, the systems and processes used to collect the required information on the individual conducting the transaction is a matter for the individual reporting entity.
- 6.5 Authorised agents of customers need to be identified and verified in accordance with Part 4.11 of the AML/CTF Rules. Further, where third parties conduct a transaction (that is, someone that is not necessarily authorised to act on behalf of the customer) sufficient information must be collected in order to comply with the reportable details required under Chapter 19 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
- 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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