



Australian Government

Australian Transaction Reports
and Analysis Centre

Guidance note 10/02

Collection of 'if known' reportable details in relation to the individual conducting a threshold transaction (where the individual is not the customer of the designated service)

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 application of the 'if known' classification to the details of the individual conducting a threshold transaction (where the individual is not the customer of the designated service)

2 Additional reportable 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 Chapter 19 of the AML/CTF Rules on threshold transaction reportable details do not prescribe what constitutes 'knowing' certain information about a person. This guidance specifically relates to the application of the term 'if known' for the collection and reporting of the details of the individual conducting the threshold transaction, where that person is not the customer.
- 2.3 This guidance does not extend to the application of the term 'if known' as it applies to other subparagraphs of Chapter 19 or other chapters within the AML/CTF Rules.

3 Collection of 'if known' details relating to the individual conducting the threshold transaction that is not the customer

- 3.1 AUSTRAC will take a pragmatic approach to determining whether or not information is 'known' to a reporting entity, where it relates to a person who is not the customer. That is, AUSTRAC will interpret 'if known' as meaning 'if known or reasonably accessible to a reporting entity' for the purposes of determining whether or not a

reporting entity has complied with its obligations under the AML/CTF Act in the first instance.

- 3.2 It is AUSTRAC's view that in circumstances where the individual conducting the threshold transaction is reasonably accessible, for example, the person is standing at the counter, reporting entities should attempt to collect the reportable details classified as 'if known' under subparagraph 19.3(15) of the AML/CTF Rules.
- 3.4 Reporting entities may rely on pre-existing customer information where applicable, as the use of this information is required and authorised under law. The National Privacy Principles (NPPs) in Schedule 3 of the *Privacy Act 1988* allow the use of personal information, which has been collected for one purpose, for a secondary purpose where that use is required or authorised under law under NPP 2.1(g).

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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