

# MEETING YOUR BENEFICIAL OWNER OBLIGATIONS

It is vital to understand the beneficial owners of your customers, so you can **protect your business** from being exploited for criminal gain. AUSTRAC has prepared this summary of your beneficial owner identification obligations, to help you comply and be confident of who you are *really* doing business with.

## 1 ASSESS

Assess the money laundering/terrorism financing (**ML/TF risk**) posed by the beneficial owners of your customers.

Doing business with non-individual customer types has different risks than doing business with individuals. Non-individual customer types may have opaque and complex ownership structures. This can make it difficult to determine their beneficial owner(s). You need to be able to demonstrate that you have considered the different types of risks the beneficial owners of your customers may pose to your business and the broader Australian community.

Like all other business and ML/TF risks, beneficial owner risks change over time. It is important that you regularly review your beneficial owner risk assessment and ensure processes are up-to-date and reflect current risk factors.

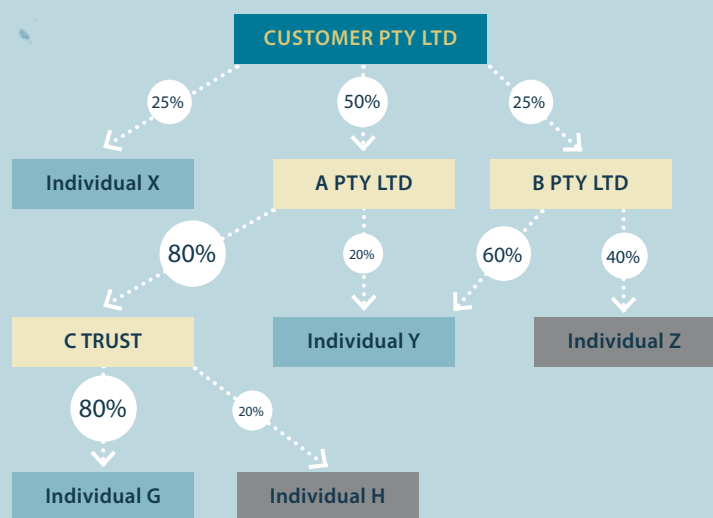
## 2 DETERMINE

**Determine** the identity of the **beneficial owner(s)** of your non-individual customers.

A beneficial owner of a non-individual customer is an individual that controls the customer, or either directly or indirectly owns 25% or more of the customer.

The beneficial owner's (or beneficial owners') interest in the non-individual customer will often be indirect. This means they do not directly own 25% or more of the customer themselves, but they own an interest in another entity, which in turn owns an interest in the non-individual customer. There can be several links in the chain of ownership that need to be traced through in order to determine the beneficial owner(s).

## Example: Determining beneficial ownership



Individual X is a beneficial owner because they directly own 25% of CUSTOMER PTY LTD.

Individual G is a beneficial owner because they hold 80% of the units in C TRUST (a unit trust) which in turn owns 80% of A PTY LTD, which owns 50% of CUSTOMER PTY LTD (meaning Individual G has an indirect  $.8 \times .8 \times .5 = 32\%$  ownership of CUSTOMER PTY LTD)

Individual Y is a beneficial owner because they have two interests that collectively amount to an indirect 25% of CUSTOMER PTY LTD:

- The first is their 20% interest in A PTY LTD, which owns 50% of CUSTOMER PTY LTD (providing an indirect  $.2 \times .5 = 10\%$  ownership of CUSTOMER PTY LTD).
- The second is their 60% interest in B PTY LTD, which owns 25% of CUSTOMER PTY LTD (providing an indirect  $.6 \times .25 = 15\%$  ownership of CUSTOMER PTY LTD).
- Adding these together, Individual Y has a  $10\% + 15\% = 25\%$  interest in CUSTOMER PTY LTD.

Note: certain entities are exempt from beneficial owner identification requirements. A list of these entity types is at subparagraph 4.12.2(2) of the Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules).

## 3 COLLECT

**Collect**, and take **reasonable measures to verify**, each beneficial owner's identification information.

You must collect at minimum the full name of each beneficial owner, as well as either their date of birth or their full residential address.

To verify the beneficial owner's (or beneficial owners') identity, you need to use **reliable and independent documentation** or **reliable and independent electronic data** that demonstrates the identity information you collected about the beneficial owner is correct.

Reliable and independent documentation includes (but is not limited to) original primary photographic or non-photographic identification documentation and original secondary identification information (as defined in Chapter 1 the AML/CTF Rules). Other verification sources may be used by reporting entities, as long as it is appropriate having regard to the ML/TF risk.

Disclosure certificates may only be used for verification purposes as a last resort, when other verification methods are unsuccessful. AUSTRAC expects to see evidence that a reasonable attempt was made to use reliable and independent documentation, or electronic data, to verify the beneficial owner's identity before use of a disclosure certificate will be considered compliant.

What counts as reasonable measures for verification purposes will depend on the ML/TF risks you have identified in relation to providing the designated service to the relevant customer.

If you are unable to determine the identity of any beneficial owners of a non-individual customer, then you need to take reasonable measures to verify the identity of another individual instead.

Individuals who may be identified instead of identifying an actual beneficial owner are set out in paragraph 4.12.9 of the AML/CTF Rules. Identification of these individuals is only acceptable if you are unable to identify an actual beneficial owner. AUSTRAC expects to see evidence that a reasonable attempt was made to identify an actual beneficial owner, before identification of these individuals will be considered compliant.

The beneficial owner(s) of your non-individual customers may change over time, so you need to regularly update beneficial owner information throughout the life of relationships with your non-individual customers

# 4/KEEP RECORDS

You must keep records of the beneficial owner identification processes that you undertake. Record-keeping requirements are set out in Division 3 of Part 10 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act).

Importantly, you should ensure you keep records to demonstrate you have traced through each link in a non-individual customer's chain of ownership, until you have identified all individuals who meet the definition of beneficial owners (if any).

# 5/DOCUMENT

**Document how** you will fulfil your obligations in your AML/CTF program.

Your AML/CTF program should describe:

- how you will determine who the beneficial owner(s) of your non-individual customers are
- what information you will collect about each beneficial owner
- what information you will verify (taking reasonable measures) about each beneficial owner
- what reliable and independent documentation, or reliable and independent electronic data, you will use to verify the identity documentation of beneficial owners
- if, and when, you will allow the use of disclosure certificates
- if, and when, you will resort to identifying an individual instead of being able to identify an actual beneficial owner
- how your business defines 'reasonable measures' for verifying
- on about beneficial owners (or other individuals where an actual beneficial owner cannot be identified).

Processes set out in your AML/CTF program must not be generic — they must be specific to your business and show your staff what to do when they need to determine, collect and/or verify beneficial owner information. Processes copied from the AML/CTF Rules or the AUSTRAC compliance guide are not specific to your business, and should not be used instead of tailored procedures.

Once included in your AML/CTF program, it is a legal requirement that processes are followed by all staff.

If you have any questions, please refer to the following resources:

- **AML/CTF Act**  
<http://www.austrac.gov.au/businesses/legislation/amlctf-act>
- **AML/CTF Rules**  
<http://www.austrac.gov.au/businesses/legislation/registered-amlctf-rules>
- **AUSTRAC compliance guide**  
<http://www.austrac.gov.au/businesses/obligations-and-compliance/austrac-compliance-guide>
- **www.austrac.gov.au**
- AUSTRAC Information Service Centre, phone 1300 021 037