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Pubs and clubs - reducing the risk of tipping off in enhanced customer due diligence

This quick guide provides practical scenarios and customer-facing talking points to help pubs and clubs apply enhanced customer due diligence (CDD) while reducing the risk of tipping off.

Why enhanced CDD matters

Enhanced CDD plays an important role in detecting, disrupting and preventing money laundering, terrorism financing and proliferation financing. We refer to these as ML/TF. Conducting enhanced CDD helps you build a picture of the customer and address any developing or evolving ML/TF risks.

You must conduct enhanced CDD if both of the following occur:

- you're required to submit a suspicious matter report (SMR) in relation to a customer
- you continue providing designated services to them.

Learn more about:

- enhanced CDD
- suspicious matter reports.

Tipping off

Tipping off is disclosing certain information to another person, where it would or could reasonably be expected to prejudice an investigation. This includes:

- information that establishes you submitted an SMR, or that a requirement to submit an SMR has been triggered
- a report made or prepared for the purposes of meeting your SMR obligations, including any copies
- any document claiming to set out information contained in an SMR.

Tipping off is a criminal offence that applies to all staff

Tipping off can lead to criminals changing their behaviour to avoid detection by law enforcement. This makes investigations more difficult.

Learn more about tipping off.

How enhanced CDD and tipping off may intersect

When enhanced CDD is triggered, you may need to ask the customer for more information or documents, based on the reason why the customer was identified as high ML/TF risk. For example, the following enhanced CDD measures may be appropriate:

- collecting and/or verifying more know your customer (KYC) information
- updating the customer's KYC information more frequently than you would for other customers
- collecting and/or verifying information about the customer's source of funds or source of wealth
- taking additional measures to better understand the background and financial situation of the customer
- deciding not to provide a designated service where the risk falls outside your business's risk appetite

Tipping off risks may arise when you request the above information from a customer, but this doesn't prevent you from telling a customer that you need to collect further information to comply with your AML/CTF obligations to know your customer.

Learn more about enhanced CDD measures you can apply.

Reducing the risk of tipping off

Conducting reasonable enquiries into customer activity that may be unusual isn't by itself considered tipping off. However, when making these enquiries you must not disclose information if it would or could be likely to prejudice an investigation.

Instead, where possible you should provide the customer with genuine reasons for the enquiry that don't indicate you're suspicious of them. For example, you could say the enquiry is required to:

- comply with AML/CTF legislation or other legal obligations
- make sure you have up to date customer details on file
- follow your business's standard procedures for a particular situation

These explanations help frame enquiries as standard, rather than signs of suspicion.

To help your staff, you could put in place standardised scripts or forms they can use to gather information safely and routinely. **On the last page of this guide, we've included a resource with talking points staff can use when engaging with customers.**

When staff interact with a customer in relation to any information or suspicious activity, you should document your interactions and any steps you took to reduce the risk of tipping off.

Scenarios to reduce the risk of tipping off in enhanced CDD

Below are scenarios where staff may need to engage with a customer to conduct enhanced CDD. In each of these scenarios, we've provided examples of talking points staff may use, however you can tailor these to better suit your circumstances.

Scenario 1: A customer provides inconsistent identification information

Enhanced CDD measure you might apply

- Collecting and/or verifying more KYC information about the customer.

What staff can say to the customer

- "We're required to collect this information, and documents to verify it, to comply with anti-money laundering and counter-terrorism financing legislation."
- "We need to make sure we have the most up to date customer details on file."
- "It looks like we've previously recorded this incorrectly, so we need to correct this."
- "This is part of our standard process."

Scenario 2: A customer's source of funds is unexplained

Enhanced CDD measure you might apply

- Collecting and/or verifying information about the customer's source of funds.

What staff can say to the customer

- "We're required to collect this information, and documents to verify it, to comply with anti-money laundering and counter-terrorism financing legislation."
- "We're required to verify the source of funds for payouts of a certain amount."
- "We're required under government legislation to collect and verify this information."
- "We're required to verify the source of funds for gameplay of a certain amount."
- "We're required to verify the source of funds for members."
- "This is part of our standard process."
- "This is part of our standard process for gameplay of a certain amount."
- "This is part of our standard process for members."

Scenario 3: Declining to provide a designated service where it falls outside of your risk appetite

Enhanced CDD measure you might apply

- Electing not to provide a designated service where the ML/TF risk falls outside of your business's risk appetite.

What staff can say to the customer

- "The nature of these activities falls outside of our business's risk appetite."
- "Our venue doesn't have the systems and controls required to manage the regulatory obligations associated with your activity."

Where a customer refuses to provide required information:

- "As you've failed to respond to our request for further details within a reasonable timeframe, or in a satisfactory way, we're unable to provide you with services."

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Talking points to help you reduce the risk of tipping off when engaging with customers

It's a criminal offence to disclose certain types of information to another person, where it would or could reasonably be expected to prejudice an investigation. This is known as tipping off.

Asking customers for information about themselves or their activity that may be unusual is not, by itself considered tipping off. To manage the risk of tipping off, you should provide the customer with genuine reasons for the enquiry that don't indicate you're suspicious of them.

Consider using these talking points when engaging customers as part of enhanced CDD:

- "We're required to collect this information, and documents to verify it, to comply with anti-money laundering and counter-terrorism financing legislation."
- "We need to make sure we have the most up to date customer details on file."
- "It looks like we previously recorded this incorrectly, so we need to correct this."
- "We're required under government legislation to collect and verify this information."
- "We're required to verify the source of funds for payouts of a certain amount"
- "We're required to verify the source of funds for gameplay of a certain amount."
- "We're required to verify the source of funds for members."
- "This is part of our standard process."
- "This is part of our standard process for gameplay of a certain amount."
- "This is part of our standard process for members."

Consider using these talking points when ending a business relationship with a customer:

- "The nature of these activities falls outside of our business's risk appetite."
- "Our venue doesn't have the systems and controls that would be required to manage regulatory obligations associated with your activity."
- "As you've failed to respond to our request for further details within a reasonable timeframe, or in a satisfactory way, we're unable to provide you with services."

Tips for engaging with customers safely:

- Ask neutral, factual questions.
- Keep explanations simple and consistent.
- Treat enquiries as routine and process based.
- Request only information and documents required under your AML/CTF program.
- Avoid any references to suspicion, reports or investigations.
- Use your business's own standardised forms and approved scripts where possible.

Visit austrac.gov.au/education-and-resources for more information.

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