

MY LOCAL BROKER

My Local Broker Pty Ltd Australian Credit License Number 481374 Best Interests Duty Policy

MLB Compliance

AML / CTF

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AML / CTF policy

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Money Laundering and Terrorism Financing

What is Money Laundering?

Money laundering is the processing of funds made in carrying out criminal activities in order to disguise the illegal origin of the funds. It is a process undertaken by many criminal organisations (both large and small). The International Monetary Fund has estimated that aggregate size of money laundering activities globally is between two and five percent of world gross domestic product. The money laundering process enables criminals to enjoy profits made through criminal activities without attracting attention to the underlying activity or the persons involved. This is done by disguising the sources of the profits, changing the money into another type of asset, or moving the funds to a place where they are less likely to attract attention.

Generally there are three stages to money laundering.

The Initial or "Placement" Stage – In this stage the money launderer introduces the illegal profits into the financial system. This is done in various ways. The money launderer may break up large amounts of cash into smaller, less conspicuous amounts which are deposited into bank accounts or by purchasing cheques or bank bills which are deposited into bank accounts at a later date or at another location.

This stage is usually carried out fairly close to the place where the underlying illegal activity occurred. For this reason, jurisdictions with weaker anti-money laundering laws often see higher instances of organised crime.

The Second or "Layering" Stage – Following the Placement Stage, the money launderer will convert the funds into another type of asset and/or move funds several times to distance them from the original type of asset and place in which they entered the financial system. This may be done by purchasing and selling investment instruments or by transferring funds between a series of bank accounts. In some cases, launderers disguise the transfers as payments for goods or services, giving the illegal funds a legitimate appearance.

In this stage funds are often moved across the globe, remaining in each bank account only momentarily before being forwarded to a new location. Money launderers prefer large financial centres in this stage, particularly centres where funds can transit bank accounts without leaving traces of their source or ultimate destination.

The Third or "Integration" Stage – In this stage the money launderer re-integrates the funds into the economy. This may be done through the purchase of real estate and luxury goods, gambling profits, or the establishment of an anonymous company (in jurisdictions where this is permitted) which then lend the laundered money back to the money launderer via a legitimate loan (who pays interest on the loan and claims tax relief for the loan repayments).

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What is Terrorist Financing?

Terrorist financing activities may involve the use of funds raised from legitimate sources, such as personal donations and profits from businesses, as well as funds from criminal sources, such as the drug trade, the smuggling of weapons, fraud and extortion.

Terrorists use techniques like those used by money launderers to evade the authorities' attention and to protect the identity of the ultimate beneficiaries of the funds. They also move funds by physical transportation of cash, gold and other valuables through smuggling routes.

Because terrorist financing transactions tend to be transactions involving smaller amounts of money than money laundering transactions and because terrorist financing transactions are often derived from legitimate sources, detection of these transactions and tracking of these funds is difficult.

After September 2001 there has been an increased international focus on the source of terrorist finances and ways in which these funds can be identified before they reach their ultimate beneficiary.

The Financial Action Task Force

The Financial Action Task Force (**FATF**) is an inter-governmental body, established in 1989. The FATF is a policy making body that sets the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation (FATF Standards). In February 2012, the FATF released the revised 40 recommendations, which comprise the FATF Standards.

The FATF promotes effective implementation of legal, regulatory and operational measures to fight money laundering, terrorist financing and other related threats to the integrity of the international financial system.

Australia is one of the 33 member countries that has voluntarily joined the FATF.

One of the conditions of membership is to introduce appropriate legislation to::

- effectively criminalise money laundering and terrorist financing;
- make it mandatory for financial institutions to identify their customers, keep customer records and to report suspicious transactions; and
- establish an effective financial intelligence unit, so that the country will be assessed fully or largely compliant with the Key Recommendations and Special Recommendations.

Therefore, FATF membership requires government bodies to develop policies and procedures which guide businesses in the financial services industry on how to deal with situations pertaining to AML/CTF issues.

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Australia's Anti-Money-Laundering / Counter-Terrorist Financing legislation

In 1988 Australia enacted its first anti-money laundering legislation, the *Financial Transactions Reports Act (FTRA)*. The *Anti-Money Laundering / Counter-Terrorist Financing Act (AML / CTF Act)* which essentially replaces the FTRA was passed by parliament in December 2006 and is being implemented over a two-year transition period between 13 December 2006 and 12 December 2008.

The AML / CTF Act represents Australia's legislative response to the international effort led by the FATF to combat money laundering and terrorist financing. The AML / CTF Act addresses the "Forty Recommendations" and "Nine Special Recommendations on Terrorist Financing" to be implemented by member countries.

Broker Obligations

Brokers have no direct obligation to comply with the AML / CTF Act as the legislation specifically covers reporting entities. Banks are reporting entities as they supply a designated service (supplier of loans or a loan business) with a "geographical link" to Australia.

The obligations of a reporting entity is to know who their clients are and understand their clients financial activities. The reporting entity has to be 'reasonably satisfied' that the client is who they claim to be.

However, each reporting entity will set their own AML/CTF policy and brokers must adhere to the lenders policy when lodging loans to each financial institution.

SFG's also have an expectation that brokers adhere with SFG's recommendations in this AML/CTF policy and in the Broker handbook. This policy expects broker to meet both lender and MLB obligations.

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Developing a risk based approach

A risk based approach to AML/CFT means that reporting entities and their limited agent (mortgage brokers) are expected to identify, assess and understand the AML/TF risks to which they are exposed and take AML/CFT measures relative to those risks in order to mitigate them effectively.

When assessing ML/TF risk financial institutions and their limited agents should analyse and seek to understand how the ML/TF risks they identify affect them; the risk assessment therefore provides the basis for the risk-sensitive application of AML/CFT measures.

The risk level will determine whether a mortgage broker should follow a Standard Customer Due Diligence KYC process or an Enhanced Customer Due Diligence Process.

Standard Customer Due Diligence

In the majority of cases for mortgage brokers with their assessment of individuals and businesses AML/CTF risk, standard due diligence is the level of due diligence that will be required

Standard due diligence requires you to identify your customer as well as verify their identity in accordance with the policy and procedures determined by the lender. Lenders will have different processes and procedures to follow when conducting standard due diligence and it is imperative that brokers are familiar with the lender's policy and that they follow that policy.

In addition, there is a requirement to gather information to enable you to understand the nature of the business relationship with the customer / client. This due diligence should provide you with confidence that that you know who your customer is and that your service or the finance that you facilitate is not being used as a tool to launder money or any other criminal activity.

Examples of standard risk customers/transactions include but not limited to:

- Applicants are Australian citizens or residents and are employed in Australia
- Applicants are willing to meet face to face and are able to supply all necessary ID as requested
- Applicants are able to supply multiple sources of financial information readily
- Applicants are not associated with multiple trusts and shell companies
- Applicants are applying for a loan type that is relevant to their requirements

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Enhanced Customer Due Diligence

Enhanced Due Diligence is required where the customer and product/service combination is considered to be a greater risk. This higher level of due diligence is required to mitigate the increased risk. A high risk situation generally occurs where there is an increased opportunity from money laundering or terrorist financing through the service and product you are providing or your customer.

What your enhanced due diligence entails will be dependent on the nature and severity of the risk. The additional due diligence could mean that you:

- see the client face to face (physically) on consecutive visits,
- gather additional information to verify the customer's identity and residence,
- gather further information through appropriate registers or screening mechanisms.

The checks should be relative and proportionate to the level of risk identified and provide confidence that any risk has been mitigated and that the risk is unlikely to be realised.

When would ECDD be appropriate?

A higher risk situation generally occurs where there is an increased opportunity from money laundering or terrorist financing through the service and product you are providing and the client that you are providing the finance for.

Examples of higher risk customers/transactions include but not limited to:

- Politically Exposed Person (PEP) – relates to positions of power and influence.
- Customers who are unwilling to meet face-to-face.
- Customers with preference for particular product types (LOC/equity accounts).
- Customers located in high-risk locations (overseas applicants from Tier 2 countries)
- Customers unwilling or unable to supply evidence about their financial position
- Customers that are involved with multiple trusts and potential shell companies

If you reasonably suspect that there is a higher risk of AML/CTF with your client, you have an obligation to conduct ECDD.

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What should I be doing?

Ensuring the client's identity and their financial history is a fundamental part of any credit application process. A first step in assessing the eligibility of an individual for credit is to establish the identity of that individual. When submitting a deal to a lender, you must be reasonably satisfied that an individual customer is who they claim to be and that you understand the customer's financial activities. For a non-individual customer, you must satisfy yourself that the customer exists and their beneficial ownership details are known.

Identify Verification

Identity verification is about knowing your customer. By knowing your customers you should be better able to identify and mitigate AML/CTF risks, particularly where the activity or transactions are unusual or uncharacteristic.

A simple way to ensure you are meeting minimum requirements is to put in place a Know Your Customer (KYC) process. The basic objective of a KYC process is to obtain an understanding of the risk a customer poses to your business. Essentially, a KYC process is about:

- Ensuring that only legitimate customers are accepted
- Identifying customers to understand the potential risks they may pose
- Verifying the identity of customers using reliable and independent documentation
- Sighting original customer identification
- Sighting original supporting documents
- Certification of original documentation
- Implementing processes to effectively manage the risks posed by customers trying to misuse facilities
- Conducting ongoing customer due diligence, particularly where you consider that customer relationships may be high-risk.

A KYC process should align with the expectations of each lender that you are utilising for loan lodgement purposes as each lender will have unique expectations on what they will require to satisfy their KYC obligations as a reporting entity.

Special Groups

Politically Exposed Persons (PEP)

A PEP is defined by the Financial Action Task Force (FATF) as an individual who is or has been entrusted with a prominent public function. FATF is an international inter-governmental body (of which Australia is a founding member), which sets standards and promotes effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. AUSTRAC supports the use of the FATF guidance on PEPs by reporting entities.

Due to their position and influence, it is recognised that many PEPs are in positions that potentially can be abused for the purpose of committing money laundering offences and related predicate offences, including corruption and bribery, as well as conducting activity related to terrorism

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financing. The potential risks associated with PEPs justify the application of additional AML/CTF measures, designed to prevent and detect this conduct.

If a person is a PEP, this does not mean that there is an automatic link to criminal activities or abuse of the financial system. The additional AML/CTF measures applied in the case of PEPs are preventative and not an indication that they will be involved in criminal activity.

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Types of people / entities that fall into the PEP category

Prominent public position or function'

This term relates to functions which may exist at the Commonwealth, state, territory or municipal levels or foreign equivalent. The meaning of 'prominent' may be determined through the size of the function in relation to the number of affected persons, the budget and relevant powers and military officials, senior executives of state-owned corporations, important party officials, or, in relation to international organisations, directors, deputy directors and members of the board or equivalent. Such positions commonly hold specific powers in relation to approving government procurement processes, budgetary spending, development approvals and government subsidies and grants.

Government Body

The AML/CTF Act also defines 'Australian government body' as the Commonwealth, a state or territory or an agency or authority of the Commonwealth, state or territory. Such bodies are created for a public purpose and come under the power of government, whether at the Commonwealth, state or territory level. This description is also relevant for foreign government bodies, with 'public purpose' being the key indicator in determining the categorisation.

International organisations

For the purposes of the PEP definition are organisations established by formal political agreement between countries, where the agreement has the status of an international treaty, and the organisation is recognised in the law of the countries which are members

Examples include: United Nations and affiliates such as the International Maritime Organisation; regional international organisations such as the Council of Europe, institutions of the European Union, the Organisation for Security and Co-operation in Europe, and the Organisation of American States, NATO, World Trade organisation

Government minister

In Australia, a government minister (at the Commonwealth, state or territory level) is an elected person who holds an executive office in the government and is responsible for administering one or more departments. A Parliamentary Secretary may be considered the equivalent of a minister.

For foreign PEPs, there may be situations where the government minister or equivalent is not an elected person but may be appointed directly by the government (for example, Cabinet Secretaries in the United States) with all the relevant or equivalent powers which ministers within Australia hold.

Equivalent senior politician

The term 'equivalent senior politician' includes 'shadow' ministers in the opposition and will include persons such as the Leader of the Opposition and the leaders of parties in Parliament. At the local government level, Mayors and local councillors may be considered equivalent senior politicians.

Essentially, any person in a position of influence in the government or on the government (through balance of power voting rights) would be considered to fall into this category.

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Senior Government Official

A person may also be identified as a PEP if the official has:

- substantial authority over or access to state assets and funds, policies and operations
- control over regulatory approvals
- control or influence over decisions that would effectively address identified shortcomings in the AML/CTF system of the country
- access, control or influence over government accounts?

Alternatively, the official may be regarded as a PEP if they are involved in state industries such as:

- arms trade and defence industry
- banking and finance
- construction and large infrastructure
- government procurement
- mining and extraction
- provision of public goods and utilities

Judge of a court of equivalent

The PEP definition specifies courts of equivalent seniority to the High Court of Australia, the Federal Court of Australia or the Supreme Courts of a state or territory. The PEP definition also refers to judges of 'international organisations.

State enterprise

In Australia, a 'state enterprise' is usually known as a government business enterprise (GBE) and may exist at the Commonwealth, state or territory level.

Other roles

- Governor of a central bank or any other comparable position
- Senior foreign representative, ambassador or high commissioner
 - **Ambassador** – Head of an embassy
 - **High Commissioner** – Head of the High Commission
 - **Consul-General** – Head of the Consulate or Consulate-General
 - **Honorary Consul** – Head of the Honorary Consulate. This is usually a private businessperson (usually an Australian citizen) who agrees to perform limited consular functions, in a city where Australia does not have an Australia-based representative.
- High ranking member of the armed forces

Immediate family member and close associate

The FATF Recommendations require that family members and close associates of PEPs should be treated as PEPs because of the potential for abuse of the relationship for the purpose of moving the proceeds of crime, or facilitating their placement and disguise, as well as for terrorism financing purposes.

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Customer Identification – What identification should I be asking for?

It is important that clients provide you with clear and current identification. The identification provided should include one form of current photo identification (Driver's License or Passport) and other supporting identification, such as a bank card, Medicare card, birth certificate, citizenship certificate, or recent utility bills.

Customer Verification – Checking that customer identification is accurate.

Merely collecting customer information is not enough to satisfy the requirements under the AML/CTF Act. It is essential for you to cross check and verify your customers and their identification. Verification is the process that you use to confirm that the customer information provided by, or about, a customer is accurate. It is also important to remember that customer identification and verification requirements will differ depending on whether the customer is a:

- individual (including beneficial owners)
- company
- partnership.

Other forms of checks

Where you suspect the individual may be at higher risk of MI/TF, you should consider additional screening tests. Some lenders may be able to offer additional screening tests against relevant databases and relevant registers.]

What service can be utilised if there are concerns over the client profile you are dealing with?

There is a service available that will run checks of specific applicants through relevant databases and registers. This service is called BronID and is a useful tool that is able to mitigate the risks of dealing with client that poses a higher risk.

MLB brokers are able to access the service through this [BronID](#) link.

MLB recommends using the [PAYG option](#) for ECDD checks (no subscription fees or ongoing fees required and you only pay a [fee per transaction](#)).

NOTE: A high risk customer does not mean that they will be involved in money laundering or other criminal activity but that there is an increased opportunity to be involved.

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Training and education

MLB require all brokers to have successfully completed appropriate educational expectations for the purposes of the AML / CTF Act. The first stage in this education is for all brokers to complete the

"initial" on-line AML / CTF Compliance Training available through their industry body.

This training is completed through either

- The FBAA the AAMC AML membership course

There are no other AML/CTF courses that are approved by MLB.

In addition, a refresher course must be conducted every 2 years in accordance with industry body membership and it is a condition of MLB membership that all brokers maintain their industry body membership.

The training must cover the following areas:

- an overview of the AML / CTF Act & Rules;
- an explanation of risk -based assessments;
- customer identification & verification requirements;
- record keeping obligations; and
- suspicious transaction reporting obligations.

Brokers must be able to provide evidence that they have successfully completed acceptable AML / CTF Training before commencing to introduce loans

MLB also run specific AML / CTF webinars on a periodic basis and expect all MLB broker to attend these sessions.

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Suspicious Matter Reporting

All *suspicious matters* must be reported to AUSTRAC within the timeframes specified in the AML / CTF Act. Suspicious matter reporting does not only relate to situations where a *designated service* is actually provided. A suspicious matter reporting obligation may arise if a customer simply makes an enquiry.

A reporting trigger may arise if a lender or a broker accredited with a lender suspects any one of the following:

- the customer is using a false identity;
- there may be a breach or attempted breach of taxation law or any law of the Commonwealth, a State or Territory;
- the service may relate to the financing of terrorism or money laundering;
- the funds are the proceeds of criminal activity.

In determining what is "suspicious", the size, complexity, and structure or pattern of any transaction must be considered, along with a consideration of whether the matter involves a transaction that appears to be unusual or lacks an apparent rationale or legitimate purpose.

Under the AML / CTF Act, the obligation to report is not limited to matters which you know are "suspicious", but also matters where you have a "reasonable suspicion" of the activities set out in (i) – (iv) above occurring.

The AML / CTF Rules may specify matters to be taken into account in determining whether there are "reasonable grounds" to form a suspicion of the activities set out in (i) – (iv) above occurring. At this time no Rules have been registered in this area.

The AML / CTF Act contains provisions to protect persons reporting threshold, suspicious matters or other reportable matters to AUSTRAC.