

‘Acting on behalf of a customer’ fact sheet

Introduction

Section 11(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the Act) requires a reporting entity to complete customer due diligence (CDD) on:

- a) a customer;
- b) any beneficial owner of a customer; and
- c) any person acting on behalf of a customer.

Who are persons acting on behalf of a customer?

A person is *acting on behalf* of a customer when that person is operating or transacting on an account or facility that is held by another party (the customer).

This may include:

- a person with authority to sign, amend account holder details, transfer and spend in the customer’s name (e.g. a signatory or second cardholder on a spouse’s account);
- a person granted authority because they are the legal guardian of a minor or the holder of an operational power of attorney, or similar;
- an individual who is authorised to represent any legal entity appointed as a professional third party to act for the customer;
- a person who is authorised to use a password (or similar) to log in to an account or facility held by the customer (e.g. internet or mobile banking);
- an employee of the customer who undertakes daily banking duties for the customer.

Identification

A person acting on behalf of a customer is subject to the same identification requirements as the customer.

In a standard and enhanced CDD situation, this means obtaining:¹

- full name;
- date of birth;
- address or registered office;
- company identification or registration number; and
- any additional information prescribed by regulations.

¹ See section 15 of the Act.

In a simplified CDD situation, this means obtaining:²

- full name;
- date of birth; and
- any additional information prescribed by regulations.

In all circumstances, where a person acts or purports to act on behalf of a customer, reporting entities also need to obtain **information about that person's relationship to the customer**.

Verification

A reporting entity is required to verify the identity of persons acting on behalf of a customer and is also required to verify that they have appropriate authority to act on behalf of the customer.

Verification must be done on the basis of documents, data or information issued by a reliable and independent source.³

In a **standard CDD situation** you must, according to the level of risk involved, **take reasonable steps** to verify the person's identity and authority to act so that you are satisfied you know who the person is and that the person has authority to act on behalf of the customer.

In a **simplified CDD situation** you must, according to the level of risk involved, verify the identity of the person and that person's authority to act so that you are satisfied you know who the person is and that the person has authority to act on behalf of the customer.

There is no 'reasonable steps' requirement for simplified CDD. When performing simplified CDD as compared with standard CDD a reporting entity must still reach the threshold of being 'satisfied' that it knows who the person is and that the person has authority to act on behalf of the customer.

In the particular simplified CDD circumstances described in section 18(3), namely where there is already a business relationship with the customer and CDD has already been carried out on that customer, a reporting entity may rely on an authority provided in an application form or other document to verify the person's authority to act or transact on the customer's account.

Common questions

If a person makes a deposit into a bank account held by a third party, do we need to apply CDD?

This depends on the circumstances.

² See section 19 of the Act.

³ See section 13 of the Act.

A person making a deposit into the account of an unrelated customer (e.g. paying for goods provided by the customer) would not be considered to be acting on behalf of the customer; so would not be subject to the CDD requirements.

A person making a deposit of the customer's funds under instruction from the customer (e.g. doing the weekly banking for their employer) is acting on behalf of the customer and so is subject to CDD requirements.

What about occasional transactions?

Occasional transactions (transactions that occur outside a customer relationship that are above the prescribed value threshold) are subject to full CDD requirements. This means that a person acting on behalf of the customer in undertaking an occasional transaction must be identified and verified as set out above.

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Disclaimer: This fact sheet is intended to be read in conjunction with the AML/CFT guidelines from the AML/CFT supervisors. While reasonable measures have been taken to ensure the quality and accuracy of the information contained in this fact sheet, it does not replace information contained in the Act or related provisions and regulations. This fact sheet is for general information only and is not a substitute for independent, professional legal advice.

