



Australian Government

AUSTRAC

Inquiry into the regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia

June 2021

AUSTRAC submission

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The Australian Transaction Reports and Analysis Centre (AUSTRAC) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Corporations and Financial Services (the Committee) inquiry into the regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia.

This submission is provided to support the Committee’s understanding of AUSTRAC’s regulation of the Australian online gambling sector and the obligations under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act) and associated Rules.

The obligations under the AML/CTF Act support the broader regulation of the online gambling sector by the Department of Infrastructure, Transport, Regional Development and Communications, the Australian Communications and Media Authority (ACMA) and state and territory gambling regulators.

About AUSTRAC

AUSTRAC is Australia’s financial intelligence unit (FIU) and anti-money laundering and counter-terrorism financing (AML/CTF) regulator. Our work builds resilience in the financial system against misuse by criminals and uses financial intelligence and regulation to disrupt money laundering, terrorism financing and other serious crime.

As Australia’s AML/CTF regulator, AUSTRAC oversees the compliance of more than 16,000 Australian businesses with the compliance and reporting obligations set out in the AML/CTF Act and associated Rules. AUSTRAC’s regulated population (referred to as “reporting entities”) includes a broad range of businesses from across the financial services, gambling, bullion, remittance and digital currency exchange sectors.

As Australia’s FIU, AUSTRAC provides financial transactions data and actionable financial intelligence to law enforcement, national security, human services and revenue agencies (AUSTRAC’s partner agencies), as well as international counterparts. Partner agencies use this information to assist them to detect, prevent and disrupt money laundering, terrorism financing (ML/TF) and other serious crime. AUSTRAC also works closely with law enforcement partners, generating financial intelligence on criminal syndicates that exploit gambling services to launder proceeds of crime.

AML/CTF obligations

The AML/CTF regime recognises that reporting entities are the first line of defence in protecting the financial system and broadly requires them to know their customers and identify, mitigate and manage the ML/TF risks associated with providing specific services (called “designated services”) to customers.

The key obligations that reporting entities must comply with under the AML/CTF Act are:

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- enrol with AUSTRAC
- implement an AML/CTF program to identify, mitigate and manage the risks that their business will be exploited for money laundering and terrorism financing purposes
- take steps to know their customer, including by verifying each customer's identity and monitoring their transactions
- provide reports to AUSTRAC about financial transactions and suspicious matters, including:
 - international funds transfer instruction reports, which include electronic transfers of value, transmitted out of or into Australia
 - threshold transaction reports, involving the transfer of physical currency of AUD10,000 or more (or the foreign currency equivalent), and
 - suspicious matter reports, which must be submitted to AUSTRAC when a reporting entity forms a suspicion of criminal activity on 'reasonable grounds', and
- keep records of transactions, customer identification and details of AML/CTF programs.

AUSTRAC works with reporting entities to ensure they are knowledgeable, vigilant, and capable of preventing, detecting and responding to threats of criminal abuse and exploitation. AUSTRAC promotes compliance by providing education and guidance, and sharing information about money laundering and terrorism financing risks.

AML/CTF regulation of the online gambling sector

AUSTRAC regulates an online gambling entity under the AML/CTF Act where the entity:

- is permitted to operate in Australia under the *Interactive Gambling Act 2001*
- has a geographical link to Australia, and
- provides one or more of the gambling services listed as designated services in Table 3 of section 6 of the AML/CTF Act.

These designated services include:

- receiving or accepting bets
- paying out winnings in respect of a bet
- opening an account for betting services, and
- allowing a transaction to be conducted on an account.

Offshore gambling entities do not meet the geographic link test for the purposes of the AML/CTF Act, which requires a permanent establishment of the entity to be present in Australia.

Regulated online gambling businesses must comply with all obligations under the AML/CTF Act. However, the AML/CTF Rules modify for online gambling entities the requirement that the customer's identity be verified before providing a designated service. This modification gives an online gambling entity 14 days from the date an account is opened to verify the information they have collected about the customer, provided that:

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- an online gambling service is provided to the customer
- the customer is required to open an account, and
- the customer is not permitted to withdraw any funds from the account prior to the customer being verified.

AUSTRAC notes the customer verification requirements under the AML/CTF Act and the associated Rules is one of the key consumer protection measures under the National Consumer Protection Framework for Online Wagering. In 2019, AUSTRAC amended the AML/CTF Rules to implement the requirements of the framework by reducing the customer verification period for online gambling accounts from 90 days of opening an account to a maximum of 14 days.

In November 2020, AUSTRAC published guidance for the online wagering sector, to enhance their understanding in applying enhanced customer due diligence and suspicious matter reporting for certain customer behaviour. In developing the guidance, AUSTRAC consulted with the Responsible Wagering Australia industry association.

AUSTRAC does not regulate digital wallets such as Apple Pay and Google Pay, or digital wallets that are used to hold crypto-currencies and conduct cryptocurrency transactions. However, AUSTRAC does regulate some businesses that provide digital wallets, such as PayPal, on the basis that they provide other services regulated under the AML/CTF Act.

Financial institutions such as banks, building societies and credit unions that offer credit cards have obligations under the AML/CTF Act to identify their customers, monitor transactions on the credit card account and report suspicious transactions to AUSTRAC.

Conclusion

AUSTRAC acknowledges that the Committee's focus is on considering the merits of prohibiting the use of credit and credit cards for online gambling in Australia with a particular focus on reducing the effects of problem gambling. Given the rise in businesses accepting payments through digital wallets or e-wallets (such as Apple Pay and Google Pay), the framework will also prohibit the use of digital wallets only where they enable access to funds from a credit card. Online gambling businesses will continue to offer payments through debit cards, bank transfers and in some cases using cash.

The use of payment methods such as credit cards and digital wallets can increase financial crime risks for the online gambling sector, particularly in relation to credit card fraud and identity crime. We also note that because most digital wallets (excluding PayPal) are not subject to AML/CTF regulation, this increases the inherent financial crime risks associated with the use of these payment methods given the lack of regulatory oversight, robust customer due diligence and visibility of transactions. We also note, however, that many digital wallets, including Apple Pay and Google Pay are increasingly establishing formal relationships with regulated Australian financial institutions leveraging established customer relationships which may assist in identifying, managing and mitigating some risks.

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Finally, AUSTRAC notes the online gambling sector is vulnerable to money laundering and financial crime risks irrespective of the payment methods offered by businesses. Cybercrime is on the rise and identity crime continues to be one of the most common crimes in Australia. Businesses across the financial and gambling sectors are increasingly offering their services online and enhancements in technology and the availability of new online payment methods means that this trend will continue.