



On February 1st, 2014, amendments to the Proceeds of Crime Act (Money Laundering) and Terrorist Financing Regulations came into force. At the same time, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) released new guidelines on how the amendments will affect registered firms. We have set out the significant changes below.

Intended Use of Account/Business Relationship

Registered firms must now record the purpose and intended nature of the “business relationship” between the firm and the client if a relationship exists. This information is similar to collecting the client’s “intended use of account” information, which was already a legal requirement. When collecting this information, please note FINTRAC will not accept “investment” as an accepted intended use or business relationship. FINTRAC will, however, accept examples from the following non-exhaustive list:

- Capital preservation
- Capital growth
- Income generation
- Private equity funds management
- Liquidity management
- Surplus management
- Savings for retirement
- Saving for purchase of property

Clients will generally have a “business relationship” with firms if they hold an account with the firm (e.g. the firm manages a segregated account for the client or the client invested in a fund that the firm manages through their dealer registration), or if the registered firm conducts two or more transactions with the client within a 5-year period (e.g. raise capital from the client through multiple private placements). If the firm does not have a “business relationship” with the client, the firm is not required to collect this information or conduct ongoing monitoring (see [Updating Information - Ongoing Monitoring](#)) below for further information).

In addition, firms are now required to determine if the client’s transactions (deposits, withdrawals, subscriptions, redemptions, etc.) are consistent with their “business relationship”. This does not mean that firms must ask the reason for every transaction, but rather that the firm should recognize when there are changes to the client’s transaction patterns. For example, if the frequency of transactions suddenly changes from minimal activity to very frequent, the firm should inquire as to why in order to determine if the behaviour is suspicious or inconsistent with the “business relationship”.

Beneficial Ownership Information for Entities

The new rules require firms to collect the names and addresses of every known trustee, settlor and beneficiary of a trust client. In addition, there is no longer a requirement to collect the occupations of the individuals that beneficially own or control a client that is an entity (e.g. directors, shareholders, partners, trustees, etc.). These amendments may require firms to update their account opening documentation.

Firms are also required to collect information on the ownership, control and structure of the entity. This is a very broad requirement but generally, this means collecting: (a) the articles of incorporation, or equivalent constating document for another entity; (b) the names and addresses of every individual who beneficially owns or controls 25% or more of the entity; and (c) the names of the directors, if a corporate entity. This information is identical to the information currently required to be collected, so there should be little change to firm operations as a result of this specific amendment.

Updating Information (Ongoing Monitoring)

If firms have a “business relationship” with a client, the firm is now required to update the client’s anti-money laundering information on an ongoing basis. The frequency of the updates will be based on the risk level of the client, but no further guidance has been provided. In the past, firms only had to update this information for high risk clients and this was required every two years. As a practical matter, this information may be most easily updated as part of the client’s annual KYC review. The amendments require the following information to be updated:

- Client identification information (name, address, contact information, and similar identifying information)
- Beneficial ownership information
- Business relationship
- Client risk assessment

All clients must have this information updated on a regular basis, including current clients.

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