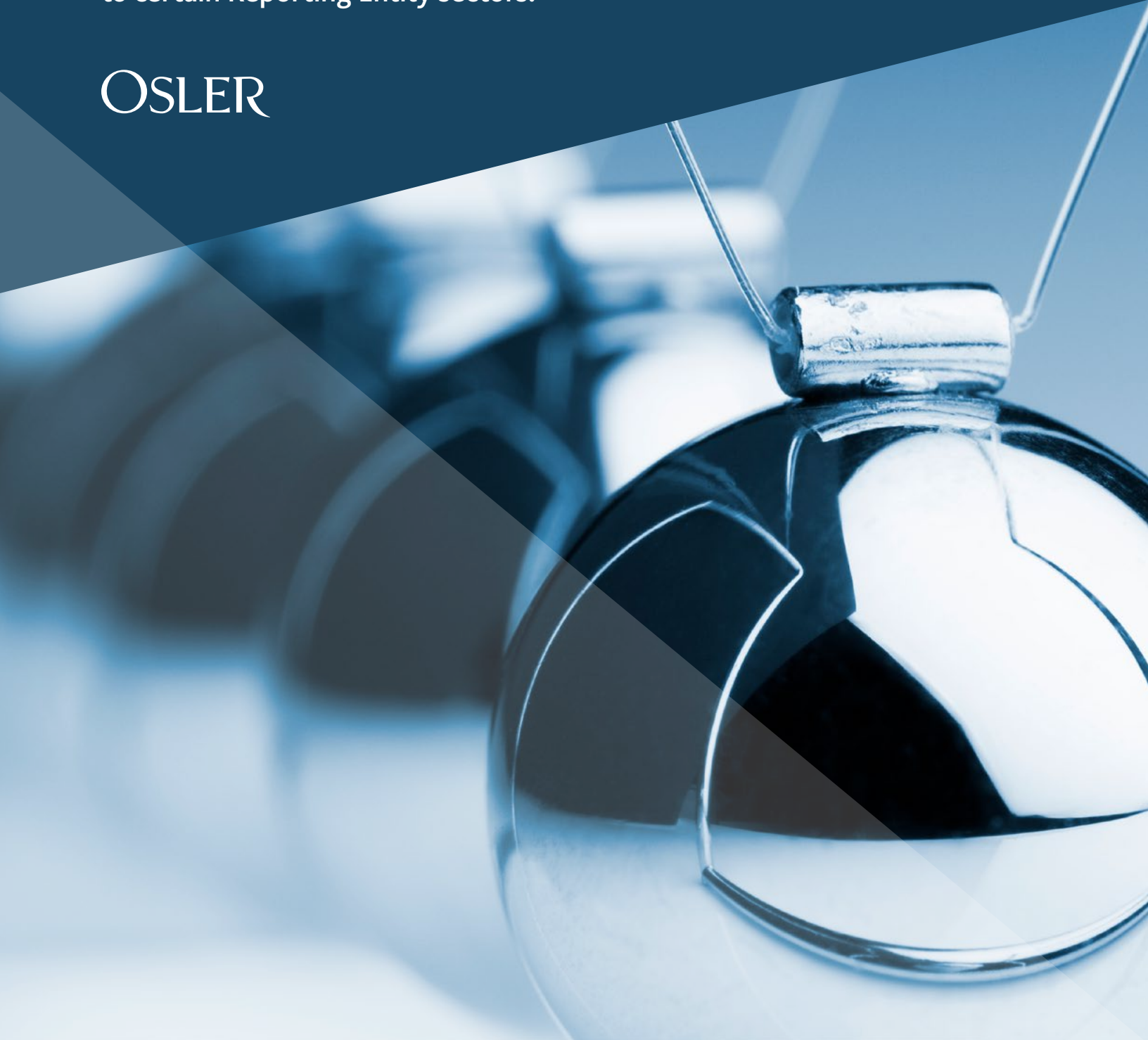


2. Sector-specific PCMLTFA changes

In addition to the changes of general application listed in Part 1, a number of changes apply to certain Reporting Entity sectors.

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SECTOR-SPECIFIC PCMLTFA CHANGES

Foreign and domestic money services businesses (MSBs)

Additional obligations for foreign money services businesses

The prior regulations introduced some obligations for foreign money services businesses (FMSBs), but only required domestic MSBs to comply with the full suite of obligations under the PCMLTFA. The Amendments, however, require FMSBs to broadly comply with the full requirements under the PCMLTFA. As of June 1, 2021, the obligations for FMSBs will largely mirror those of domestic MSBs to the extent the activities of an FMSB involve customers within Canada.¹ Because the obligations that MSBs and FMSBs have under the PCMLTFA largely overlap as of June 1, 2021, references to “MSBs” that follow in this guide should be understood to refer to both domestic and foreign MSBs, except as otherwise specified.

¹ The definition of foreign MSB is the same under the Amendments as under the prior regulations: an MSB that does not have a place of business in Canada, but directs prescribed services to persons or entities in Canada. “Directing” prescribed services includes through targeting, advertising or having a Canadian domain name. What has changed is that foreign MSBs will be required to comply with the full breadth of obligations required of domestic MSBs under the PCMLTFA.

Entering into business relationships

FINTRAC issued new [guidance](#) in February that will come into effect on June 1, 2021 that redefines when MSBs are considered to have entered into a business relationship. This has wide-reaching implications for various obligations MSBs have under the PCMLTFA and its regulations as the beginning of a “business relationship” triggers beneficial ownership determination obligations, ongoing monitoring obligations and obligations to conduct certain PEP/HIO screenings.

Under the new definition, an MSB enters into a business relationship with a client

- the second time the MSB is required to verify the client’s identity within a five-year period, or
- upon entering into a service agreement with an entity (domestic MSBs only) or an entity in Canada (FMSBs only) for
 - foreign exchange dealing
 - remitting or transmitting funds
 - issuing or redeeming money orders, traveller’s cheques or other similar negotiable instruments except for cheques payable to a named person or entity
 - dealing in virtual currencies

Know-your-client requirements

On March 22, 2021, FINTRAC issued new [guidance on when to verify the identity of persons and entities for money services businesses and foreign money services businesses](#) in order to reflect the Amendments. This guidance will come into effect on June 1, 2021.

Changes from the prior guidance include

- additional client verification requirements for large virtual currency transactions (equivalent to \$10,000 or more), which are subject to the 24-hour rule
- additional client verification requirements when transferring or exchanging virtual currency in an amount equivalent to \$1,000 or more when the transaction takes place, or when remitting virtual currency to a beneficiary in an amount equivalent to \$1,000 or more
- additional requirements to verify the identity of a corporation or other entity within 30 days after the information is created for service agreements to exchange or transfer virtual currency
- an additional exception: there is no need to verify the identity of a person or entity that conducts a large virtual currency transaction if the virtual currency is received from a financial entity or a public body or a person acting on behalf of a financial entity or public body

Screening for politically exposed persons and heads of international organizations

As of June 1, 2021, all MSBs will be required to conduct screenings for PEPs, HIOs, and the family members and close associates of PEPs and HIOs. In anticipation of this, as well as other changes to PEP/HIO screening under the Amendments, FINTRAC issued new guidance in May to take effect on June 1. The new [guidance](#) containing obligations of general application for all REs, including MSBs, is described in detail in Part 1. New guidance containing obligations specific to non-account-based reporting entities (including MSBs) is available from FINTRAC [here](#).

In summary

- Requirements to take “reasonable measures to determine” PEP/HIO status under the new guidance
 - MSBs must take reasonable measures to determine whether someone they enter into a business relationship with is a PEP, HIO, a family member of a PEP or HIO, or the close associate of a foreign PEP.
 - MSBs also have the obligation to periodically determine whether they conduct business with a PEP, HIO, a family member of a PEP or HIO, or the close associate of a foreign PEP.
 - If any employees or officers detect a fact that would be reasonable grounds to suspect a business relationship with a PEP, HIO, or a family member or close associate of a PEP or HIO, the detection of such a fact also triggers an obligation to determine under the new guidance.
- Under the new guidance, once a determination has been made that someone is a foreign PEP (or a family member or a close associate of a foreign PEP), or a high-risk domestic PEP or HIO (or a family member or close associate of a high-risk domestic PEP or HIO), an MSB has obligations to take reasonable measures to establish the designated person’s source of wealth and take enhanced risk mitigation measures. This must be done within 30 days of entering into the business relationship or detecting a fact (depending on the applicable circumstances).
- Transaction-specific requirements under the new PEP/HIO guidance
 - If an MSB providing services to people in Canada is asked to initiate an international EFT in the amount of \$100,000 or more, it must take reasonable measures to determine whether that person is a PEP, HIO, or a family member or close associate of a PEP or HIO. If that person is determined to be a foreign PEP (or a family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or a high-risk family member or high-risk close associate of a domestic PEP or HIO), the MSB must take reasonable measures to establish the source of the funds or virtual currency used for the transaction as well as the source of the person’s wealth, and must ensure that a member of senior management reviews the transaction. This must all be done within 30 days of the transaction.
 - If an MSB providing services to people in Canada is the final recipient of an international EFT in the amount of \$100,000 or more, it must take reasonable measures to determine whether a beneficiary for whom the EFT

is finally received is a PEP, HIO, or a family member or close associate of a PEP or HIO. If that person is determined to be a **foreign PEP** (or a family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or a high-risk family member or high-risk close associate of a domestic PEP or HIO), a member of senior management must review the transaction. This must all be done within 30 days of the transaction.

- If an MSB providing services to people located in Canada is asked to transfer an amount of virtual currency equivalent to \$100,000 or more, it must take reasonable measures to determine whether that person is a PEP, HIO, or a family member or close associate of a PEP or HIO. If that person is determined to be a foreign PEP (or a family member or close associate) or a high-risk domestic PEP or HIO (or a family member or close associate), the MSB must take reasonable measures to establish the source of the virtual currency and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction. This must all be done within 30 days of the transaction.
- If an MSB providing services to people located in Canada receives an amount of virtual currency equivalent to \$100,000 or more for remittance to a beneficiary, it must take reasonable measures to determine whether the beneficiary is a PEP, HIO, or a family member or close associate of a PEP or HIO. If that person is determined to be a foreign PEP (or a family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or a high-risk family member or high-risk close associate of a domestic PEP or HIO), a member of senior management must review the transaction. This must all be done within 30 days of the transaction.
- recordkeeping is not required for unsuccessful reasonable measures taken, when "reasonable measures" are required

The new guidance also sets out an exception to the PEP/HIO determination requirements. If a person has already been determined to be a foreign PEP or their family member, there is no need to reassess that person's designation, as a person's foreign PEP or foreign PEP family member status continues indefinitely.

Recordkeeping requirements

MSBs will be subject to new recordkeeping requirements under the Amendments. In anticipation of these changes, FINTRAC issued new [recordkeeping guidance](#) in March to take effect June 1, 2021. As with prior guidance, the new FINTRAC recordkeeping guidance does not consolidate all recordkeeping requirements and additional recordkeeping requirements continue to be found in the beneficial ownership guidance, the ongoing monitoring guidance and the PEP/HIO screening guidance, among others.

Changes under the new guidance include

- new obligations to retain records of terrorist property reports, large cash transaction reports and large virtual currency reports for five years
- recordkeeping requirements for large cash transactions also include transactions in which another person or entity is authorized to receive funds and the other person or entity receives \$10,000 or more in cash (FMSBs are only required to keep a large cash transaction record when receiving the cash from a person or entity in Canada)

- the modification of the information that must be kept as part of the large cash transaction record and the addition of new information to be retained. New information that must be provided in the record includes information regarding entities involved in the transaction, exchange rates used, reference numbers connected to the transaction and details of the remittance of the cash received
- the modification of the information that must be kept as part of the transaction record for the receipt of funds in the amount of \$3,000 or more in a single transaction, and the addition of new information that must be retained. New information that must be provided in the record includes the amount and type of cash or fiat currency and any applicable exchange rates, information about other individuals or entities involved in the transaction, reference numbers connected to the transaction and details
- the addition of a detailed recordkeeping requirement for large virtual currency transactions in an amount equivalent to \$10,000 or more (FMSBs are only required to keep large virtual currency transaction records when virtual currency equivalent to \$10,000 or more is received from a person or entity in Canada), including information about persons or entities involved in the transaction, accounts affected by the transaction, the account holder's information, and any exchange rates applicable and their source
- specific recordkeeping requirements apply to transmissions of \$1,000 or more in funds other than electronic funds transfers and additional information must be retained, including additional information about the exchange rates, the beneficiaries, accounts involved and reference numbers. There is a separate recordkeeping requirement with similar additional information for funds transfers for \$1,000 or more to a beneficiary
- specific recordkeeping requirements apply to EFTs of \$1,000 or more and additional information must be retained, including additional information about the exchange rates, the beneficiaries, accounts involved and reference numbers. There is a separate recordkeeping requirement for international EFTs of \$1,000 or more with further additional information, including fiat currencies exchanged
- there are new recordkeeping obligations for virtual currency transfers in an amount equivalent to \$1,000 or more, including information about the transfer, information about the client, beneficiaries, accounts involved, reference numbers and transaction identifiers, and exchange rates and their source. There is a separate recordkeeping requirement for receiving virtual currency in an amount equivalent to \$1,000 or more for remittance to a beneficiary; additional information beyond virtual currency transfers includes details regarding the remittance
- the addition of detailed recordkeeping requirements for virtual currency transaction tickets for every virtual currency exchange transaction conducted, including information about the transaction, the individuals or entities requesting the transaction, the amount and type of virtual currency, exchange rates, every account affected and information about the account, reference numbers and other identifiers
- records of unsuccessful reasonable measures are no longer required

- virtual currency transaction records, including large virtual currency records, transfers of \$1,000 or more in virtual currency or receipt of \$1,000 or more in virtual currency for remittance and virtual currency exchange transaction tickets, do not need to be kept if received from a financial entity or public body or person acting on behalf of a financial entity or public body

Travel rule requirements

In May 2021, FINTRAC issued new [guidance](#) regarding the travel rule for electronic funds and virtual currency transfers, which reflects new obligations introduced by the Amendments and which will come into effect on June 1, 2021. The guidance is applicable to financial entities, MSBs (including foreign MSBs) and casinos only. The travel rule is the requirement to ensure that specific information (“travel information”) is included with the information sent or received in an electronic funds transfer (EFT) or a virtual currency transfer. Information received under the travel rule cannot be subsequently removed from a transfer.

- The following information must be included when initiating an EFT:
 - the name, address and account number or other reference number (if any) of the person or entity who requested the transfer (originator information);
 - the name and address of the beneficiary; and
 - if applicable, the beneficiary’s account number or other reference number.
- Reasonable measures must be taken to ensure that the travel rule information is included when receiving an EFT, either as an intermediary or as the final recipient. When sending an incoming or outgoing EFT (after receiving it as an intermediary), the travel rule information received or obtained through reasonable measures must be included.
- The following information must be included when sending virtual currency transfers, and reasonable measures must be taken to ensure that this information is included when receiving virtual currency transfers that require a virtual currency record to be kept:
 - the name, address and the account number or other reference number (if any) of the person or entity who requested the transfer (originator information); and
 - the name, address and the account number or other reference number (if any) of the beneficiary.
- If an EFT or virtual currency transfer is received and does not have the required travel information, reasonable measures must be taken to obtain that information.
- The policies and procedures must document the following travel rule requirements: i) the reasonable measures to be taken; and ii) risk-based policies and procedures for determining what to do when, after taking reasonable measures, the RE is unable to obtain the travel rule information. Policies and procedures must address under which circumstances REs allow, suspend or reject the transaction, and outline any follow-up measures to be taken.

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