

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

Life insurance companies, brokers and agents

Registration requirements

The Amendments clarify that when a life insurance broker is acting in the particular capacity of a managing general agency agreement or associate general agent it is not an RE for the purposes of the PCMLTFA, and therefore is not subject to general reporting, recordkeeping or know-your-client requirements.

Historically, businesses in the life insurance sector have been required to register as REs and comply with the same recordkeeping, reporting and other customer due diligence requirements as other financial entities. This registration, and all accompanying obligations, applied to situations where a life insurance broker or agent was acting on behalf of another life insurance broker, agent, or company (i.e., in the capacity of a managing general agency agreement or associate general agent).

Definition of financial entity

The Amendments repeal the previous definition for financial entity and replace that definition with a new one. Most critically, the definition of “financial entity” as of June 1 will also encompass

- life insurance companies, or entities acting as life insurance brokers/agents, in respect of loans or prepaid payment products offered to the public and accounts maintained for those loans or prepaid payment products (other than loans made by the insurer to policy holder if the insured person has a terminal illness; loans made to fund the policy; and advance payments to which the policy holder is entitled)

This substantially increases the compliance burdens for life insurance companies and entities acting as life insurance brokers or agents, who will be subject to the full requirements that financial entities have in respect of those prescribed activities under the PCMLTFA.

Entering into business relationships

FINTRAC has issued new [guidance](#) as of February that will come into effect on June 1, 2021 that redefines when life insurance companies, brokers and agents are considered to have entered into a business relationship. This has wide-reaching implications for various obligations life insurance companies, brokers and agents 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, life insurance companies, brokers and agents enter into a business relationship with a client the second time the life insurance company, broker or agent is required to verify a client’s identity within a five-year period.

Know-your-client requirements

On March 22, 2021, FINTRAC issued new guidance on [when to verify the identity of persons and entities for life insurance companies, brokers and agents](#) 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
- the addition of a new 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

In addition to the new guidance containing PEP/HIO obligations of general application for all reporting entities, which is detailed in Part 1, FINTRAC’s new PEP/HIO [guidance for life insurance companies, brokers and agents](#), which it issued in May and which will take effect on June 1, 2021, makes a number of changes to the obligations life insurance companies, brokers and agents have with respect to PEP/HIO screening, monitoring and recordkeeping:

- Life insurance companies, brokers and agents have additional obligations to take reasonable measures to determine whether someone who makes a lump-sum payment of \$100,000 or more in funds, or an equivalent amount in virtual currency, with respect to an immediate or deferred annuity or life insurance policy is a PEP, HIO, or a family member or a close associate of a PEP or HIO. If the person is determined to be 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 high-risk family member or high-risk close associate of a domestic PEP or HIO), life insurance companies, brokers and agents must take reasonable measures within 30 days to establish the source of the funds or virtual currency and the source of the person's wealth, and ensure that a member of senior management reviews the transaction.
- Life insurance companies, brokers and agents must take reasonable measures to determine whether a beneficiary to whom it will remit \$100,000 or more in funds or an equivalent amount in virtual currency over the duration of an immediate or deferred annuity or life insurance policy is a PEP, HIO, or a family member or a close associate of a PEP or HIO. If the person is determined to be a foreign PEP, a family member or a close associate of a foreign PEP, or a high-risk domestic PEP, HIO, family member or close associate, and before any amount is remitted, life insurance companies, brokers and agents must take reasonable measures to establish the source of the funds or virtual currency and the source of the person's wealth, and ensure that a member of senior management reviews the transaction.
- When reviewing one of these transactions involving a PEP, HIO, or family member or close associate of a PEP or HIO, a record must be kept, including specific details about the PEP/HIO, the date of the determination, the source of the funds or virtual currency, the source of the person's wealth, the name of senior management who reviewed the transaction and the date of the review. Transaction records must be kept for at least five years from the day on which the business transaction was conducted.
- Recordkeeping is not required for unsuccessful reasonable measures taken, when "reasonable measures" are required.

Recordkeeping requirements

Life insurance companies, brokers and agents will be subject to new recordkeeping requirements under the Amendments. In anticipation of these changes, FINTRAC issued new [recordkeeping guidance](#) on March 22, 2021 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 now 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
- 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 addition of a detailed recordkeeping requirement for large virtual currency transactions in an amount equivalent to \$10,000 or more, 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
- records of unsuccessful reasonable measures are no longer required
- large virtual currency transaction records 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

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