Anti-money laundering in Canada

A guide to the June 1, 2021 changes

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Table of contents

Introduction 4

1. Changes affecting all reporting entities 7

Beneficial ownership requirements and proof of corporate existence 8

Screening for politically exposed persons and heads of international organizations 10

Ongoing monitoring requirements 12

Virtual currency transaction records and reports 13

The 24-hour rule 15

Recordkeeping: Unsuccessful reasonable measures 17

Methods to identify individuals and entities 18

Compliance program requirements 21

Third party determination requirements 22

Terrorist property reporting 24

2. Sector-specific PCMLTFA changes 25

- Accountants and accounting firms 26
- Agents of the Crown 30
- British Columbia notaries 34
- Casinos 38
- Dealers in precious metals and stones (DPMS) 42
- Financial entities 46
- Life insurance companies, brokers and agents 55
- Foreign and domestic money services businesses (MSBs) 59
- Real estate brokers, sales representatives and developers 65
- Securities dealers 69

Appendix A 72

- FINTRAC guidance 72

Authors 75

Introduction

On June 1, 2021, certain amendments to the regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the PCMLTFA) will come into force (the Amendments).[1] The Amendments may be found here and here. These Amendments represent the latest development in a series of ongoing changes that have been made to the PCMLTFA and its regulations since 2019, which cumulatively effect a sizeable overhaul of the anti-money laundering and anti-terrorist financing (AML/ATF) regulatory landscape in Canada.

At a high level, the changes coming into force on June 1 touch on a number of areas:

- new virtual currency obligations for all reporting entities
- new definitions under the PCMLTFA
- obligations regarding politically exposed persons and heads of international organizations
- obligations for foreign money services businesses
- prepaid card obligations for financial entities
- beneficial ownership reporting obligations for all reporting entities
- recordkeeping and reporting changes for all reporting entities
- transaction reporting under the 24-hour rule
- business relationship screening requirements
- ongoing monitoring requirements

1 Any references to "prior guidance," "prior regulations" or "prior law" refers to guidance, regulations or law in effect before June 1, 2021.

In anticipation of these regulatory changes under the PCMLTFA, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) issued new guidance in February, March and May 2021 in key areas to allow entities subject to reporting obligations under the PCMLTFA (Reporting Entities or REs) time to review their new AML/ATF compliance obligations in anticipation of the June 1, 2021 in-force date. This new guidance sets out FINTRAC's expectations under the Amendments for recordkeeping, client identification, beneficial ownership, correspondent banking, screening for politically exposed persons and heads of international organizations, ongoing monitoring and business relationship requirements. New guidance with updated formatting has also been issued regarding foreign branches, foreign subsidiaries and affiliates requirements for financial entities, life insurance companies and securities dealers. All new guidance comes into effect on June 1, 2021.[2]

FINTRAC has indicated that it will exercise an amount of flexibility and reasonable discretion as it assesses compliance with the new recordkeeping and reporting obligations that come into force on June 1 as REs adjust to the new landscape – except with respect to the new virtual currency-related obligations, which REs should expect FINTRAC to rigorously enforce effective June 1.

As a result, Reporting Entities should expect to heighten their anti-money laundering and anti-terrorist financing policies and processes in anticipation of the additional compliance obligations coming into force on June 1, particularly with respect to their virtual currency obligations. This guide is intended to orient REs to the changes in the AML/ATF landscape and to provide a consolidated resource mapping the new changes against the PCMLTFA and its regulations as well as the recent guidance issued by FINTRAC.

2 Please also see Appendix A for consolidated links to the new FINTRAC guidance mentioned in this guide.

Structure of this guide

Part 1 sets out changes of general application that will apply to all Reporting Entity sectors as of June 1, 2021. Part 2 sets out sector-specific changes that apply to certain Reporting Entity sectors as of June 1, 2021. Please note that we have not identified every change; the focus of this guide is rather on those changes that will be most important to entities with obligations under the PCMLTFA.

Part 1: Changes affecting all reporting entities

- Beneficial ownership requirements and proof of corporate existence
- Screening for politically exposed persons and heads of international organizations
- Ongoing monitoring requirements
- Virtual currency transaction records and reports
- The 24-hour rule
- Recordkeeping: Unsuccessful reasonable measures
- Methods to identify individuals and entities
- Compliance program requirements
- Third party determination requirements
- Terrorist property reporting

Part 2: Sector-specific PCMLTFA changes

- Accountants and accounting firms
- Agents of the Crown
- British Columbia notaries
- Casinos
- Dealers in precious metals and stones (DPMS)
- Financial entities
- Life insurance companies, brokers and agents
- Foreign and domestic money services businesses (MSBs)
- Real estate brokers, sales representatives and developers
- Securities dealers

1. Changes affecting all reporting entities

CHANGES AFFECTING ALL REPORTING ENTITIES

Beneficial ownership requirements and proof of corporate existence

The Amendments introduce new requirements for all REs to take reasonable measures to confirm the accuracy of information regarding beneficial ownership. Under the prior regulations, only financial entities, securities dealers, and life insurance and money services businesses had obligations related to beneficial ownership. The Amendments expand this obligation to all RE sectors. Further, under prior regulations, entities with beneficial ownership obligations were required to collect beneficial ownership information at the beginning of a business relationship, to take reasonable measures to confirm the accuracy of previously collected beneficial ownership information and to update beneficial ownership information on an ongoing basis when the client was identified as high-risk. The Amendments make explicit the requirement – which had not been explicitly stated, but was previously considered to be implied – to ensure beneficial ownership information is updated on an ongoing basis. This obligation is not restricted to high-risk clients.

The updated regulations also expand the requirement that entities confirming beneficial ownership obtain proof of corporate existence. While the requirement to obtain proof of corporate existence predates the Amendments, it has been

updated to require proof of corporate existence that is either the "most recent" certificate of corporate status, or is no less than a year old, depending on the circumstances.

In March 2021, FINTRAC issued new guidance on beneficial ownership requirements to reflect the Amendments, which will also take effect on June 1, 2021. The changes specify that all Reporting Entities will be required to comply with beneficial ownership requirements as of June 1. Beneficial ownership requirements continue to apply only with respect to the verification of the identity of an entity. Other changes include

- As noted below in Part 1(f), the new guidance removes all requirements to maintain records of unsuccessful "reasonable measures." Under the prior guidance, these requirements applied with respect to beneficial ownership verification when
  - confirming the accuracy of an entity's ownership, control and structure (including corporations and trusts)
  - confirming the accuracy of other information obtained regarding beneficial ownership
  - verifying the identity of the most senior managing officer
- The new guidance makes explicit (where it was previously only implied) that reasonable measures to confirm the accuracy of beneficial ownership information must be taken in the course of conducting ongoing monitoring of business relationships – and not just in the context of high-risk relationships.
- The new guidance makes a slight change to the language for the requirement when an RE cannot obtain beneficial ownership information or confirm the accuracy of that information. Under the prior guidance, under such circumstances, an RE would need to take reasonable measures to verify the identity of the most senior managing officer. The new guidance explicitly requires that the RE take reasonable measures to verify the identity of the entity's CEO – or the person performing the same function.
- The new guidance adds new specialized recordkeeping requirements when the entity is a widely-held or publicly-traded trust. Under the new requirements, REs must record
  - the names of all trustees
  - the names and addresses of persons who directly or indirectly own or control 25% or more of the trust
  - information establishing ownership, control and the structure of the trust
- The new guidance adds an exception to the beneficial ownership requirements for financial entities: If the RE is a financial entity, beneficial ownership requirements do not apply to activities in respect of processing payments by prepaid payment product for a merchant.

CHANGES AFFECTING ALL REPORTING ENTITIES

Screening for politically exposed persons and heads of international organizations

As of June 1, 2021, all REs will have to conduct screenings for politically exposed persons (PEPs), heads of international organizations (HIOs), and certain family members and close associates of PEPs and HIOs. Under the prior regulations and guidance, only financial entities, securities dealers, money services businesses and life insurance companies were subject to these screening obligations.

In May, FINTRAC published new PEP and HIO guidance to take effect on June 1, 2021 for all RE sectors, which is broken out across several guidance documents. The first guidance includes general PEP/HIO guidance applicable to all REs, and sets out definitions and basic processes. In addition to that general guidance, FINTRAC also published further PEP and HIO guidance documents containing compliance obligations specific to certain RE sectors. The "Politically exposed persons and heads of international organizations guidance for account-based reporting entity sectors" sets out specific screening and monitoring

obligations for financial entities, casinos and securities dealers while the "Politically exposed persons and heads of international organizations guidance for non-account-based reporting entity sectors" sets out specific screening and monitoring obligations for accountants, agents of the Crown, British Columbia notaries, dealers in precious metals and precious stones, real estate developers, brokers and sales representatives, and money services businesses (including, as of June 1, foreign money services businesses). A separate guidance applies to life insurance companies, brokers and agents. We address these sector-specific PEP/HIO requirements in further detail in Part 2 of this guide.

At a high level, changes to PEP/HIO obligations that apply across multiple RE sectors under the new guidance include

- the duration of a person's status as a PEP,[1] HIO,[2] family member[3] or close associate[4] has been revised
- the definition of "family member" has been expanded to include ex-spouses
- recordkeeping of unsuccessful reasonable measures is no longer required (this is a universal change under the Amendments affecting multiple obligations and is noted in further detail below)
- additional measures that apply to REs after certain PEP and HIO (or family member or close associate of a PEP or HIO) determinations have been made
- additional recordkeeping obligations have been established

We describe obligations specific to each type of Reporting Entity in further detail in Part 2.

1 Under the prior guidance, a person ceased to be a domestic PEP five years after leaving office; under the new guidance, a person ceases to be a domestic PEP five years after leaving office or five years after they are deceased. The guidance with respect to foreign PEPs is unchanged: once a person is determined to be a foreign PEP, they remain a foreign PEP forever.

2 Under the prior guidance, a person ceased to be an HIO once that person was no longer the head of an international organization; under the new guidance, a person ceases to be an HIO five years after they are no longer the head of the international organization or five years after they are deceased.

3 Under the prior guidance, no direction was given for the duration of a PEP family member's status. Under the new guidance, once someone is determined to be a family member of a foreign PEP that person must remain a foreign PEP in perpetuity; if someone is determined to be a family member of a domestic PEP or HIO, the status lasts for five years after the domestic PEP or HIO has left office or dies.

4 Under the prior guidance, no timeframe was specified for the duration of the status for close associates of PEPs; under the new guidance, the "close associate" designation lasts as long as the connection to the PEP or HIO lasts.

CHANGES AFFECTING ALL REPORTING ENTITIES

Ongoing monitoring requirements

In February 2021, FINTRAC published new ongoing monitoring requirements guidance for all RE sectors to take effect on June 1, 2021. The new guidance is largely the same as prior guidance, but does introduce additional recordkeeping requirements for ongoing monitoring. Additional obligations include keeping records of the processes used to record information gathered during ongoing monitoring, and keeping records of processes used to record information gathered during enhanced ongoing monitoring of high-risk clients. As with other ongoing monitoring records (which remain unchanged under the new guidance), these additional records that must be maintained as of June 1 must be kept for at least five years from the date the record is created.

The new guidance provides that requirements for enhanced ongoing monitoring end when the business relationship ends or the client is no longer high-risk. This is significantly less burdensome than the ongoing monitoring obligations under prior guidance, which required that REs perform enhanced monitoring for high-risk clients for five years after the closure of the account.

Additionally, under the new guidance, insurance companies, brokers and agents do not have to conduct ongoing monitoring when dealing in reinsurance.

As a note, the prior guidance included certain requirements pertaining to ongoing monitoring specific to correspondent banking; effective, June 1, 2021, these requirements can all be found in a separate guidance pertaining to correspondent banking, which we address in Part 2 under “Financial entities.”

CHANGES AFFECTING ALL REPORTING ENTITIES

Virtual currency transaction records and reports

The Amendments set out new obligations triggered by virtual currency transactions for all Reporting Entities:

- Large virtual currency transaction records: All reporting entities will be required to keep a "large virtual currency transaction record" for amounts received in virtual currency of C$10,000 or more in a single transaction, or across multiple virtual currency transactions that total $10,000 or more within a span of 24 hours. Records must include the identity of the person from whom the amount was received, as well as certain prescribed information including the date, amount, type of currency and exchange rate. Entities must also take reasonable measures to determine whether the transaction was made on behalf of a third party and, if so, the identity of the third party. Reports are not required for amounts received from another financial entity or a public body, or a person acting on their behalf.

- Large virtual currency transaction reports: Reporting entities are also required to file large virtual currency transaction reports (LVCTRs) in prescribed circumstances, including situations where the RE receives virtual currency that can be exchanged for $10,000 or more in cash in the course of a single transaction, or across multiple virtual currency transactions that total $10,000 or more within a span of 24 hours.

REs can review the LVCTR upload process and conduct system tests between March 15, 2021 and May 28, 2021.[1]

1 To aid with this review and system testing process, the following documents are available to REs directly from FINTRAC upon request: Reporting Large Virtual Currency Transaction to FINTRAC guidance; Validation rules; and JSON Schema.

CHANGES AFFECTING ALL REPORTING ENTITIES

The 24-hour rule

The Amendments simplify the way Reporting Entities report large cash transactions, large virtual currency transactions, electronic funds transfers and casino disbursements. Under the prior regulations and guidance, REs were required to file separate a separate report, as applicable, for each transaction that, in the aggregate, amounted to the $10,000 threshold within 24 hours. The Amendments deem all transactions by one customer within 24 hours to be one transaction for reporting purposes, so only one large cash, electronic funds transfer, or casino disbursement report, depending on the RE and the transactions involved, would need to be filed for the total amount. This is referred to as the "24-hour rule". This simplified system also applies to large virtual currency transaction reports that must be filed as of June 1, 2021.

In May 2021, FINTRAC issued new transaction reporting guidance on the 24-hour rule. The new guidance broadly explains the requirements under the amended Regulations; however, when the guidance comes into effect on June 1, 2021 the guidance will apply only to large virtual currency reporting. Separate guidance will be issued for large cash transactions, electronic funds transfers and casino disbursements and until such guidance is issued, REs should continue to apply the 24-hour rule as outlined in the pre-June 1, 2021 guidance.

Changes under the new guidance include:

- If an amount under $10,000 is received *from* a person, and then another amount under $10,000 is received *on behalf* of that same person, the 24-hour rule is not triggered, as the amounts are not received by or on behalf of the same person.
- The 24-hour window is static. Reporting entities must determine the beginning and end of the window, and include this information in policies

and procedures. Reporting entities have the option to use different static 24-hour windows for different types of reports or business lines, and must indicate the times the window begins and ends in reports to FINTRAC.

- If an RE has multiple locations across Canada, transactions fall under the 24-hour rule even if they occur at different locations. These transactions must be reported in a single report.
- Exceptions to the 24-hour rule for certain large virtual currency transaction reports and electronic funds transfer reports.
  - This exceptions below do not apply if one or more of the amounts is equivalent to $10,000 or more – in that case, the reporting threshold has been met by the individual transaction and the report must always be sent to FINTRAC.
  - Large virtual currency transaction reports are not required where the beneficiary is (1) a public body, (2) a very large corporation (i.e. with $75 million on its most recent audited balance sheet, or publicly traded on the exchange of an FATF country), or (3) an administrator of a regulated pension fund.
  - Electronic funds transfer reports are similarly not required where the electronic funds transfers are initiated at the request of, or on behalf of: (1) a public body, (2) a very large corporation (i.e. with $75 million on its most recent audited balance sheet, or publicly traded on the exchange of an FATF country), or (3) an administrator of a regulated pension fund or when the final beneficiary of two or more electronic funds transfers that total $10,000 or more is one of these three types of entities. This exception does not apply if one or more of the amounts is equivalent to $10,000 or more – in that case, the reporting threshold has been met by the individual transaction and the report must be sent to FINTRAC.

CHANGES AFFECTING ALL REPORTING ENTITIES

Recordkeeping: Unsuccessful reasonable measures

The Amendments repeal the prior requirement for REs to maintain records documenting all "reasonable measures taken" when the RE is unsuccessful in verifying certain information under the PCLMTFA and its regulations. This change will substantially ease recordkeeping burdens on REs, since the "reasonable measures taken" requirements apply to a wide variety of client verification obligations, including obligations to make third-party determinations, obligations to verify beneficial ownership or proof of corporate existence, obligations to maintain records in respect of certain accounts and various PEP/HIO screening obligations. As of June 1, 2021, REs will no longer be subject to onerous requirements to maintain records each time "reasonable measures" taken were not successful.

CHANGES AFFECTING ALL REPORTING ENTITIES

Methods to identify individuals and entities

In May 2021, FINTRAC issued updated guidance regarding acceptable methods to verify the identity of individuals and entities, which will take effect on June 1, 2021 and which reflects changes introduced under the Amendments and other interpretive shifts. The updated guidance largely contains minor changes to the prior guidance, with several notable key differences: the guidance now indicates that there are *five* methods to verify the identity of an individual, where, by contrast, the prior guidance contained only three, and there are now three separate methods to confirm the existence of corporations. With respect to individuals, the difference from the prior guidance is entirely cosmetic, and the methods are all familiar: the fourth "affiliate or member method" was previously included with agents and mandataries in the prior guidance, and the fifth method is the "reliance method", which has been permitted under the Regulations to the PCMLTFA since 2016, although this is the first time the method has appeared in the guidance. The updated guidance also introduces a new "reliance method" and "simplified identification method" for confirming the existence of entities; of these, only the "simplified identification method" is wholly new as of June 1, 2021.

The updated guidance also introduces a new exception to the verification requirements if the individual's identity was already verified, which reflects the Amendments coming into force as of June 1.

Specific changes, including changes introduced to reflect the Amendments, include:

- Five methods to verify the identity of an individual are listed. Each of these methods is contained in prior guidance, however, and the difference is one of structuring and format
- The updated guidance now specifies that all information relied on, regardless of the verification method used, must be valid and current; this is not a new requirement under the Amendments, but does better reflect the requirements articulated in the Regulations
- The updated guidance no longer requires that the authenticity of the government-issued document be determined by using a technology capable of assessing the document's authenticity when the government-issued photo identification method is used and an individual is not physically present. Under the updated guidance, the RE reviewing the government photo identification must simply have *a process* in place to authenticate the government identification – which *could* include using a technology capable of assessing the document's authenticity. Simply viewing a person and their photo identification through a video conference remains insufficient under the updated guidance, just as it was under the prior guidance.
- The updated guidance makes small tweaks to the dual-process method, and now clarifies that when referring to a given reliable source, the reviewer must actually confirm that the specified information in the document relates to the individual being verified. Information regarding an individual's prepaid payment product account that includes their name and confirms they have a prepaid payment product account with a financial entity has been added as a reliable source that may be relied on for the dual-process method.
- The updated guidance adds the "reliance method" as a method to verify the identity of an individual or an entity, which was already previously permissible under the Regulations even though it was not specifically called out in the prior guidance. To use this method, an RE may verify the identity of an individual or entity by relying on measures previously taken by another RE (or a foreign entity affiliated with an RE and carrying on activities that are similar to the activities of certain REs under the PCMLTFA[1].) If relying on the verification of an affiliated foreign entity, that entity must have policies in place similar to those required by the PCMLTFA and be regulated by a competent authority. When using this method, an RE must obtain the information that was used to identify the individual or entity, check that the information is valid and current, and that an appropriate process was used. There must be a written agreement or arrangement with that other RE or affiliated foreign entity requiring them to provide the information used to identify the individual or entity.

1 Banks, credit unions, life insurance companies, federal and provincial trust and loan companies; and securities dealers.

- Reporting Entities using the "reliance method" to verify the identity of individuals or entities must describe the processes it uses in its compliance policies and procedures, and must maintain records with the individual's name, the written agreement with the other RE or affiliated foreign entity and the information that was used to verify the individual's identity.
- Banks, credit unions, life insurance companies, federal and provincial trust and loan companies, and securities dealers may use a simplified identification method to verify the identity of another bank, credit union, life insurance company, federal or provincial trust and loan company, or securities dealer, or foreign corporation carrying out similar activities. The simplified process may also be used for an entity that administers a pension plan or investment fund subject to regulation by a foreign state, a corporation whose shares are traded on the Canadian stock exchange or a stock exchange designated under the Income Tax Act, a subsidiary whose financial statements are consolidated with these entities, or a state-owned enterprise, institution or agency or public service body. There are specific recordkeeping obligations that apply when using this method.
- If a person or entity's identity was previously verified in accordance with the PCMLTFA, an RE does not need to verify their identity again for subsequent transactions if the required records were kept – so long as there are no doubts about the information that was relied on to verify their identity previously. An RE may rely on the measures that were previously taken by an agent or mandatary, if the agent or mandatary was acting in their own capacity at the time, whether or not they were required to use the methods in accordance with the PCMLTFR or acting as an agent or mandatory under a written agreement or arrangement that was entered into with another RE for identity verification purposes.

CHANGES AFFECTING ALL REPORTING ENTITIES

Compliance program requirements

In May 2021, FINTRAC released updated guidance on Reporting Entities' compliance program requirements, which will come into effect on June 1, 2021. The changes in the updated guidance are generally consequential to changes made to other portions of the PCMLTFA and its Regulations, and the differences are fairly minor, although the guidance has been re-structured to look quite different.

Changes include:

- Reporting Entities' compliance policies and procedures must contain specific references to the travel rule requirements, including risk-based policies to determine whether to suspend or reject electronic funds transfers (EFTs) or virtual currency transfers received if the required information is not obtained;
- Reporting Entities' compliance policies and procedures must contain specific references to ministerial directive requirements.
- Further requirements for training plans. In addition to other requirements, the training plan must include how the compliance training program will be implemented and delivered, and how relevant employees, agents and mandataries will receive training commensurate to their duties and position.

CHANGES AFFECTING ALL REPORTING ENTITIES

Third party determination requirements

In May 2021 FINTRAC issued updated guidance effective June 1, 2021 on third party determination requirements for all reporting entities. Among other minor changes, the updated guidance introduces new third-party determination and recordkeeping requirements with respect to large virtual currency transactions, and introduces additional recordkeeping requirements that are triggered when a RE is unable to make a third-party determination but has reasonable grounds to suspect that a third party is involved. Account-based reporting entities and life insurance companies also enjoy additional third-party determination exemptions under the updated guidance.

Specific changes include:

- Reporting Entities must take reasonable measures to make a third party determination any time they report a large virtual currency transaction or keep a large virtual currency transaction record
- If a Reporting Entity determines that there is a third party involved in a transaction or account, the RE must take reasonable measures to obtain certain information for the record. The "reasonable measures" standard is new to this guidance. The information required for the third party record is largely the same, except that the third party's telephone number is required under the updated guidance (except for large cash and large virtual currency transactions).

- Reporting Entities that are not able to make third party determinations but have reasonable grounds to suspect the involvement of a third party must include in the applicable record whether, according to the person, they are acting on their own behalf only.
- Financial entities do not need to make third party determinations when opening an account if the account is for processing credit card payments or prepaid payment products for a merchant.
- Financial entities, securities dealers and casinos do not need to make third-party determinations when opening an account if every account holder is a financial entity or Canadian securities dealer.
- Life insurance companies, brokers and agents do not need to make third-party determinations with respect to beneficiaries in connection with the sale of a life insurance policy that involves remitting $10,000 or more to a beneficiary over the course of the policy.

CHANGES AFFECTING ALL REPORTING ENTITIES

Terrorist property reporting

In May 2021, FINTRAC released updated guidance to take effect June 1, 2021 on Reporting Entities' obligations to make terrorist property reports. (This updated guidance replaces "Guideline 5: Submitting Terrorist Property Reports to FINTRAC").

In addition to minor changes and cosmetic restructuring – including, most notably, replacing the prior guidance's discussion of terrorist property report triggers with specific references to the legislative sources for those triggers, the updated guidance requires REs to submit terrorist property reports to FINTRAC electronically by fax if the RE has the capability to do so. If the RE does not have the capability to submit by fax, the report may still be sent by mail.

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.

SECTOR-SPECIFIC PCMLTFA CHANGES

Accountants and accounting firms

Bankruptcy practitioners exempt

The Amendments exempt accountants who are authorized to act as a bankruptcy trustee or insolvency practitioner from the various requirements under the PCMLTFA; accountants providing bankruptcy trustee services or acting as an insolvency practitioner will no longer be considered REs under the PCMLTFA as of June 1, 2021.

Entering into business relationships

In February, FINTRAC issued new guidance effective June 1, 2021 that redefines when an accountant or accounting firm is considered to have entered into a business relationship. This has wide-reaching implications for various obligations accountants and accounting firms 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 accountant or accounting firm enters into a business relationship with a client the second time the accountant or accounting firm is required to verify the 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 accountants and accounting firms 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
- under the prior guidance, large cash transactions were not subject to know-your-client obligations if the transaction was conducted by a financial entity, public body, a very large corporation or its subsidiary (if its financials were consolidated); under the new guidance, the exception no longer applies to very large corporations as only large cash transactions with public bodies and financial entities are exempt
- 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 transactions 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, accountants and accounting firms will be required to conduct certain 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. New guidance containing obligations of general application for all REs, including accountants and accounting firms, is described in detail in Part 1. New guidance specific to non-account-based reporting entities (including accountants and accounting firms) is available from FINTRAC here.

In summary

- Requirements to take "reasonable measures to determine" PEP/HIO status under the new guidance
  - Accountants and accounting firms 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.
  - Accountants and accounting firms 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 a person is 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), accountants and accounting firms have obligations to take reasonable measures to establish the designated person's source of wealth and take enhanced risk mitigation measures.
- Transaction-specific requirements under the new PEP/HIO guidance
  - Accountants and accounting firms receiving $100,000 in cash or an equivalent amount in virtual currency from a person have a duty to 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 the person is determined to be a foreign PEP (or family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), the accountant or accounting firm must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.
- Recordkeeping requirements under the new PEP/HIO guidance
  - Accountants and accounting firms must keep certain records when they determine that there is a business relationship with a PEP, HIO, or a family member or close associate of a PEP or HIO, including the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination and the source of the person's wealth, if known. These records must be kept for five years after they were created.
  - Accountants and accounting firms must keep certain records when senior management reviews a transaction involving someone determined to be a PEP, HIO, or a family member or close associate of a PEP or HIO. These records must include the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination, the source of the cash or virtual currency used for the transaction (if known), the source of the person's wealth (if known), the name of the senior management member who conducted the review and the date of the review. These records must be kept for five years after they were created.

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

The Amendments subject accountants and accounting firms to new recordkeeping requirements. In anticipation of these changes, FINTRAC issued new recordkeeping guidance in March to take effect June 1, 2021. As with prior guidance, this 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
- 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. Additional 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 as part of the record. 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, 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
- a receipt of funds record does not need to be kept if the funds are received from a very large trust

SECTOR-SPECIFIC PCMLTFA CHANGES

Agents of the Crown

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

- an agent of the Crown when accepting deposit liabilities in the course of providing financial services to the public

This substantially increases the compliance burdens for agents of the Crown when accepting deposit liabilities, as agents of the Crown will be subject to the full requirements that financial entities have in respect of those deposit liability activities 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 an agent of the Crown is considered to have entered into a business relationship. This has wide-reaching implications for various obligations agents of the Crown 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 agent of the Crown enters into a business relationship with a client the second time the agent of the Crown is required to verify the 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 agents of the Crown 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

As of June 1, 2021, agents of the Crown 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. New guidance containing obligations of general application for all REs, including agents of the Crown, is described in detail in Part 1. New guidance specific to non-account-based reporting entities (including agents of the Crown) is set out here.

In summary

- Requirements to take "reasonable measures to determine" PEP/HIO status under the new guidance
  - Agents of the Crown 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.
  - Agents of the Crown 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 a person is 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), agents of the Crown have obligations to take reasonable measures to establish the designated person's source of wealth and take enhanced risk mitigation measures.
- Transaction-specific requirements under the new PEP/HIO guidance

- Agents of the Crown **receiving $100,000 in cash or an equivalent amount in virtual currency** from a person have a duty to 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 the person is determined to be a foreign PEP (or family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), an agent of the Crown must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.

- Recordkeeping requirements under the new PEP/HIO guidance
  - Agents of the Crown must keep certain records when they determine that there is a business relationship with a PEP, HIO, or a family member or close associate of a PEP or HIO, including the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination and the source of the person's wealth, if known. These records must be kept for five years after they were created.
  - Agents of the Crown must keep certain records when senior management reviews a transaction involving someone determined to be a PEP, HIO, or a family member or close associate of a PEP or HIO. These records must include the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination, the source of the cash or virtual currency used for the transaction (if known), the source of the person's wealth (if known), the name of the senior management member who conducted the review and the date of the review. These records must be kept for five years after they were created.

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

Agents of the Crown 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 to take effect in June 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 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

- 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 issuance of money orders or other negotiable instruments, or when cashing money orders. The recordkeeping requirements under the new guidance include any information about virtual currency received in connection with those transactions, among other requirements
- records of unsuccessful reasonable measures are no longer required
- when receiving virtual currency as compensation for the validation of a transaction or when a nominal amount of virtual currency is received for the sole purpose of validating another transaction, a large virtual currency transaction record does not need to be kept

SECTOR-SPECIFIC PCMLTFA CHANGES

British Columbia notaries

Entering into business relationships

FINTRAC issued new guidance in February that will come into effect on June 1, 2021 that redefines when a B.C. notary is considered to have entered into a business relationship. This has wide-reaching implications for various obligations B.C. notaries 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, a B.C. notary enters into a business relationship with a client the second time the B.C. notary is required to verify a client's identity within a five-year period.

Know-your-client requirements

FINTRAC issued new guidance in March on when to verify the identity of persons and entities for British Columbia notaries 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

As of June 1, 2021, British Columbia notaries 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. New guidance containing obligations of general application for all REs, including B.C. notaries, is described in further detail in Part 1. Separate guidance specific to non-account-based reporting entities (including B.C. notaries) is set out here.

In summary

- Requirements to take "reasonable measures to determine" PEP/HIO status under the new guidance
  - B.C. notaries 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.
  - B.C. notaries 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 a person is 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), B.C. notaries have obligations to take reasonable measures to establish the designated person's source of wealth and take enhanced risk mitigation measures.
- Transaction-specific requirements under the new PEP/HIO guidance
  - B.C. notaries receiving $100,000 in cash or an equivalent amount in virtual currency from a person have a duty to 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 the person is determined to be a foreign PEP (or family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), the B.C. notary must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.
- Recordkeeping requirements under the new PEP/HIO guidance
  - B.C. notaries must keep certain records when they determine that there is a business relationship with a PEP, HIO, or a family member or close

associate of a PEP or HIO, including the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination and the source of the person's wealth, if known. These records must be kept for five years after they were created.

- B.C. notaries must keep certain records when senior management reviews a transaction involving someone determined to be a PEP, HIO, or a family member or close associate of a PEP or HIO. These records must include the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination, the source of the cash or virtual currency used for the transaction (if known), the source of the person's wealth (if known), the name of the senior management member who conducted the review and the date of the review. These records must be kept for five years after they were created.

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

As of June 1, 2021, British Columbia notaries 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 under the new guidance 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
- 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, per the new guidance, 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, 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
- a receipt of funds record does not need to be kept if the funds are received from a very large trust

SECTOR-SPECIFIC PCMLTFA CHANGES

Casinos

Entering into business relationships

FINTRAC issued new guidance in February to come into effect on June 1, 2021 that redefines when a casino is considered to have entered into a business relationship. This has wide-reaching implications for various obligations casinos 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, a casino enters into a business relationship with a client when one of the following occurs

- the casino opens an account for a client (except in certain circumstances, see the guidance for the full list)
- if the person does not hold an account, the second time, within a five-year period, that the client engages in a transaction for which the casino is required to verify their identity

Know-your-client requirements

On March 22, 2021, FINTRAC issued new guidance on when to verify the identity of persons and entities for casinos 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

As of June 1, 2021, casinos 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. New guidance containing obligations of general application for all REs, including casinos, is described in detail above in Part 1. New guidance specific to account-based reporting entities, including casinos, is available from FINTRAC here.

In summary

- Requirements to take "reasonable measures to determine" PEP/HIO status under the new guidance
  - Casinos must take reasonable measures to determine whether someone opening an account is a PEP, HIO, family member of a PEP or HIO, or a close associate of a foreign PEP.
  - Casinos must periodically determine whether any account holder is a PEP, HIO, family member of a PEP or HIO, or a close associate of a foreign PEP.
  - If the casino or any of its employees or officers detects a fact that would be reasonable grounds to suspect an account holder is 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 an account holder is a foreign PEP (or a family member or close associate of a foreign PEP), or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), casinos must take reasonable measures to establish the source of the funds or virtual currency and the source of the person's wealth, obtain proper approval by senior management to keep the account open and put into place enhanced measures with respect to the account. This must be done within 30 days after the account is opened or the fact is detected.
- Transaction-specific requirements under the new PEP/HIO guidance
  - When a person requests the initiation of international electronic funds transfers (EFTs) for $100,000 or more, the casino must determine whether such a person is a PEP, HIO, or a family member or a close associate of a PEP or HIO. If the person is a foreign PEP (or a family member or close associate of a foreign PEP), or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), the casino must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.

- When a casino receives $100,000 in an international EFT on someone's behalf, it must determine whether that person is a PEP, HIO, a family member of a PEP or HIO, or a close associate of a foreign PEP. If the person is a foreign PEP (or a family member or close associate of a foreign PEP), or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), the casino must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.
- When a casino receives $100,000 or more in cash or an equivalent amount in virtual currency, it must determine whether that person is a PEP, HIO, or a family member or close associate of a PEP or HIO. If the person is a foreign PEP (or a family member or close associate of a foreign PEP), or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), the casino must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.

- Recordkeeping is not required for unsuccessful reasonable measures taken, when "reasonable measures" are required.

Unlike the prior guidance, the new guidance sets out certain exceptions to these PEP/HIO requirements. No determinations, for example, need to be made under the new guidance if a person was previously determined to be a foreign PEP or their family member, as those designations continue indefinitely. For a full list of exemptions that apply to casinos, please refer to the new guidance.

Recordkeeping requirements

Casinos 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 and large virtual currency reports for five years
- additional information must be retained in records pertaining to EFTs of $1,000 or more, including exchange rates and their sources and information pertaining to beneficiaries. There are a number of additional and specific recordkeeping requirements that apply under the new guidance when sending an international EFT of $1,000 or more
- 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

- foreign currency exchange transaction tickets for $3,000 or more must include additional information, including details about the person or entity requesting the transaction, payment methods, currency types, exchanges rates and sources, additional account information and reference numbers
- large virtual currency transaction records need not be kept if from a financial entity or public body
- virtual currency received as compensation for the validation of a transaction or a nominal amount received to validate a different transaction does not trigger a requirement to keep a large virtual currency transaction requirement

Travel rule requirements

In May 2021, FINTRAC issued new guidance regarding the travel rule for electronic funds, 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). 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.
- If an EFT 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.

SECTOR-SPECIFIC PCMLTFA CHANGES

Dealers in precious metals and stones (DPMS)

Low risk activity exemption

The Amendments exempt products manufacturers who purchase or sell precious metals or stones in connection with their manufacturing activities (e.g., a manufacturer purchasing diamonds for use in drilling) from the PCMLTFA and its regulations, due to the low-risk nature of such activities. Manufacturers conducting such activities are not considered to be DPMS.

Entering into business relationships

FINTRAC issued new guidance in February that will come into effect on June 1, 2021 that redefines when DPMS are considered to have entered into a business relationship. This has wide-reaching implications for various obligations DPMS 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, DPMS enter into a business relationship with a client the second time DPMS are 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 dealers in precious metals and stones 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

As of June 1, 2021, DPMS 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. New guidance containing obligations of general application for all REs is available here; obligations specific to non-account-based reporting entities (including DPMS) is set out here.

In summary

- Requirements to take "reasonable measures to determine" PEP/HIO status under the new guidance
  - DPMS 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.
  - DPMS 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 a person is 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), DPMS have obligations to take reasonable measures to establish the designated person's source of wealth and take enhanced risk mitigation measures.
- Transaction-specific requirements under the new PEP/HIO guidance
  - DPMS receiving **$100,000 in cash or an equivalent in virtual currency** from a person have a duty to 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 the person is determined to be a foreign PEP (or family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or the high-risk family member or high-risk close associate of a domestic PEP or HIO), DPMS must take reasonable measures to establish the source of the funds or virtual currency used for the transaction and the source of the person's wealth, and must ensure that a member of senior management reviews the transaction.

- Recordkeeping requirements under the new PEP/HIO guidance
  - DPMS must keep certain records after determining there is a business relationship with a PEP, HIO, or a family member or close associate of a PEP or HIO, including the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination and the source of the person's wealth, if known. These records must be kept for five years after they were created.
  - DPMS must keep certain records when senior management reviews a transaction involving someone determined to be a PEP, HIO, or a family member or close associate of a PEP or HIO. These records must include the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination, the source of the cash or virtual currency used for the transaction (if known), the source of the person's wealth (if known), the name of the senior management member who conducted the review and the date of the review. These records must be kept for five years after they were created.

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

DPMS 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 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
- 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

- a new 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
- a receipt of funds record does not need to be kept if the funds are received from a very large trust

SECTOR-SPECIFIC PCMLTFA CHANGES

Financial entities

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

- financial services cooperatives
- 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 the 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)
- credit union central when offering financial services to a person or to an entity that is not a member of that credit union central
- an agent of the Crown when accepting deposit liabilities in the course of providing financial services to the public

This substantially increases the compliance burdens for REs that the Amendments treat as financial entities for certain purposes, as those REs will be subject to the full requirements that financial entities have in respect of those prescribed activities.

New obligations – trust companies

Under the Amendments, as of June 1, 2021 trust companies will be subject to certain identity verification and recordkeeping requirements in respect of any *inter vivos* trust. Pursuant to the new regulations, a trust company must verify the identity of a person who is the settlor of an *inter vivos* trust and must keep a record of the name, address and telephone number of each beneficiary that is known when the trust company becomes a trustee for the *inter vivos* trust. If the beneficiary is an entity, the trust must record the principal business of the entity.

Prepaid payment products

The Amendments clarify the treatment of prepaid payment products under the PCMLTFA and accompanying regulations by introducing definitions for "prepaid payment product account" ("PPPA") and "prepaid payment product" ("PPP"), and prescribe a number of additional obligations for financial entities that issue PPPs and maintain PPPAs. The Amendments define a PPPA as an account that is connected to a prepaid payment product and that permits funds or virtual currency totaling $1,000 or more to be added to the account within a 24-hour period or allow a balance of funds or virtual currency in the amount of $1,000 or more to be maintained in the account. A PPP is defined as a product issued by a financial entity that enables transactions by giving a person access to funds or virtual currency paid to a PPPA held with the financial entity[1].

As of June 1, 2021, any financial entity that issues prepaid payment products will be subject additional account-based obligations, including requirements pertaining to verifying the identity of account holders as well as account users, reporting suspicious transactions, recordkeeping, etc. These specific obligations are covered in further in the sections they relate to, but it should be noted that the Amendments and new FINTRAC guidance introduce know-your-client and PEP/HIO screening requirements for authorized users of PPPAs, which introduces serious compliance hurdles for financial entities given the current anonymity of many PPPs.

In May 2021, FINTRAC issued new guidance on prepaid payment products and prepaid payment product accounts, which will come into effect on June 1, 2021. In addition to the details noted above, the new guidance clarifies and confirms that:

- PPPAs do not include accounts to which only a public body or a registered charity acting for humanitarian aid purposes can add funds or virtual currency.
- PPPAs are subject to account-opening obligations and transaction obligations, just like other types of accounts. In that respect, the guidance provides an example as to what obligations a financial entity will have in connection with a business PPPA: where a business opens a PPPA with a financial entity,

1 The definition of prepaid payment product under the Amendments excludes prepaid payment products that enable a person or entity to access a credit or debit account, prepaid payment products issued for use with a particular merchant, and prepaid payment products that are issued for a single use for the purposes of a retail rebate program.

deposits $5,000 in that account and then instructs the financial entity to issue 50 PPPs, each in the amount of $100, that are connected to the PPPA, the financial entity is subject to all PPP requirements.

- These PPP obligations include client identification and screening obligations, record-keeping requirements, transaction reporting requirements, business relationship requirements, ongoing monitoring requirements, beneficial ownership requirements, and PEP and HIO screening requirements. Each of these obligations are detailed further in other guidance documents.

Correspondent banking relationships

On March 22, 2021, FINTRAC issued new "Correspondent banking relationship requirements" guidance to take effect June 1, 2021. The new guidance contains changes from the prior guidance issued in June 2017:

- The new guidance clarifies the definition of "Canadian financial entity." The new definition adds "cooperative credit societies," "financial services cooperatives," "credit union central" (when offering financial services to non-members), "agents of the Crown" (when accepting deposit liabilities) and "life insurance companies, brokers, or agents" (when offering loans or prepaid payment products or maintaining accounts for those products) to the list of Canadian financial institutions capable of entering into correspondent banking relationships. The new definition of "Canadian financial entity" also separately denominates trust companies into "federally or provincially regulated trust or loan companies" and "unregulated trust companies."
- The prior guidance provided that correspondent banking transactions between Canadian financial entities and foreign institutions could not take place until the Canadian entity verified certain required information and met certain obligations. While the substantive obligations are unchanged, the new guidance specifies that certain obligations must be met before the Canadian entity enters into the correspondent banking relationship with the international entity:
  - The RE must obtain information about the foreign financial institution and its activities as needed to fulfill the correspondent banking recordkeeping requirements.
  - The RE must ensure that the foreign financial institution is not a shell bank, and if it is, it must not form a correspondent banking relationship.
  - The RE must obtain the approval of senior management to enter into the relationship.
  - The RE must set out in writing the correspondent banking agreement or arrangement setting out the parties' obligations.

  Under the new guidance, the following obligations must be met but need not occur prior to the formation of the correspondent banking relationship. The substantive obligations are unchanged from prior guidance:
  - The RE must take reasonable measures to verify whether the foreign financial institution has AML/ATF policies and procedures, including for opening new accounts. Under the prior guidance, this needed to take place prior to correspondent banking transactions.

  - The RE must verify the name and address of the foreign financial institution.
  - The RE must take reasonable measures to verify if civil or criminal penalties have been imposed on the foreign financial institution under AML/ATF laws.
- The new guidance adds an exception to the correspondent banking relationship requirements and clarifies the pre-existing exception for credit card acquiring businesses. Under the prior guidance, the requirements did not apply to "credit card acquiring businesses"; under the new guidance, the requirements do not apply to "activities related to the processing of payments by credit card or prepaid payment product for a merchant."
- The new guidance specifies that the requirement to take reasonable measures to ensure that the foreign financial institution agrees to provide the Canadian entity with relevant customer identification data on request is only required for correspondent banking relationships where a client of the foreign financial institution has direct access to the services the Canadian entity provides. Under the prior guidance, this obligation was required for all correspondent banking relationships.
- The new guidance also contains additional recordkeeping requirements:
  - Statements from foreign financial institutions regarding shell banking relationships must be in writing.
  - Statements from foreign financial institutions regarding compliance with AML/ATF legislation must be in writing and must confirm compliance in all relevant jurisdictions.
  - Records of measures taken regarding any AML/ATF penalties imposed on the foreign financial institution should include steps taken to ascertain the information.
  - Records must be retained at least five years after the day on which the last business transaction is conducted. Under the prior guidance, no timing was specified for the retention of records.

Entering into business relationships

FINTRAC has issued new guidance as of February that will come into effect on June 1, 2021 that redefines when a financial entity is considered to have entered into a business relationship. This has wide-reaching implications for various obligations financial entities 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, a financial entity enters into a business relationship with a client when one of the following occurs

- the financial entity opens an account for a client (except in certain circumstances, see the guidance for the full list)
- if the person does not hold an account, the second time, within a five-year period, that the client engages in a transaction for which the financial entity is required to verify their identity

Know-your-client requirements

On March 22, 2021, FINTRAC issued new guidance on when to verify the identity of persons and entities for financial entities 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 PEP/HIO guidance of general application discussed in Part 1, FINTRAC's new PEP/HIO guidance for account-based reporting entities, which was issued in May and will take effect on June 1, 2021, makes a number of changes to the obligations financial entities have with respect to PEP/HIO screening, monitoring and recordkeeping. At a high level, financial entities will no longer need to keep records regarding unsuccessful reasonable attempts, but will have additional responsibilities with respect to PPPAs and virtual currency transactions. We highlight only those changes made to the existing requirements and have not repeated requirements that continue to be in effect:

- When to make a PEP/HIO determination
  - Financial entities must screen authorized users of PPPAs to determine whether that person is a PEP, HIO, a family member of a PEP or HIO, or a close associate of a foreign PEP.
  - Financial entities must also conduct periodic reviews of authorized users of PPPAs to determine whether an authorized user is a PEP, HIO, the family member of a PEP or HIO, or a close associate of a foreign PEP.
  - Financial entities must determine whether an authorized user of a PPPA is a PEP, HIO, or a family member or close associate of a PEP or HIO upon detection of a fact by the financial entity or its employees or officers that raises a reasonable suspicion.
  - Only the initiation of international EFTs in the amount of $100,000 or more triggers the requirement to determine whether the person initiating the transaction is a PEP, HIO, or a family member or close associate of a PEP or HIO. Under the prior guidance, all EFTs initiated triggered the determination requirements.
  - Payment in the amount of $100,000 or more to a PPPA triggers a duty to determine whether the person who made the payment is a PEP, HIO, or a family member or close associate of a PEP or HIO.
  - Transfers of cash or virtual currency equivalents of $100,000 or more trigger a duty to determine whether the person who made the transfer is a PEP, HIO, or a family member or a close associate of a PEP or HIO.

- Receiving an amount of virtual currency equivalent to $100,000 on behalf of a beneficiary triggers a duty to determine whether the person for whom the amount is received is a PEP, HIO, or a family member or a close associate of a PEP or HIO.

- If a person who holds an account or is an authorized user of a PPPA 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 high-risk HIO (or a high-risk family member or high-risk close associate of a domestic PEP or HIO), a financial entity must take reasonable measures to establish the source of the funds or source of the virtual currency to be deposited, and to establish the source of the person's wealth. Approval of senior management is required to keep the account open.

- Financial entities must take transaction-related measures once it is determined that the person conducting the transaction is a foreign PEP (or a family member or close associate of a foreign PEP), a high-risk domestic PEP or a high-risk HIO (or a high-risk family member or high-risk close associate of a domestic PEP or HIO):

  - When payment is made to a PPPA in the amount of $100,000 or more, financial entities must take reasonable measures to establish the source of funds or virtual currency, and the person's source of wealth for any authorized user of that PPPA who is determined to be a foreign PEP (or a family member or close associate of a foreign PEP), a high-risk domestic PEP or a high-risk HIO (or a high-risk family member or high-risk close associate of a domestic PEP or HIO). Senior management must review the transaction.
  - When initiating an international EFT for $100,000 or more, financial entities must establish the source of funds or virtual currency, and the source of wealth for any authorized user of a PPPA who is determined to be a foreign PEP (or a family member or close associate of a foreign PEP), a high-risk domestic PEP or a high-risk HIO (or a high-risk family member or high-risk close associate of a PEP or HIO). Senior management must review the transaction.
  - When transferring an amount of virtual currency equivalent to $100,000 or more, financial entities must establish the source of funds or virtual currency, and the source of wealth for any authorized user of a PPPA who is determined to be a foreign PEP (or a family member or close associate of a foreign PEP), a high-risk domestic PEP or a high-risk HIO (or a high-risk family member or high-risk close associate of a PEP or HIO). Senior management must review the transaction.

- Approval of senior management is required to keep the account open and enhanced measures must be taken.

- Recordkeeping requirements

  - Recordkeeping is not required for unsuccessful reasonable measures taken when "reasonable measures" are required.
  - PEP/HIO records must be kept with respect to authorized users of PPPAs, the periodic review of authorized users of PPPAs or detected facts about PPPAs.
  - PEP/HIO records must be kept only for international EFTs in the amount of $100,000 or more.
  - PEP/HIO records must be kept when a financial entity receives an amount of virtual currency equivalent to $100,000 or more on behalf of a beneficiary

Recordkeeping requirements

Financial entities 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, large virtual currency reports and EFT transfer reports for five years
- recordkeeping requirements for large cash transactions also includes 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 modification of the information that must be kept as part of the transaction record for the issuance of traveller's cheques, money orders or similar instruments upon receipt of $3,000 or more in funds – or an equivalent amount of virtual currency – including additional information about the person or entity making the payment, the accounts involved or affected, reference numbers and information specific to any virtual currency
- additional information must be retained in records pertaining to EFTs of $1,000 or more, including exchange rates and their sources and information pertaining to beneficiaries. There are a number of additional and specific recordkeeping requirements that apply under the new guidance when sending an international EFT of $1,000 or more
- the addition of detailed recordkeeping requirements for virtual currency transfers of $1,000, including information about the transfer, the client, beneficiaries, affected accounts, information about account holders, transaction identifiers and exchange rates. There are separate recordkeeping requirements that have been added for virtual currency equivalent to $1,000 or more for remittance to a beneficiary, which are largely the same
- 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

- transaction records related to a credit card account must contain, where applicable, foreign currency exchange transaction tickets, virtual currency exchange transaction tickets, records of initiated international EFTs for $1,000 or more and records of final receipt of international EFTs of $1,000 or more remitted to a beneficiary
- records must be kept regarding prepaid payment product accounts and transactions, including information about the account holder and authorized users, applications, account statements, debit and credit memos, records of payments, any virtual currency involved in the payment, payment methods, account numbers, as well as any applicable foreign currency exchange transaction tickets, virtual currency exchange transaction tickets, records of initiated international EFTs for $1,000 or more and records of final receipt of international EFTs of $1,000 or more remitted to a beneficiary
- 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
- a receipt of funds record does not need to be kept if the funds are received from a very large trust
- if a financial institution is processing prepaid payment product payments on behalf of a merchant, the recordkeeping requirements do not apply to those activities

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.

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

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.

SECTOR-SPECIFIC PCMLTFA CHANGES

Real estate brokers, sales representatives and developers

Entering into business relationships

FINTRAC has issued new guidance in February that will come into effect on June 1, 2021 that redefines when a real estate broker, sales representative or developer is considered to have entered into a business relationship. This has wide-reaching implications for various obligations real estate brokers, sales representatives and developers 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, a real estate broker, sales representative or developer enters into a business relationship with a client the **first time the client's identity is required to be verified**.

Know-your-client requirements

On March 22, 2021, FINTRAC issued new guidance on when to verify the identity of persons and entities for real estate brokers or sales representatives and real estate developers 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

As of June 1, 2021, real estate brokers, sales representatives and developers 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 June 1. New guidance containing obligations of general application for all REs, including real estate brokers, sales representatives and developers, is described in detail in Part 1; new guidance specific to non-account-based reporting entities (including real estate brokers, sales representatives and developers) is set out here.

In summary

- Requirements to take "reasonable measures to determine" PEP/HIO status under the new guidance
  - Real estate brokers, sales representatives and developers 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.
  - Real estate brokers, sales representatives and developers 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 a person is 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), real estate brokers, sales representatives and developers have obligations to take reasonable measures to establish the designated person's source of wealth and take enhanced risk mitigation measures.
- Transaction-specific requirements under the new PEP/HIO guidance
  - Real estate brokers, sales representatives and developers receiving $100,000 in cash or an equivalent amount in virtual currency from a person have a duty to 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 the person is determined to be a foreign PEP (or family member or close associate of a foreign PEP) or a high-risk domestic PEP or HIO (or the family member or close associate of a high-risk domestic PEP or HIO), the real estate broker, sales representative or developer must take reasonable measures to establish the source of the funds or virtual currency as well as the source of the person's wealth, and must engage senior management to review the transaction.

- Recordkeeping requirements under the new PEP/HIO guidance
  - Real estate brokers, sales representatives and developers must keep certain records when it determines that there is a business relationship with a PEP, HIO, or a family member or close associate of a PEP or HIO, including the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination and the source of the person's wealth, if known. These records must be kept for five years after they were created.
  - Real estate brokers, sales representatives and developers must keep certain records when senior management reviews a transaction involving someone determined to be a PEP, HIO, or a family member or close associate of a PEP or HIO. These records must include the office or position and the name of the organization or institution of the PEP or HIO, the date of the determination, the source of the cash or virtual currency used for the transaction (if known), the source of the person's wealth (if known), the name of the senior management member who conducted the review and the date of the review. These records must be kept for five years after they were created.

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

Real estate brokers, sales representatives and developers 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
- 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, 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
- a receipt of funds record does not need to be kept if the funds are received from a very large trust
- virtual currency received as compensation for the validation of a transaction or a nominal amount of virtual currency received for the sole purpose of validating another transaction is not subject to the virtual currency recordkeeping requirements

SECTOR-SPECIFIC PCMLTFA CHANGES

Securities dealers

Entering into business relationships

FINTRAC has issued new guidance as of February that will come into effect on June 1, 2021 that redefines when a securities dealer is considered to have entered into a business relationship. This has wide-reaching implications for various obligations securities dealers 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, a securities dealer enters into a business relationship with a client when

- the securities dealer opens an account for a client (except in certain circumstances, see the guidance for the full list), or
- if the person does not hold an account, the second time, within a five-year period, that the client engages in a transaction for which the securities dealer is required to verify their identity

Know-your-client requirements

On March 22, 2021, FINTRAC issued new guidance on when to verify the identity of persons and entities for securities dealers 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 in respect of large virtual currency transactions equivalent to $10,000 or more: there is now 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

FINTRAC's new PEP/HIO guidance for account-based reporting entities, which was issued in May and will take effect on June 1, 2021, makes a number of changes to the obligations securities dealers have with respect to PEP/HIO screening, monitoring and recordkeeping. These sector-specific changes are in addition to the changes of general application identified above in Part 1, which apply to all reporting entities, including security dealers; that general guidance is available from FINTRAC here.

Under the new guidance, security dealers' obligations are largely the same, though some changes apply:

- Securities dealers must determine the source of any virtual currency that is deposited or is expected to be deposited into an account for any account holder 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 close associate of a domestic PEP or HIO).
- Recordkeeping is not required for unsuccessful reasonable measures taken, when "reasonable measures" are required.
- Exceptions have been added to the PEP/HIO determination requirements, including when
  - a person was previously determined to be a foreign PEP or a family member of a foreign PEP, as such designations continue indefinitely
  - the person already has an account and opens another account, if the determination was made before
  - a business account has been subject to verification of at least three authorized persons
  - the account was opened to receive certain insurance policy proceeds
  - accounts were opened to sell mutual funds if there are reasonable grounds to believe another securities dealer verified the person's identity
  - for members of a group plan, contributions are made by the sponsor and the identity of the entity was verified
  - certain listed transactions occur (for the full list please review the guidance)

Recordkeeping requirements

Securities dealers 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 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
- 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
- a receipt of funds record does not need to be kept if the funds are received from a very large trust
- virtual currency received as compensation for the validation of a transaction or a nominal amount of virtual currency received for the sole purpose of validating another transaction is not subject to the virtual currency recordkeeping requirements

Appendix A
FINTRAC guidance

Beneficial ownership requirements	Guidance for all REs
Business relationship requirements	Guidance for all REs
Compliance program requirements	Guidance for all REs
Correspondent banking relationship requirements	Guidance for Financial Entities
Foreign branches, foreign subsidiaries and affiliates requirements	Guidance for Financial Entities, Life Insurance Companies and Securities Dealers
Know-your-client requirements – when to verify the identity of persons and entities	Accountants and Accounting Firms Departments and Agents of the Crown British Columbia Notaries Casinos Dealers in Precious Metals and Stones Financial Entities Life Insurance Companies, Brokers, Agents Money Services Businesses and Foreign Money Services Businesses Real Estate Brokers, Sales Representatives and Developers Securities Dealers
Methods to verify the identity of persons and entities	Guidance for all REs
Ongoing monitoring requirements	Guidance for all REs
Politically exposed persons and heads of international organizations guidance	Guidance for all REs Guidance for Account-Based RE Sectors Guidance for Non-Account-Based RE Sectors Guidance for Life Insurance Companies, Brokers and Agents

Prepaid payment products and accounts	Guidance for Financial Entities
Recordkeeping requirements	Accountants and Accounting Firms Departments and Agents of the Crown British Columbia Notaries Casinos Dealers in Precious Metals and Stones Financial Entities Life Insurance Companies, Brokers, Agents Money Services Businesses and Foreign Money Services Businesses Real Estate Brokers, Sales Representatives and Developers Securities Dealers
Reporting terrorist property	Guidance for all REs
The 24-hour rule	Guidance for all REs
Third party determination requirements	Guidance for all REs
Travel rule requirements	Guidance for Financial Entities, Casinos, Money Services Businesses and Foreign Money Services Businesses

AUTHORS

Elizabeth Sale
Partner, Banking and Financial Services

esale@osler.com
416.862.6816

Haley Adams
Associate, Banking & Financial Services

hadams@osler.com
416.862.6614

Malcolm Aboud
Associate, Litigation

maboud@osler.com
416.862.4207

Chelsea Rubin
Associate, Competition/Antitrust & Foreign Investment

crubin@osler.com
416.862.4852

Osler's Financial Services Regulatory team offers a comprehensive and integrated approach to advising participants in the Canadian financial services sector. Our team is at the nexus of the financial services regulatory environment in Canada and we help financial institutions and other financial services providers manage the escalating complexity of these regulatory requirements. Our lawyers understand where the regulations converge and overlap, and we employ an enterprise-wide approach to assist clients with identifying, assessing and proactively mitigating risk and exposure, while also helping to reduce the administrative and cost burden that comes with overlapping regimes in Canada. We have strong working relationships with senior personnel at the key financial regulators in Canada, as well as with numerous regulators and officials internationally. We understand the global and domestic regulatory regimes and offer insight into how regulators are working together, which is unique to Osler. This approach allows us to offer customized and comprehensive advice in connection with implementation of global industry regulatory trends as well as responding to regulatory breaches and investigations and the development and implementation of preventative compliance and risk management processes and procedures.

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