

FINTRAC

CANAFE



Financial Transactions and
Reports Analysis Centre of Canada

Centre d'analyse des opérations
et déclarations financières du Canada

FINTRAC EXAMINATIONS:

**YOUR
RESPONSIBILITIES
AND WHAT
YOU CAN EXPECT
FROM FINTRAC**

Canada

FINTRAC EXAMINATIONS

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) plays an integral role in the fight against organized crime and terrorism. An independent government agency, FINTRAC fulfills its mission by providing law enforcement and security agencies with information on suspected money laundering and terrorist activity financing, called financial intelligence. The Centre obtains financial intelligence by analyzing the financial transaction reports it receives from the many entities – such as banks, securities dealers, money services businesses – that are required, by law, to report to it.

FINTRAC's mandate also includes ensuring compliance with Part 1 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Under Part 1, entities that must report to the Centre are obliged – among other requirements – to report specific transactions, keep particular records, and verify certain identities. A proper compliance regime allows FINTRAC to receive the quantity and quality of reports it requires to produce solid financial intelligence and assures law enforcement and security agencies of quick access to information because of improved client identification and record keeping practices. In other words, by creating compliance regimes that conform to the law, entities become part of a larger effort to combat money laundering and terrorist activity financing.

In making sure that entities comply with their obligations, FINTRAC takes a co-operative approach. While exercising its authority to examine compliance, the Centre is committed to working with reporting entities in a partnership that enhances the integrity of Canada's financial systems and promotes greater public safety.

PROCESS FOR ON-SITE EXAMINATION

- Normally, a FINTRAC compliance officer will provide advance notice of the examination, which would be scheduled by telephone and confirmed in a letter to the business that will be examined. Prior to arriving, the FINTRAC compliance officers may request documentation including your policies and procedures, evaluations of your policies and procedures, samples of transaction documentation, as well as other documents. This will allow a portion of the examination to begin before arriving on-site and thus limit the amount of time our officers are in your place of business.
- In exceptional circumstances, no advance notice will be given. The Act gives FINTRAC the power to enter a business to carry out a compliance examination without prior notice.
- At the conclusion of the examination, the FINTRAC officer will provide a review of the finding verbally.
- A letter outlining any deficiencies will be provided by FINTRAC, following the examination. Reporting entities may also be asked for an action plan and timelines to remedy these deficiencies.

WHAT WILL BE EXAMINED

A FINTRAC compliance examination will try to determine if the entity is meeting its obligations under the legislation. Some areas of review can include:

- Implementation of a compliance regime;
- Reporting of all required transactions;
- Implementation of client identification; and
- Record keeping requirements.

This checklist of questions can serve as a guide:

- Has a compliance officer been appointed?
- Are policies and procedures in place?
- Is there a periodic review of the compliance regime?
- Is a training program established?

- Are the reporting requirements being met?
- Are client identification requirements being met?
- Are the appropriate records being kept?

Guideline 4 can provide you with additional guidance on how to implement a compliance regime. It can be found on our Web site at:

<http://www.fintrac-canafe.gc.ca/publications/guide/Guide4/4-eng.asp>

What you can expect from FINTRAC compliance officers

■ Professionalism

FINTRAC's approach to compliance is cooperative. Reporting entities should expect to be treated professionally and courteously.

■ Clear information

Compliance officers strive to provide clear and consistent policy interpretations and to facilitate your understanding of legislative obligations, as well as of FINTRAC Guidelines, policies, and procedures.

■ Fairness

If you feel that the assessment given during the examination is incorrect or unfair, a complaints resolution process has been established to hear your concerns. You are asked to contact the Regional Director in your area.

■ Privacy and Confidentiality

Personal, transactional and financial information will be protected against unauthorized use or disclosure.

■ Bilingual service

Service is available in every region in the official language of your choice.

YOUR RESPONSIBILITIES

Giving access to premises

The Act allows authorized FINTRAC personnel to enter a premise to ensure compliance with the law. You are thus required to give access to authorized FINTRAC officers.

Producing documents

The PCMLTFA regulations require that you produce any record that is required to be kept within 30 days of a request by an authorized officer. FINTRAC's compliance officers are authorized to make such requests.

Providing assistance

The Act indicates that an owner or person in charge of the premises involved in a compliance examination shall give the authorized FINTRAC officers all reasonable assistance and furnish them with any information with respect to the administration of the Act and regulations. This includes making copies of documents when required.

PENALTIES

FINTRAC will work cooperatively with reporting entities to rectify any non-compliance issues. The Centre may also disclose cases of non-compliance to law enforcement when there is extensive non-compliance or little expectation of immediate or future compliance. Beginning on December 30, 2008, FINTRAC will have the option of issuing administrative monetary penalties (AMPs) to address non-compliance.

Both criminal penalties and AMPs cannot be issued against the same instances of non-compliance.

Penalties outlined in the Act are as follows:

Criminal penalties

- Failure to report suspicious transactions: up to \$2 million and/or 5 years imprisonment;

- Failure to report a Large Cash Transaction or an Electronic Funds Transfer: up to \$500,000 for the first offence, \$1 million for subsequent offences;
- Failure to meet record keeping requirements: up to \$500,000 and/or 5 years imprisonment;
- Failure to provide assistance or provide information during compliance examination: up to \$500,000 and/or 5 years imprisonment;
- Disclosing the fact that a suspicious transaction was made with intent to prejudice a criminal investigation: up to 2 years imprisonment.

Administrative monetary penalties

- Depending on the severity of the violation, AMPs can be issued up to \$100,000 for individuals and up to \$500,000 for entities (e.g. corporations).
- These limits apply to each violation and multiple violations can result in total fines that exceed these limits.

For more information

Plain language guidelines have been developed by FINTRAC to help you understand your obligations. They can be found on our Web site at: www.fintrac-canafe.gc.ca.

Contact us

You can also contact us at:

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