



Financial Transactions and  
Reports Analysis Centre  
of Canada

Centre d'analyse des opérations  
et déclarations financières  
du Canada

## **Guideline 6E: Record Keeping and Client Identification for Securities Dealers**

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**July 2010**

This replaces the previous version of *Guideline 6E: Record Keeping and Client Identification for Securities Dealers* issued in March 2009. The changes made to this version are indicated by a side bar to the right of the modified text.

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# 1 General

The objective of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* is to help detect and deter money laundering and the financing of terrorist activities. It is also to facilitate investigations and prosecutions of money laundering and terrorist activity financing offences. This includes reporting, record keeping, client identification and compliance regime requirements for securities dealers. A securities dealer is an individual or entity authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services.

If you are a securities dealer, this guideline has been prepared to help you meet your record keeping and client identification obligations, including those for certain foreign subsidiaries or branches.

This guideline uses plain language to explain the most common situations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* as well as the related Regulations. It is provided as general information only. It is not legal advice, and is not intended to replace the Act and Regulations.

Record keeping and client identification obligations for other types of reporting persons or entities are explained by sector in other versions of this guideline (financial entities; life insurance companies, brokers and agents; money services businesses; agents of the Crown that sell or redeem money orders; accountants; real estate; dealers in precious metals and stones; British Columbia notaries; and casinos).

For more information about money laundering and terrorist financing, or other requirements under the Act and Regulations applicable to you, see the guidelines in this series:

- *Guideline 1: Background* explains money laundering, terrorist financing, and their international nature. It also provides an outline of the legislative requirements as well as an overview of FINTRAC's mandate and responsibilities.
- *Guideline 2: Suspicious Transactions* explains how to report a suspicious transaction. It also provides guidance on how to identify a suspicious transaction, including general and industry-specific indicators that may help when conducting or evaluating transactions.
- *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* explains to reporting entities when and how to submit suspicious transaction reports. There are two different versions of Guideline 3, by reporting method.
- *Guideline 4: Implementation of a Compliance Regime* explains the requirement for reporting entities to implement a regime to ensure compliance with their obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and associated Regulations.

- *Guideline 5: Submitting Terrorist Property Reports to FINTRAC* explains to reporting entities when and how to submit terrorist property reports.
- *Guideline 6: Record Keeping and Client Identification* explains the requirement for reporting entities to identify their clients and keep records. There are several different versions of Guideline 6, with each one applicable to a particular sector.
- *Guideline 7: Submitting Large Cash Transaction Reports to FINTRAC* explains when and how to submit large cash transaction reports. There are two different versions of Guideline 7, by reporting method.
- *Guideline 8: Submitting Electronic Funds Transfer Reports to FINTRAC* explains when and how to submit electronic funds transfer reports. There are three different versions of Guideline 8, by type of electronic funds transfer and reporting method.
- *Guideline 9: Submitting Alternative to Large Cash Transaction Reports to FINTRAC* explains when and how financial entities can choose the alternative to large cash transaction reports. This is only applicable to financial entities.
- *Guideline 10: Submitting Casino Disbursement Reports to FINTRAC* explains when and how to submit casino disbursement reports. There are two different versions of Guideline 10, by reporting method.

If you need more help after you read this or other guidelines, call FINTRAC's national toll-free enquiries line at 1-866-346-8722.

Throughout this guideline, several references are provided to additional information that may be available on external Web sites. FINTRAC is not responsible for the accuracy, reliability or currency of the information contained on those external Web sites. The links provided are based on information available at the time of publishing of this guideline.

Throughout this guideline, any references to dollar amounts (such as \$10,000) refer to the amount in Canadian dollars or its equivalent in foreign currency. Furthermore, all references to cash mean money in circulation in any country (bank notes or coins). In this context, cash does not include cheques, money orders or other similar negotiable instruments.

Your policies and procedures may cover situations other than the ones described in this guideline, for purposes other than your requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. For example, the regulator for your sector may require you to apply additional policies and procedures, the retention period for your records may vary for purposes other than what is described in this guideline, or you may have to request an individual's social insurance number for income tax purposes.

## 2 Record Keeping and Client Identification Obligations

As a securities dealer, you have to do the following:

- When you conduct a large cash transaction, your record keeping and client identification obligations are as follows:
  - Keep a large cash transaction record (see section 3);
  - Identify the individual (see section 4); and
  - Make third party determinations and keep related records (see section 6).
  
- When you open an account, your record keeping and client identification obligations are as follows:
  - Keep account opening records (see section 3);
  - Identify the client(s) (see section 4);
  - Make a third party determination and keep related records (see section 6); and
  - Make a determination of whether you are dealing with a politically exposed foreign person and if so, keep records and take other measures (see section 7).
  
- For ongoing account activity, you have to keep certain records and client statements (see section 3).
  
- When you have to submit a suspicious transaction report to FINTRAC, your obligations include the following:
  - If you have not already identified the individual who conducted the transaction, identify the individual (see section 4); and
  - Keep a copy of the report (see section 3).
  
- If you have to identify an entity, you also have to determine beneficial ownership of the entity and keep records (see section 5).
  
- If you have foreign subsidiaries or branches, you may have obligations regarding them (see section 8).

There are some exceptions and these are explained throughout each section.

The use of personal information in Canadian commercial activities is protected by the *Personal Information Protection and Electronic Documents Act* (PIPEDA), or by substantially similar provincial legislation. You have to inform individuals concerning the collection of personal information about them. However, you do not have to inform individuals when you include personal information about them in any of the reports that you are required to make to FINTRAC.

You can get more information about your responsibilities in this area from the following:

- Industry Canada (<http://www.privacyforbusiness.ic.gc.ca>); or
- The Office of the Privacy Commissioner of Canada (<http://www.priv.gc.ca>).
  - The Office of the Privacy Commissioner of Canada has developed, on its Web site, a Question and Answer document entitled *PIPEDA and the Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ([http://www.priv.gc.ca/resource/t\\_faqs\\_index\\_e.cfm](http://www.priv.gc.ca/resource/t_faqs_index_e.cfm)) that will help you in understanding your responsibilities under both federal laws.

### **3 Records To Be Kept**

As a securities dealer, in addition to the records described in sections 5 to 8, you have to keep the following records:

- Large cash transaction records;
- Account-related records (account opening records, certain records created in the normal course of business and client statements); and
- Suspicious transaction report records.

Details about each of these types of records are provided in subsections 3.2 through 3.5.

See section 4 for information about identification requirements that may be associated to the events triggering record keeping requirements.

#### **3.1 General exceptions to record keeping**

If you keep information in a record that is already readily available in any other record that you have kept under these rules (as described throughout this guideline), you do not have to keep that information again.

You do not have to keep any of the records described in subsections 3.3 to 3.5, or in section 7, when you open any of the following accounts:

- for the purchase of an immediate or deferred annuity paid for entirely with funds directly transferred from a registered pension plan or the proceeds of a group life insurance policy;
- for the purchase of a registered annuity policy or a registered retirement income fund;
- for the deposit and sale of shares from a corporate demutualization or the privatization of a Crown corporation;
- in the name of an affiliate of a financial entity if the affiliate carries out activities similar to those of a financial entity, life insurance company or securities dealer;

- for a registered plan, including a locked-in retirement plan, a registered retirement savings plan, a group registered retirement savings plan, a registered education savings plan and any other registered plan;
- an account established pursuant to the escrow requirements of Canadian securities regulators or Canadian stock exchange or any provincial legislation;
- the opening of an account for, or for which instructions are authorized by, a financial entity, a securities dealer, a life insurance company or an investment fund regulated by provincial securities legislation;
- an account opened solely to provide customer accounting services to a securities dealer; or
- where the account holder or settlor is a federally or provincially regulated pension fund.

In addition, you do not have to keep any of the records described in subsections 3.3 to 3.5, or in section 7, for a transaction that is part of a reverse mortgage or structured settlement. This includes opening an account for this type of transaction.

#### **Accounts or transactions for a public body or very large corporation**

If you open an account or conduct a transaction for a public body or a very large corporation, the record keeping requirements described in subsections 3.3 to 3.5 do not apply. The same is true regarding a subsidiary of either of those entities, if the financial statements of the subsidiary are consolidated with those of the public body or very large corporation.

In this context, a public body means any of the following or their agent:

- a Canadian provincial or federal department or Crown agency;
- an incorporated Canadian municipal body (including an incorporated city, town, village, metropolitan authority, district, county, etc.); or
- a hospital authority. A hospital authority means an organization that operates a public hospital and that is designated to be a hospital authority for GST/HST purposes. For more information on the designation of hospital authorities, refer to GST/HST Memoranda Series, Chapter 25.2, *Designation of Hospital Authorities* available from the Canada Revenue Agency Web site (<http://www.cra-arc.gc.ca>) in the forms and publications listed by document type.

Also in this context, a very large corporation is one that has minimum net assets of \$75 million on its last audited balance sheet. The corporation's shares have to be traded on a Canadian stock exchange or on a stock exchange outside Canada that is designated by the Minister of Finance. The corporation also has to operate in a country that is a member of the Financial Action Task Force (FATF). For more information about stock exchanges outside Canada that are designated by the Minister of Finance, refer to the July 2, 2008 news release available in the News area of the Department of Finance's Web site (<http://www.fin.gc.ca>).

To find out which countries are members of the FATF, refer to its Web site (<http://www.fatf-gafi.org>).

### 3.2 Large cash transaction records

This is a record for every amount of cash of \$10,000 or more that you receive from a client in a single transaction. For example, if your client purchases securities with \$10,000 or more in cash, you have to keep a large cash transaction record. This type of transaction will also require a report to FINTRAC, as explained in *Guideline 7: Submitting Large Cash Transaction Reports to FINTRAC*.

If you know that two or more cash transactions of less than \$10,000 each were made within a 24-hour period (i.e., 24 consecutive hours), by or on behalf of the same client, these are considered to be a single large cash transaction if they add up to \$10,000 or more. In this case, you would have to keep a large cash transaction record, and report the transaction to FINTRAC as explained above.

Do **not** keep a large cash transaction record or make a large cash transaction report to FINTRAC if the cash is received from a financial entity or a public body. In this context, a financial entity means any of the following:

- a bank (i.e., one that is listed in Schedule I or II of the *Bank Act*) or an authorized foreign bank with respect to its operations in Canada;
- a credit union or a caisse populaire;
- effective July 31, 2010, a financial services cooperative (in the province of Quebec) or a credit union central (in all other provinces);
- a trust and loan company; or
- an agent of the Crown that accepts deposit liabilities.

For information about what is considered a public body in this context, see information in subsection 3.1 above, under the heading “Accounts or transactions for a public body or very large corporation”.

#### Contents of a large cash transaction record

For any large cash transaction, the information you have to keep in a large cash transaction record includes the following:

- the amount and currency of the cash received;
- the name, date of birth and address of the individual from whom you received the cash and that individual's principal business or occupation;
- the date of the transaction;
- the purpose, details and type of transaction (for example, the cash was used to buy securities, etc.), including whether any other individuals or entities were involved in the transaction;
- how the cash was received (for example, in person, by mail, by armoured car, or any other way); and

- if an account was affected by the transaction, include the following:
  - the number and type of any such account;
  - the full name of the client that holds the account; and
  - the currency in which the account's transactions are conducted.

Be as descriptive as possible regarding the business or occupation. Record information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation recorded should reflect the area of consulting, such as "information technology consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If you have to identify the individual conducting the large cash transaction, see subsection 3.7 for additional information that is required on the large cash transaction record.

### **3.3 Account opening records**

For every account that you open, you have to keep records. This includes signature cards, account operating agreements, account applications, copies of official corporate records (binding provisions) and other information, as described below.

If you have to identify an individual authorized to give instructions for the account, see subsection 3.7 for additional information required on the account opening record.

#### **Signature cards, account operating agreements or account applications**

You have to keep a signature card, an account operating agreement or an account application that shows the signature of the individual who is authorized to give instructions for the account.

In the case of a group plan account, you will **not** have to keep a signature card for any individual member of the plan if the plan's sponsor is an entity and you have already confirmed its existence. However, unless the plan is exempt from record keeping requirements as explained in subsection 3.1, you will have to keep a signature card for each individual member for whom a contribution is made that is other than a contribution made by payroll deductions or by the plan's sponsor.

#### **Intended use**

For every account you open, you will have to keep a record about the account's intended use.

Examples of intended use for accounts include the following:

- investments for eventual payment of children's education;
- investments for retirement;
- investments of the retained earnings of a corporation;
- investments for a group plan.

### **Accounts for corporations**

If you open an account for a corporation, in addition to the signature card, account operating agreement or account application as explained above, you have to keep a copy of the part of the official corporate records showing the provisions that relate to the power to bind the corporation regarding the account. This could be a certificate of incumbency, the articles of incorporation or the bylaws of the corporation that set out the officers duly authorized to sign on behalf of the corporation, such as the president, treasurer, vice-president, comptroller, etc. If there were changes subsequent to the articles or bylaws that relate to the power to bind the corporation regarding the account and these changes were in effect at the time the account was opened, then the board resolution stating the change would be included in this type of record.

### **Accounts for individuals or entities other than corporations**

If the account is opened for an individual or any entity that is not a corporation, in addition to the signature card, account operating agreement or account application as explained above, you have to keep a record of the name, address and principal business or occupation of the individual or entity. For more information about recording business or occupation, see subsection 3.2 under the heading "Contents of a large cash transaction record".

If the record is about an individual, it also has to include the individual's date of birth.

## **3.4 Certain records created in the normal course of business**

You have to keep every one of the following records that you create in the normal course of business:

- new account applications;
- confirmations of purchase or sale;
- guarantees;
- trade authorizations;
- powers of attorney and joint account agreements; and
- all correspondence, including electronic mail, about the operation of accounts.

## **3.5 Client statements**

You have to keep a copy of every statement that you send to your client.

### **3.6 Suspicious transaction report records**

When you have to report a suspicious transaction to FINTRAC, you have to keep a copy of the report. See *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* for more information about obligations related to this report.

### **3.7 Identification information on all records**

If you have to identify an individual, as explained in section 4, in association with any of the records mentioned in section 3, you have to keep the individual's name with that record. You also have to keep the following with that record.

#### **Identification documents**

If you have to identify the individual using a document, the record has to include the type of document you used to confirm the individual's identity, its reference number and its place of issue.

#### **Identification of clients not physically present**

If you do not use an identification document but use methods for a client who is not physically present (as described in subsection 4.7), you have to include whichever of the following, according to the methods used:

- If you use a cleared cheque to confirm the individual's identity, the record has to include the name of the financial entity and the account number of the deposit account on which the cheque was drawn;
- If you confirm that the individual holds a deposit account with a financial entity, the record has to include the date on which you made the confirmation as well as the name of the financial entity where the account is held and the number of the account;
- If you rely on a previous confirmation of the individual's identity by an affiliate of yours or another member of your central cooperative credit society, the record has to include the name of that other entity as well as the type and reference number of the record that they previously relied on to ascertain the individual's identity;
- If you use an identification product, the record has to include the name of the identification product, the name of the entity offering it, the search reference number and the date you used the product to identify the individual;
- If you consult a credit file, the record has to include the name of the entity keeping the credit file and the date you consulted it; and
- If you use an attestation signed by a commissioner of oaths in Canada or a guarantor in Canada, you have to keep the attestation.

## 4 Client Identity

### 4.1 When and how do you have to identify clients?

As a securities dealer, you have client identification obligations. You have to take the following measures to identify individuals or entities, subject to the general exceptions outlined in subsection 4.2. If you cannot identify an individual or an entity when you open an account according to the identification requirements, you cannot open the account. This means that no transaction other than an initial deposit can be carried out unless you are able to identify the individual or entity as explained in subsections 4.5 and 4.8.

Subsections 4.3 to 4.6 explain the need to identify individuals when an event triggers the requirement. Any individuals that you have not identified according to these rules must be identified if any of the situations described in those subsections occurs, unless an exception applies as explained below.

Refer to section 3 for information about record keeping requirements that may be associated to the events triggering identification requirements.

### 4.2 General exceptions to client identification

In addition to the exceptions explained throughout the rest of section 4, the following general exceptions apply to client identification requirements.

#### Existing clients

Once you have confirmed the identity of an individual as explained in this guideline, you do not have to confirm their identity again if you **recognize the individual** (visually or by voice) at the time of a future event that would otherwise trigger the identification requirement. However, if you have any doubts about the identification information previously collected, you will have to identify that individual again.

Once you have confirmed the existence of a corporation and confirmed its name, address and the names of its directors (as explained in subsection 4.8), you are not required to confirm that same information in the future.

Once you have confirmed the existence of an entity other than a corporation (as explained in subsection 4.8), you are not required to confirm that same information in the future.

You do not have to identify an individual as described in subsection 4.5, nor do the requirements described in subsection 7.1 for new accounts apply:

- for an individual who already has an account with you; or
- if you are an entity and you open an account for the deposit by a life insurance company of a death benefit under a life insurance policy or

annuity. In order for this exception to apply, you have to be affiliated with the life insurance company opening the account and the following conditions have to be met:

- the account is opened for a beneficiary that is an individual;
- only that death benefit may be deposited into the account; and
- the policy or annuity contract, under which the death benefit claim was made has been in existence for at least two years before the day on which the death benefit claim was made.

In this context, the life insurance company is affiliated with the entity if one fully owns the other or if they are both owned by the same other entity.

### **Certain types of accounts or transactions**

You do not have to identify an individual as described in subsection 4.5 for the opening of a business account for which you have already identified three persons who are authorized to give instructions in respect of the account.

You do not have to identify an individual as described in subsection 4.5, nor do the requirements described in subsection 7.1 for new accounts apply for the opening of an account for the sale of mutual funds if you have reasonable grounds to believe that the client has been identified, as explained in subsection 4.7, by a securities dealer regarding the sale of mutual funds for which the account is opened or one of a series of several transactions that includes that sale.

You do not have to identify clients as described in subsections 4.5, 4.6 or 4.8, nor do the requirements described in section 5 or 7 apply, in the following situations:

- the opening of an account for the purchase of an immediate or deferred annuity paid for entirely with funds directly transferred from a registered pension plan or the proceeds of a group life insurance policy;
- the opening of an account for the purchase of a registered annuity policy or a registered retirement income fund;
- any transaction, including opening an account for the transaction, that is part of a reverse mortgage or structured settlement;
- the opening of an account for the deposit and sale of shares from a corporate demutualization or the privatization of a Crown corporation;
- the opening of an account in the name of an affiliate of a financial entity if the affiliate carries out activities similar to those of a financial entity, life insurance company or securities dealer;
- the opening of an account for a registered plan, including a locked-in retirement plan, a registered retirement savings plan, a group registered retirement savings plan, a registered education savings plan and any other registered plan;
- the opening of an account established pursuant to the escrow requirements of Canadian securities regulators or Canadian stock exchange or any provincial legislation;

- the opening of an account for, or for which instructions are authorized by, a financial entity, a securities dealer, a life insurance company or an investment fund regulated by provincial securities legislation;
- the opening of an account solely to provide customer accounting services to a securities dealer; or
- the opening of an account where the account holder or settlor is a federally or provincially regulated pension fund.

### **Accounts or transactions for a public body or very large corporation**

If you open an account for a public body or a very large corporation, the requirements described in subsections 4.5 and 4.8 or in section 5, do not apply. The same is true regarding a subsidiary of either of those entities, if the financial statements of the subsidiary are consolidated with those of the public body or very large corporation.

For information about what is considered a public body or a very large corporation in this context, see subsection 3.1 under the heading “Accounts or transactions for a public body or very large corporation”.

### **4.3 Client identity for large cash transactions**

You have to identify any individual with whom you conduct a large cash transaction, at the time of the transaction, if you have to keep a large cash transaction record for it, as described in subsection 3.2. If the transaction is a deposit to a business account, you do not have to identify the individual conducting it. In this context, a business account is one that, at the time it was opened, was for a business or for a non-profit organization (i.e., other than a personal or trust account).

As explained in subsection 4.2, once you have confirmed the identity of an individual, you do not have to confirm their identity again if you recognize the individual. None of the other exceptions explained in subsection 4.2 apply in the case of large cash transactions.

See subsection 4.7 to find out how to identify an individual for a large cash transaction.

### **4.4 Client identity for suspicious transactions**

When you have to send a suspicious transaction report to FINTRAC, you have to take reasonable measures, before the transaction is reported, to identify the individual who conducted it. This does not apply in the following circumstances:

- if you had already identified the individual as required and you have no doubts about that previous identification information;
- if you believe that doing so would inform the individual that you are submitting a suspicious transaction report; or

- the transaction being reported was an attempted transaction.  
*Guideline 2: Suspicious Transactions* provides more information about reporting attempted transactions.

In this context, reasonable measures to identify an individual include using either Option 1 or Option 2 as explained in subsection 4.7 under the heading “Individual not physically present”. They also include asking the individual for an identification document. However, reasonable measures exclude any method that you believe would inform the individual that you are submitting a suspicious transaction report.

#### **4.5 Client identity for accounts: individuals authorized to give instructions**

You have to identify any individual who is authorized to give instructions for an account that you have to keep a record about (as explained in subsection 3.3, 3.4 or 3.5, or section 7). Identifying the individual has to be done before any transaction (other than the initial deposit) is carried out.

See subsection 4.7 to find out how to identify an individual authorized to give instructions for an account.

#### **4.6 Client identity for group plan account individual members**

In the case of a group plan account, that is not exempt from identification requirements as explained in subsection 4.2, you have to identify any individual members for whom you have to keep a signature card as explained in subsection 3.3 under the heading “Signature cards”. In this case, you have to identify individual members when they make contributions to the plan.

#### **4.7 How to identify an individual**

See subsection 3.7 for additional information that is required on certain records when you have to identify individuals.

To identify an individual, refer to the individual’s birth certificate, driver’s licence, passport, record of landing or permanent resident card or other similar document.

You can refer to an individual’s provincial health card, but only if it is not prohibited by provincial or territorial legislation. For example, you cannot refer to an individual’s provincial health card from Ontario, Manitoba or Prince Edward Island since health cards cannot be used for this purpose in these provinces. As another example, in Quebec, you cannot request to see a client’s health card, but you may accept it if the client wants to use it for identification purposes. If you

have questions about the use of health cards for identification, please contact the appropriate provincial issuer for more information.

For a document to be acceptable for identification purposes, it must have a unique identifier number. Also, the document must have been issued by a provincial, territorial or federal government. For example, a birth or baptismal certificate issued by a church would not be acceptable for this purpose. Also, an identification card issued by an employer for an employee (i.e. an employee identification card) is not acceptable.

The document also has to be a valid one and cannot have expired. For example, an expired driver's licence would not be acceptable.

A social insurance number (SIN) card can be used to verify the identity of a client, but the SIN (i.e. the number itself) is not to be provided to FINTRAC on any type of report. The Office of the Privacy Commissioner (<http://www.priv.gc.ca>) has produced a fact sheet concerning best practices for the use of SINs. Please consult it for more information on this topic.

Examples of other documents that can be used to verify the identity of a client include a certificate of Indian status or a provincial or territorial identification card issued by any of the following (or their successors):

- the Insurance Corporation of British Columbia;
- Alberta Registries;
- Saskatchewan Government Insurance;
- the Department of Service Nova Scotia and Municipal Relations;
- the Department of Transportation and Public Works of the Province of Prince Edward Island;
- Service New Brunswick;
- the Department of Government Services and Lands of the Province of Newfoundland and Labrador;
- the Department of Transportation of the Northwest Territories; or
- the Department of Community Government and Transportation of the Territory of Nunavut.

Valid foreign identification, if equivalent to an acceptable type of Canadian identification document, would also be acceptable for the purposes explained in this guideline. For example, a valid foreign passport is acceptable.

When you refer to a document to identify an individual, it has to be an original, not a copy of the document. In cases where it is not possible for you to view the original yourself, you may choose to use an agent or mandatary to verify the original identification document on your behalf. Even if you use an agent or mandatary, you are responsible for making sure the identification requirements are met.

### **Use of an agent or mandatary**

If you use an agent or mandatary for client identification, you have to enter into a written agreement or arrangement with the agent or mandatary outlining what you expect them to do for you. In addition, you have to obtain from the agent or mandatary the customer information that was obtained according to the agreement or arrangement.

Your agent or mandatary can identify your client for you using an identification document. In cases where your client is not physically present at the opening of an account or conducting of a transaction, your agent or mandatary can use the options explained below.

### **Individual not physically present**

If you have to identify an individual who is **not physically present** you will have to use one or the other of the following options to confirm the identity of that individual.

#### **OPTION 1: Affiliate or co-member**

To identify an individual using this option, you have to first obtain the individual's name, address and date of birth. Then, you have to confirm that one of the following has identified the individual by referring to an original identification document:

- a financial entity, life insurance company or securities dealer affiliated with you;
- an entity affiliated with you and whose activities outside Canada are similar to those of a financial entity, life insurance company or securities dealer; or
- another member of a central cooperative credit society (within the meaning of the *Cooperative Credit Association Act*) of which you also are a member (until July 30, 2010); or
- effective July 31, 2010, another financial entity that is a member of your financial services cooperative association or credit union central association of which you also are a member.

To use this option, you have to verify that the individual's name, address and date of birth provided to you correspond with the information kept in the records of that other entity.

In this context, an entity is affiliated with you if you fully own it or it fully owns you, or you are both fully owned by the same entity.

#### **OPTION 2: Combination of methods**

To identify an individual using this option, you have to use a combination of **two** of the following methods. In each of the two methods you use, the individual's information has to be consistent with what you have in your records. The information also has to be consistent from one method to the

other. For example, if each of the methods you use has the name, address and date of birth information about the individual, all of it has to agree with what you have in your records.

The methods below may not apply for all clients. For example, the methods would not be available to identify a client outside Canada who is opening an account with you, but has no Canadian credit history, no access to a Canadian guarantor and no deposit account with a financial entity. In this case, identification of the client using an identification document may necessitate the use of an agent or mandatary, as explained above.

### **Identification product or credit file method**

You can use either of the following methods but you cannot combine them:

- Refer to an independent and reliable identification product. It must be based on personal information as well as Canadian credit history about the individual of at least six months duration. This type of product can use a series of specific questions, based on an individual's credit file, to enable verification of client identity.
- With the individual's permission, refer to a credit file. The credit file must have been in existence for at least six months.

Products for either of these methods are available commercially, such as those used for credit ratings.

### **Attestation method**

Obtain an attestation that an original identification document for the individual has been seen by a commissioner of oaths or a guarantor. The attestation must be on a legible photocopy of the document and include the following information:

- the name, profession and address of the commissioner of oaths or the guarantor;
- the signature of the commissioner of oaths or the guarantor; and
- the type and number of the identifying document provided by the individual being identified.

In this context, a guarantor has to be an individual engaged in one of the following professions in Canada:

- a dentist, a medical doctor or a chiropractor;
- a judge, a magistrate or a lawyer;
- a notary (in Quebec) or a notary public;
- an optometrist or a pharmacist;
- an accredited public accountant (APA), a chartered accountant (CA), a certified general accountant (CGA), a certified management

- accountant (CMA), a public accountant (PA) or a registered public accountant (RPA);
- a professional engineer (P. Eng., in a province other than Quebec) or engineer (Eng. in Quebec); or
- a veterinarian.

### **Cleared cheque or deposit account method**

You can use either of the following methods, but you cannot combine them.

- Confirm that a cheque drawn on a deposit account that the individual has with a financial entity has cleared. This means a cheque that was written by the individual, cashed by the payee and cleared through the individual's account. It does not include pre-authorized payments as these are not cheques written by the individual.
- Confirm that the individual has a deposit account with a financial entity. You could do this by viewing an original bank statement.

For either method, the account has to be with a financial entity, as described in subsection 3.2.

The account cannot be one that is exempt from identification requirements for the financial entity, such as a registered retirement savings plan or a reverse mortgage. For more information about accounts that cannot be used for the cleared cheque or deposit account methods, see *Guideline 6G: Record Keeping and Client Identification for Financial Entities*.

## **4.8 Client identity for accounts with entities**

You have to confirm the existence of any corporation or other entity that opens an account with you. This has to be done within 30 days of opening the account. In the case of a corporation, in addition to confirming its existence, you also have to determine the corporation's name, address and the names of its directors within 30 days of opening the account.

When you have to confirm the existence of an entity, you also have to determine the entity's beneficial ownership, as explained in section 5.

### **Corporations**

To confirm the existence of a corporation as well as the corporation's name and address, refer to the following documents:

- the corporation's certificate of corporate status;
- a record that has to be filed annually under provincial securities legislation; or

- any other record that confirms the corporation's existence. Examples of these include such other records as the corporation's published annual report signed by an independent audit firm, or a letter or a notice of assessment for the corporation from a municipal, provincial, territorial or federal government.

You also have to determine the names of the corporation's directors. To do this, you may need to see the list submitted at the time of their application for incorporation. In the case of a corporation that is a securities dealer, you do not need to ascertain the name of the corporation's directors.

The record you use to confirm a corporation's existence can be paper or an electronic version. Although such information may be available verbally (such as by phone), it is not acceptable for these purposes, as you have to refer to a record. If the record is in paper format, you have to keep the record or a copy of it.

If the record is an electronic version, you have to keep a record of the corporation's registration number, the type and source of the record. An electronic version of a record has to be from a public source. For example, you can get information about a corporation's name and address and the names of its directors from the Corporations Canada database which is accessible from Industry Canada's Web site (<http://www.ic.gc.ca>). As another example, you may also get this type of information if you subscribe to a corporation searching and registration service.

### **Entities other than corporations**

To confirm the existence of an entity other than a corporation, refer to a partnership agreement, articles of association or any other similar record that confirms the entity's existence. The record you use to confirm the existence of an entity can be paper or an electronic version. Although such information may be available verbally (such as by phone), it is not acceptable for these purposes, as you have to refer to a record. If the record is in paper format, you have to keep the record or a copy of it.

If the record is an electronic version, you have to keep a record of the entity's registration number, the type and source of the record. An electronic version of a record has to be from a public source.

## **4.9 Keeping client identification information up to date**

Your compliance regime has to include an assessment, in the course of your activities, of the risk of money laundering or terrorist financing. According to this assessment, in higher risk situations, you have to take reasonable measures to keep client identification information up to date.

In this context, reasonable measures include asking the client to confirm or update identification information. In the case of an individual client, reasonable measures also include confirming or updating the information through the options available to identify individuals who are not physically present. This can include obtaining information verbally to keep client identification information up to date.

In the case of clients that are entities, reasonable measures include consulting a paper or electronic record as explained in subsection 4.8, or obtaining information verbally to keep client identification information up to date.

The frequency with which client identification information is to be kept up to date will vary in accordance with the context in which transactions occur, and therefore could differ from one situation to the next. However, for high risk situations, frequency for keeping client identification information up to date should be at least every two years.

*Guideline 4: Implementation of a Compliance Regime* provides more information about risk assessment requirements.

## **5 Beneficial Ownership Records**

If you have to confirm the existence of a corporation or other entity at the opening of an account, at that same time, you also have to take reasonable measures to obtain information about the entity's beneficial ownership. In this context, reasonable measures would include asking the individual authorized to act for the entity about beneficial ownership of the entity. It could also include consulting a credible source of publicly or commercially available information.

If obtained, you have to keep a record of the following:

- If the entity is a corporation:
  - the name and occupation of all directors of the corporation; and
  - the name, address and occupation of all individuals who directly or indirectly own or control 25% or more of the shares of the corporation.
- If the entity is other than a corporation:
  - the name, address and occupation of all individuals who directly or indirectly own or control 25% or more of the entity.

If this information cannot be obtained, you have to keep a record explaining why beneficial ownership could not be determined.

For more information about recording occupation, see subsection 3.2, under the heading "Contents of a large cash transaction record".

### **Not-for-profit organization**

If you have to confirm the existence of an entity that is a not-for-profit organization, you also have to do the following:

- Determine whether or not that entity is a registered charity for income tax purposes and keep a record to that effect. To make this determination, you can ask the client or consult the charities listing on the Canada Revenue Agency Web site (<http://www.cra-arc.gc.ca>).
- If that entity is not a registered charity, determine whether or not it solicits charitable financial donations from the public and keep a record to that effect. To make this determination, you can ask the client.

### **Keeping beneficial ownership information up to date**

According to your compliance regime's assessment of risk, in higher risk situations, you will have to take reasonable measures to keep beneficial ownership information up to date. In this context, reasonable measures include those explained at the beginning of section 5 that are applicable at account opening.

The frequency with which such information is to be kept up to date will vary in accordance with the context in which transactions occur, and therefore could differ from one situation to the next. However, for high risk situations, frequency for keeping beneficial ownership information up to date should be at least every two years.

*Guideline 4: Implementation of a Compliance Regime* provides more information about risk assessment requirements.

## **6 Third Party Determination and Related Records**

### **6.1 Third party determination**

You have to make a third party determination in the following situations:

- **When you have to keep a large cash transaction record**  
Whenever you have to keep a large cash transaction record (as explained in subsection 3.2), you have to take reasonable measures to determine whether the individual who gives you the cash is acting on the instructions of a third party.

In this context, a third party is an individual or entity other than the individual who conducts the transaction.

- **When you have to keep a signature card or an account operating agreement**

Whenever you open an account and are required to keep a signature card or an account operating agreement as explained in subsection 3.3, you have to take reasonable measures to determine whether the account is to be used by or on behalf of a third party. There are some exceptions and these are explained below.

In this context, a third party is an individual or an entity, other than the account holder or those authorized to give instructions about the account, who directs the activity in the account. For example, if an account were opened in one individual's name for activity in the account that was directed by someone else, that someone else is a third party. As another example, if parents decide to open a savings account, such as an education savings plan for their child, the child would not be considered a third party as the parents would not be acting on the instructions of the child and therefore would not be acting on behalf of a third party.

### **Exceptions to third party determination when opening accounts**

In cases where a financial entity is the account holder, you do not have to make a third party determination. The same is true if the account holder is a securities dealer engaged in the business of dealing in securities in Canada.

When you are determining whether a "third party" is involved, it is not about who "owns" the money, but rather about who gives instructions to deal with the money. To determine who the third party is, the point to remember is whether the individual in front of you is acting on someone else's instructions. If so, that someone else is the third party.

In making a third party determination when employees are acting on behalf of their employers, they are considered to be acting on behalf of a third party. The only exception to this is when an employee deposits cash to the employer's account. In that case, the employee is not considered to be acting on behalf of a third party. This is only true if the employee deposited cash into the employer's **business** account.

### **Reasonable measures**

What constitutes reasonable measures in making a third party determination will vary in accordance with the context in which they occur, and therefore could differ from one situation to the next. However, reasonable measures would include retrieving the information already contained in your files or elsewhere within your business environment, or obtaining the information directly from the client.

## 6.2 Third party records

If you are required to make a third party determination and you determine that there is in fact a third party as explained above, you have to keep a record of the following information:

- the third party's name, address and principal business or occupation;
- if the third party is an individual, the third party's date of birth;
- the incorporation number and place of incorporation if the third party is a corporation; and
- in the case of a large cash transaction, the nature of the relationship between the third party and the individual who gives you the cash; or
- in the case of an account, the nature of the relationship between the third party and the account holder. For examples of third party relationships, see field 18 of Part G in the large cash transaction report.

For more information about recording business or occupation, see subsection 3.2 under the heading "Contents of a large cash transaction record".

If you are not able to determine that there is in fact a third party, but you have reasonable grounds to suspect that there are instructions of a third party involved, you have to keep a record to indicate the following:

- in the case of a large cash transaction, whether, according to the individual giving the cash, the transaction is being conducted on behalf of a third party; or
- in the case of an account, whether, according to the individual authorized to act for the account, the account will be used by or on behalf of a third party.

This record must also indicate details of why you suspect the individual is acting on a third party's instructions.

In cases where an account holder is a person or entity engaged in the business of dealing in securities outside Canada only, you do **not** have to keep a third party record relating to that **account** if any of the following conditions are met:

- the account is in a country that is a member of the Financial Action Task Force (FATF). To find out which countries are members of FATF, refer to its following Web site (<http://www.fatf-gafi.org>);
- the account is in a country that is not a FATF member but, when opening the account, you get written assurance from that account holder that the country where the account is located has implemented the FATF recommendations concerning customer identification; or
- the account is in a country that is not a FATF member and that country has not implemented the FATF recommendations concerning customer identification, but you have ascertained the identity of all third parties relating to the account as explained in subsection 4.7.

In addition, you do **not** have to keep a third party record for an **account** if the following conditions are met:

- the account is opened by a legal counsel, an accountant or a real estate broker or sales representative; and
- you have reasonable grounds to believe that the account is to be used only for their clients.

If an account is for or on behalf of future and unknown clients, employees, etc., of the individual or entity opening the account, you should keep a record indicating that the account is to be used by or for third parties who are not known at the time of account opening.

## **7 Politically Exposed Foreign Person Determination and Related Records**

A politically exposed foreign person is an individual who holds or has ever held one of the following offices or positions in or on behalf of a **foreign** country:

- a head of state or government;
- a member of the executive council of government or member of a legislature;
- a deputy minister (or equivalent);
- an ambassador or an ambassador's attaché or counsellor;
- a military general (or higher rank);
- a president of a state-owned company or bank;
- a head of a government agency;
- a judge; or
- a leader or president of a political party in a legislature.

A politically exposed foreign person also includes the following family members of the individual described above:

- mother or father;
- child;
- spouse or common-law partner;
- spouse's or common-law partner's mother or father; and
- brother, sister, half-brother or half-sister (that is, any other child of the individual's mother or father).

### **Exceptions**

The requirements described in this section do not apply at the opening of accounts in the exceptions described under the heading "Certain types of accounts or transactions" in subsection 4.2.

## 7.1 Politically exposed foreign person determination

You have to take reasonable measures to determine whether you are dealing with a politically exposed foreign person for new or existing accounts.

Once you have determined that an individual is a politically exposed foreign person, you will not have to do it again.

### **New accounts**

When you open an account for an individual, you have to take reasonable measures to determine whether you are dealing with a politically exposed foreign person. This has to be done within 14 days after the new account is activated.

If you determine that an individual is a politically exposed foreign person, you also have to do the following:

- get senior management's approval to keep the account open within 14 days after the new account is activated;
- take reasonable measures to establish the source of funds that have been, will be or are expected to be deposited in that account. Once you have determined the source of funds for the account, you are not required to do so again for future deposits, unless ongoing monitoring triggers the need to do so; and
- perform enhanced ongoing monitoring of activities for that account to detect suspicious transactions.

You have to make the determination and get senior management approval within a single period of 14 days. For example, if it takes you 5 days after the new account is activated to make the determination that you are in fact dealing with a politically exposed foreign person, you have 9 days left to get senior management approval to keep the account open.

### **Existing accounts**

For existing account holders, you also have to take reasonable measures to determine whether you are dealing with a politically exposed foreign person. This is to be done based on your compliance regime's risk assessment regarding situations considered to be higher risk for money laundering or terrorist financing. *Guideline 4: Implementation of a Compliance Regime* provides more information about risk assessment requirements.

If you determine that an individual is a politically exposed foreign person for a current account, you also have to do the following:

- get senior management's approval to keep the account open within 14 days after you determined that a current account holder is a politically exposed foreign person;
- take reasonable measures to establish the source of funds that have been, will be or are expected to be deposited in that account. Once you

- have determined the source of funds for the account, you are not required to do so again for future deposits, unless ongoing monitoring triggers the need to do so; and
- perform enhanced ongoing monitoring of activities for that account to detect suspicious transactions.

### **Reasonable measures**

In the context of this subsection, reasonable measures to determine whether or not you are dealing with a politically exposed foreign person include the following:

- asking the client; or
- consulting a credible source of commercially or publicly available information about politically exposed persons.

In establishing the source of funds, reasonable measures also include asking the client.

### **Senior management**

Also in the context of this section, senior management means an individual who has the following:

- authority to make and be held accountable for management decisions about this type of account;
- awareness of the money laundering or terrorist financing risks to which the securities dealer or this type of account, is exposed; and
- awareness of politically exposed foreign persons.

## **7.2 Politically exposed foreign person records**

Once an account has been approved as explained in subsection 7.1, you will have to keep a record of the following:

- the office or position of the individual who is a politically exposed foreign person;
- the source of the funds, if known, that are or are expected to be deposited in the account;
- the date you determined the individual to be a politically exposed foreign person;
- the name of the member of senior management who approved the account to be kept open; and
- the date the account was approved to be kept open.

## 8 Foreign Subsidiaries or Branches

### 8.1 Foreign subsidiaries

If you have foreign subsidiaries, you have to ensure that they develop and apply policies and procedures consistent with record keeping, client identification and compliance regime requirements here in Canada. This only applies if all of the following conditions are met:

- The subsidiary is wholly-owned by you.
- The subsidiary carries out financial entity, life insurance company or securities dealer activities.
- The subsidiary is located in a country that is not a member of the Financial Action Task Force (FATF). To find out which countries are members of the FATF, refer to its Web site (<http://www.fatf-gafi.org>).
- The laws of the country in which the subsidiary operates permit compliance with these requirements.

If a foreign subsidiary meets these conditions, refer to *Guideline 4: Implementation of a Compliance Regime* for more information about the Canadian compliance regime requirements. The Canadian record keeping and client identification requirements are those explained in this guideline, except that requirements concerning politically exposed foreign person determination and related records (see section 7) do not apply to the foreign subsidiary.

If the laws of the country in which your subsidiary operates prohibit compliance with these Canadian requirements, you have to keep a record to that effect.

### 8.2 Foreign branches

If you are an entity and you have foreign branches, you have to ensure that they develop and apply policies and procedures consistent with record keeping, client identification and compliance regime requirements here in Canada. This only applies if all of the following conditions are met:

- The branch carries out financial entity, life insurance company or securities dealer activities.
- The branch is located in a country that is not a member of the Financial Action Task Force (FATF). To find out which countries are members of the FATF, refer to its Web site (<http://www.fatf-gafi.org>).
- The laws of the country in which the branch operates permit compliance with these requirements.

If a foreign branch meets these conditions, refer to *Guideline 4: Implementation of a Compliance Regime* for more information about Canadian compliance regime requirements. The Canadian record keeping and client identification requirements that would apply are those explained in this guideline, except that

requirements concerning politically exposed foreign person determination and related records (see section 7) do not apply to a foreign branch.

## **9 How Should Records Be Kept?**

You should maintain an effective record-keeping system to enable FINTRAC to have access to the records in a timely fashion. Your records have to be kept in such a way that they can be provided to FINTRAC within 30 days of a request to examine them.

For the requirements explained in this guideline, you can keep records in a machine-readable or electronic form, as long as a paper copy can be readily produced from it. For example, if you have a document imaging system, you do not have to produce the original document for these purposes, as long as you can print the imaged one.

The record keeping requirements explained in this guideline are about each record to be kept. Your record keeping system can store the information required for any one record separately, as long as you are able to readily retrieve and put the information together for the record whenever necessary.

Also, if you keep records electronically that require a signature on them, such as a signature card or an account operating agreement for example, an electronic signature of the individual who signed the record has to be retained. An electronic signature means an electronic image of the signature and does not include a personal identification number (PIN).

You are not required to keep a copy of the reports you make to FINTRAC (other than the suspicious transaction report as explained in subsection 3.6), but you may choose to do so. It is recommended that you keep the information that FINTRAC sends you in the acknowledgement message about each report processed. This provides the date and time the report was received along with its identification number.

### **Timeframe for keeping records**

In the case of signature cards, account operating agreements, account application forms, records setting out the intended use of the account and politically exposed foreign person records, these records have to be kept for five years from the day of closing of the account to which they relate. In the case of records to confirm the existence of an entity (including a corporation) and beneficial ownership records, they have to be kept for five years from the day the last business transaction was conducted.

In the case of a copy of a suspicious transaction report, the record has to be kept for a period of at least five years following the date the report was made.

In the case of all other records the records have to be kept for a period of at least five years following the date they were created.

### **Employees or contractors who keep records for you**

Your employees who keep records (as described in section 3) for you are not required to keep those records after the end of their employment with you. The same is true for individuals in a contractual relationship with you, after the end of that contractual relationship. This means that you have to get and keep the records that were kept for you by any employee or contractor before the end of that individual's employment or contract with you.

## **10 Penalties for Non-Compliance**

Failure to comply with your record keeping and client identification requirements can lead to criminal charges against you. Conviction of failure to retain records could lead to up to five years imprisonment, to a fine of \$500,000, or both. Alternatively, failure to keep records or identify clients can lead to an administrative monetary penalty. For more information on penalties, you can also consult the Penalties for non-compliance section of FINTRAC's Web site.

## **11 Comments?**

These guidelines will be reviewed on a periodic basis. If you have any comments or suggestions to help improve them, please send your comments to the mailing address provided below, or by email to [guidelines-lignesdirectrices@fintrac-canafe.gc.ca](mailto:guidelines-lignesdirectrices@fintrac-canafe.gc.ca).

## **12 How to Contact FINTRAC**

For further information on FINTRAC and its activities, reporting and other obligations, please go to FINTRAC's website (<http://www.fintrac-canafe.gc.ca>) or contact FINTRAC:

Financial Transactions and Reports Analysis Centre of Canada  
234 Laurier Avenue West, 24<sup>th</sup> floor  
Ottawa, Ontario  
Canada K1P 1H7

Toll-free: 1-866-346-8722