

**ANTI-MONEY LAUNDERING/ANTI-TERRORIST
FINANCING (AML/ATF) DEVELOPMENTS**

New “Know Your Client” AML/ATF Rules for CPAs

September 2021





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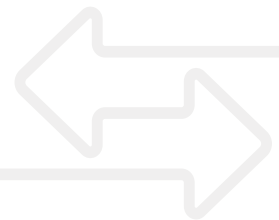
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1. Executive summary

New anti-money laundering and anti-terrorist financing (AML/ATF) requirements came into force on June 1, 2021. These changes will impact Chartered Professional Accountants (CPAs) engaged in activities covered by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its regulations. To keep CPA Canada members apprised of recent legislative and regulatory changes affecting the profession, CPA Canada is publishing a short series of articles identifying some of the key requirements and developments that accountants and accounting firms¹ should be aware of.

This article provides an overview of key changes to the AML/ATF legislation² for “know your client” rules for accountants and accounting firms that came into force on June 1, 2021, including:

- client identification
- business relationships
- beneficial ownership
- determining if a third party is giving instructions
- politically exposed persons and heads of international organizations

While the specific changes in the AML/ATF legislation vary for each of these areas and need to be considered individually, there are **overarching implications** for accountants and accounting firms – the **need to develop or amend your compliance program which means revising your existing policies, procedures, practices, and training program,³ among other changes, to meet the new requirements.**

Recognizing the significance of these changes, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) has taken several steps regarding the transition including:


- publishing new guidance documents effective June 1, 2021
- publishing notices⁴ on its website explaining how it will manage the transition to the new legislative and regulatory environment from June 1, 2021, until March 31, 2022

1 In this article, the expression “accountants and accounting firms” refers to the definitions of accountants and accounting firms that are found in subsection 1(2) of the [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Regulations](#). “Accountant means a chartered accountant, a certified general accountant, a certified management accountant or, if applicable, a chartered professional accountant.” “Accounting firm means an entity that is engaged in the business of providing accounting services to the public and has at least one partner, employee or administrator that is an accountant.”

2 Obligations for accountants and accounting firms are included in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its regulations (collectively referred to in this article as “AML/ATF legislation”).

3 FINTRAC, [Compliance program requirements](#), May 2021

4 FINTRAC, [Notice on forthcoming regulatory amendments and flexibility](#), November 16, 2020; FINTRAC, [FINTRAC’s Implementation of Regulatory Amendments](#), January 22, 2021; FINTRAC, [Notice on the assessment of obligations coming into force on June 1, 2021](#), May 18, 2021); and FINTRAC, [Regulatory amendments in force as of June 1, 2021](#), June 1, 2021.



Links to **FINTRAC** guidance documents related to the topics covered in this article have been provided and accountants and accounting firms are encouraged to keep abreast of upcoming changes and additional information as announced by FINTRAC. A mailing list subscription⁵ is offered by FINTRAC that provides email updates.

FINTRAC is Canada's financial intelligence unit. It is also the regulator/supervisor responsible for ensuring adherence to the AML/ATF legislation by accountants and accounting firms.

2. Background

Since 2000, professional accountants in Canada have been an official part of combating money laundering and terrorist financing (i.e., as reporting entities⁶) when involved in specific **triggering activities** covered by Canada's AML/ATF legislation.⁷

Triggering activities means, on behalf of a person or entity, receiving or paying funds or virtual currency; purchasing or selling securities, real property or immovables or business assets or entities; or transferring funds, virtual currency or securities by any means, or giving instructions on behalf of a person or entity in respect of these activities.

Accountants' and accounting firms' obligations in these circumstances, with some exceptions, require them to:

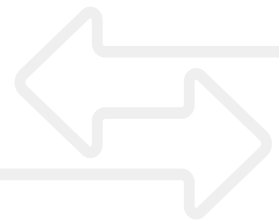
- identify clients
- collect information about financial transactions and any third-party giving instructions on those transactions
- report attempted and completed suspicious transactions and terrorist property, large cash and large virtual currency transactions,⁸ to add to the national financial intelligence database managed by FINTRAC

5 FINTRAC, *Mailing list*, August 16, 2019

6 A reporting entity for purposes of the AML/ATF legislation is defined in section 5 of the PCMLTFA and the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR). It includes persons and entities such as banks, credit unions, cooperatives, trust and loan companies, life insurance companies, securities dealers, money services businesses, accountants and accounting firms, B.C. notaries, dealers in precious metals and stones, real estate brokers, real estate representatives and developers, casinos, etc.

7 PCMLTFR subsection 47(1) to (3) and FINTRAC, *Accountants*: Accountants and accounting firms are subject to the PCMLTFA and its associated regulations when, on behalf of a person or entity, they are receiving or paying funds or virtual currency; purchasing or selling securities, real property or immovables or business assets or entities; or transferring funds, virtual currency or securities by any means, or giving instructions on behalf of a person or entity in respect of these activities.

8 Reporting large virtual currency transactions (of \$10,000 or more) is new as of June 1, 2021.



- keep specified records about transactions and client identification in case that information is needed for investigations

In the case of an accountant or an accounting firm, certain activities are **exempt** from the requirements of the AML/ATF legislation:

1. If triggering activities are carried out in the course of an audit, a review or a compilation engagement within the meaning of the *CPA Canada Handbook* prepared and published by the Chartered Professional Accountants of Canada, as amended from time to time.
2. When an accountant is acting in the capacity of an employee⁹ or of a person who either is authorized by law to carry on the business of – or to monitor the business or financial affairs of – an insolvent or bankrupt person or entity or is authorized to act under a security agreement.

Exception for fees received by accountants and accounting firms

If you are paid for your accounting services, the receipt of the professional fees does not trigger associated obligations under the PCMLTFA¹⁰.

The AML/ATF legislation has been amended several times with the latest changes published on June 10, 2020, including provisions applicable to accountants and accounting firms which became effective on June 1, 2021.


3. Know your client

The objective of “know your client” obligations is to ensure that you know who you are dealing with as a client and that you can take appropriate AML/ATF risk reduction measures if needed. The key obligations in “know your client” under the AML/ATF legislation are:

1. verifying your client’s identity (person or entity)
2. determining if a third party is giving them instructions
3. determining business relationships and conducting ongoing monitoring
4. obtaining beneficial ownership information
5. determining if you are dealing with politically exposed persons or heads of international organizations, their family members or close associates

⁹ PCMLTFR subsection 133(1) and FINTRAC, *Accountants*, Table 1. If you are an accountant acting in the capacity of an employee, the requirements related to Compliance Program, Know Your Client, Reporting (with the exception of submitting suspicious transaction reports [STRs] to FINTRAC which is applicable to both you and your employer if your employer is a reporting entity), Record Keeping, and Ministerial directives do not apply to you.

¹⁰ FINTRAC, *Accountants*, July 12, 2021



These activities are fundamental to meeting the requirements of the AML/ATF legislation and contribute to the prevention and detection of potential money laundering and terrorist financing, and reducing legal, financial, reputational, professional and personal risks for accountants and accounting firms.

3.1 Verifying the identity of a person or an entity

Verifying the identity of a person or an entity means using prescribed methods described in FINTRAC’s guidance that depend on whether the client is a person or an entity (a corporation or an entity other than a corporation). Full details on the methods to identify clients are available from FINTRAC on its website.¹¹

The purpose of client identification in the AML/ATF legislation is to verify the identity of the **person**¹² (e.g., name, address, date of birth, nature of principal business or occupation) that you are dealing with, or in the case of an **entity**,¹³ a client other than a person, to verify its existence (a corporation, or other than a corporation) or verify the identity of the individual who is dealing on behalf of the entity (with reference to corporate/other entity documentation).

A **person** is an individual (natural person).

An **entity** is a body corporate, a trust, a partnership, a fund or an unincorporated association or organization.

FINTRAC has summarized when accountants and accounting firms must verify the identity of persons and entities as required by the AML/ATF legislation.¹⁴

3.1.1 Client identification methods

Different identification methods may be used depending on whether your client is a **person** or an **entity**. In addition, the use of an agent or a mandatary may be used for the identification of a person.

11 FINTRAC, *Methods to verify the identity of persons and entities*, June 2021

12 PCMLTFA subsection 2(1)

13 Ibid

14 FINTRAC, *When to verify the identity of persons and entities – Accountants*, March 2021



3.1.1.1 *Client identification methods for a person*

Four methods may be used to identify a person:

1. **Government-issued photo identification method.** The documentation must be authentic, valid and current; issued by a federal, provincial or territorial government (or by a foreign government if it is equivalent to a Canadian document); indicate the person's name; include a photo of the person; include a unique identifying number; and match the name and appearance of the person being identified.
2. **Credit file method.** When using the credit file method, the information referred to must be valid and current from a Canadian credit file that has been in existence for at least three years where information is now derived from **more than one source** and match the name, address and date of birth of the person being identified.
3. **Dual process method.** When using this method to verify the identity of a person, the information must be valid and current from **two different reliable sources** where neither the accountant or accounting firm nor the person is a source.
4. **Reliance method.** You can rely on another reporting entity for customer identification information subject to certain requirements being met.¹⁵

3.1.1.1.1 *Relying on an agent or mandatary*

You may verify the identity of a person by using an agent or mandatary to carry out the verification on your behalf, in accordance with the government-issued photo identification method, the credit file method, or the dual-process method described above, subject to certain requirements being met.¹⁶

3.1.1.2 *Client identification methods for an entity*

Two methods may be used to identify an entity.

1. Confirmation of existence method
 - a. **For a corporation:** In verifying the identity and existence of a corporation, you may refer to the corporation's certificate of incorporation; a record that has to be filed annually under provincial securities legislation; or the most recent version of any other record that confirms the corporation's existence and contains its name and address and the names of its directors, such as a certificate of active corporate status, the corporation's published annual report signed by an audit firm, or a letter or notice of assessment for the corporation from a municipal, provincial, territorial or federal government. The record you refer to must be authentic, valid and current.

¹⁵ FINTRAC, *Methods to verify the identity of persons and entities*, June 2021

¹⁶ Ibid



- b. **For an entity other than a corporation:** You may refer to a partnership agreement; articles of association; or the most recent version of any other record that confirms its existence and contains its name and address. The record you refer to must be authentic, valid and current.

2. Reliance method

This method may be used when you rely on another reporting entity to obtain information whether your client is a corporation or an entity other than a corporation, subject to certain requirements being met for each.¹⁷

FINTRAC GUIDANCE

Methods to verify the identity of persons and entities

3.1.2 Third-party determination

Third-party determination is now applicable to the new filing of large virtual currency transaction reports (LVCTRs). When you receive an amount of \$10,000 or more in virtual currency (the same applies to cash), you need to take reasonable measures to determine whether the person from whom you received the cash or virtual currency is acting on behalf of a third party. If the person is acting on behalf of a third party, you must take reasonable measures to obtain additional information and keep a record of the information.

FINTRAC GUIDANCE

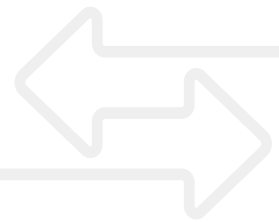
Third party determination requirements

3.1.3 Business relationships and ongoing monitoring

You enter into a business relationship with a client the second time that you are required to verify their identity within a five-year period.¹⁸ **This means ensuring that policies and procedures reflect this threshold and that your processes alert you when the requirement to verify the client is triggered for the second time** (e.g., receipt of funds of \$3,000 or more, large cash transaction and large virtual currency transaction, suspicious transaction

¹⁷ Ibid

¹⁸ PCMLTFR, paragraph 4.1(b) and FINTRAC, *Business relationship requirements*, February 2021.



[reasonable measures without tipping off], and terrorist property involved in the transaction [reasonable measures]]. **Your training program will also require revision to ensure that the requirement is applied by staff.**

FINTRAC GUIDANCE

Business relationship requirements

3.1.4 Beneficial ownership

The identification of beneficial ownership is a **new requirement** for accountants and accounting firms that previously only applied to financial entities, security dealers, the life insurance sector and money services businesses.

Who are beneficial owners in the context of the AML/ATF legislation?

Beneficial owners are the individuals who directly or indirectly own or control 25 per cent or more of a corporation or an entity other than a corporation. In the case of a trust, they are the trustees, the known beneficiaries and the settlors of the trust. If the trust is a widely held trust or a publicly traded trust, they are the trustees and all persons who own or control, directly or indirectly, 25 per cent or more of the units of the trust.¹⁹ Beneficial owners cannot be other corporations, trusts or other entities. They must be the individuals who are the owners or controllers of the entity.

As of June 1, 2021, you must obtain, at the time the entity's identity is verified, different information depending on whether you are dealing with a corporation or an entity other than a corporation. You must take reasonable measures to confirm the accuracy of the information when it is first obtained.²⁰ In all cases (except for not-for-profit organizations), you must collect information establishing the ownership, control and structure of the entity.²¹

¹⁹ FINTRAC, *Beneficial ownership requirements*, March 2021

²⁰ PCMLTFR subsection 138(2)

²¹ PCMLTFR paragraph 138(1)(d)



If you are unable to obtain beneficial ownership information, to keep it up to date in the course of ongoing monitoring of business relationships, or to confirm its accuracy,²² you must take reasonable measures to verify the identity of the entity’s chief executive officer (CEO) or the person who performs that function **and** take required enhanced measures.²³

If you have established a business relationship with that client, you must also confirm the accuracy of the beneficial ownership information in the course of ongoing monitoring.

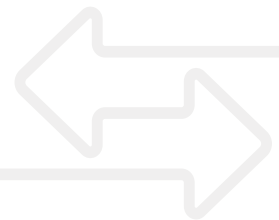
Table 1 below outlines the beneficial ownership information to be obtained.

Table 1 - Beneficial ownership information

Entity type	Information to collect
Corporation	<ul style="list-style-type: none">Names of all directors of the corporation and the names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the shares of the corporation.Information establishing the ownership, control and structure of the entity.
Widely held or publicly traded trust	<ul style="list-style-type: none">Names of all trustees of the trust and the names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the units of the trust.Information establishing the ownership, control and structure of the entity.
Trust	<ul style="list-style-type: none">Names and addresses of all trustees and all known beneficiaries and settlors of the trustInformation establishing the ownership, control and structure of the entity.
Entity other than a corporation or trust	<ul style="list-style-type: none">The names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the entityInformation establishing the ownership, control, and structure of the entity.
Not-for-profit organization	Determine if it is: <ul style="list-style-type: none">a charity registered with the Canada Revenue Agency under the Income Tax Act oran organization, other than a charity registered with the Canada Revenue Agency under the Income Tax Act, that solicits charitable donations from the public

22 PCMLTFR subsection 138(4)

23 PCMLTFR section 157



The implication is that **you will need to develop new compliance policies and procedures** for obtaining beneficial ownership information, identify what to do when you cannot obtain it and adjust your ongoing monitoring process to ensure the accuracy of the beneficial ownership information as it changes. As the information changes, you will need to reassess the risk associated with new beneficial owners, if any, or the fact that that you must default to identifying the CEO and taking enhanced measures. **You will also need to update your training program.**

FINTRAC GUIDANCE

Beneficial ownership requirements

3.1.5 Politically exposed persons (PEPs) and heads of international organizations (HIOs)

The AML/ATF legislation has identified **new requirements** for accountants and accounting firms in dealing with a politically exposed foreign person (PEFP), a politically exposed domestic person (PEDP), a head of an international organization (HIO), their family members and their close associates in two situations: a) when a business relationship is or may be involved and b) when you receive an amount of \$100,000 or more, in cash or in virtual currency.

For accountants and accounting firms **this means developing new policies and procedures** for determining PEFP, PEDP, HIO, their family members and close associates and processing their transactions, and adjusted processes for risk assessment and triggers when receiving \$100,000 or more in cash or virtual currency. **Training will be required on these new policies, procedures, and processes.**

FINTRAC GUIDANCE

Politically exposed persons and heads of international organizations guidance

Frequently asked questions about domestic politically exposed persons and heads of international organizations

Politically exposed persons and heads of international organizations guidance for non-account-based reporting entity sectors