

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

New AML/ATF Requirements Associated with Record Keeping and Reporting to FINTRAC

October 2021





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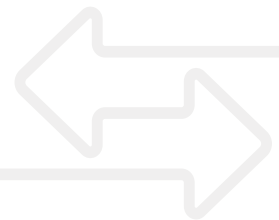
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1. Executive summary

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 that accountants and accounting firms¹ should be aware of.

This article provides an overview of recent changes to the AML/ATF legislation² which have implications for accountants and accounting firms involved in **triggering activities** (as explained in Section 2 below) for obligations under the AML/ATF legislation, as well as related **record keeping** and **reporting requirements**.

Generally, accountants and accounting firms engaged in triggering activities have obligations including implementing a compliance program, applying the “know your client” rules (which were described in a previous CPA Canada article, *Anti-money Laundering/ Anti-terrorist Financing (AML/ATF) Developments New “Know Your Client” AML/ATF Rules for CPAs*), keeping records, and reporting to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) as required.

2. Background

Changes to the AML/ATF legislation in Canada, both prior to and commencing as of June 1, 2021, have implications for accountants and accounting firms involved in triggering activities for obligations under the AML/ATF legislation. **Triggering activities** means, on behalf of a person or entity, receiving or paying funds or virtual currency; purchasing or selling securities, real property or immovable 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.

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”).

2.1 Exempt activities

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.³
2. When an accountant is acting in the capacity of an employee⁴ 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.⁵

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 PCMLTFA.⁶

2.2 Accountants and accounting firms as gatekeepers

As a profession, accountants and accounting firms have been included in Canada's AML/ATF legislation since 2000. From some of the Financial Action Task Force's (FATF) earliest typologies reports, professional accountants have been identified globally as "**gatekeepers**"⁷ to the financial system, and intermediaries that are well placed to **contribute to combating money laundering and terrorist financing**. In 2019, the FATF⁸ described the wide range of services internationally that professional accountants may provide, depending upon their jurisdiction, in public practice to a diverse range of clients, as well as many of the functions that are most susceptible to attract money launderers such as providing financial and tax advice,⁹ company and trust formation, buying or selling of property, etc.

³ PCMLTFR subsection 47(2)

⁴ PCMLTFR subsection 133(1) and FINTRAC, *Accountants*, Table 1, July 12, 2021. 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.

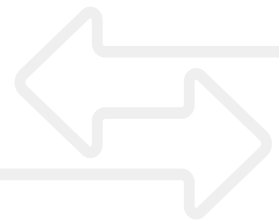
⁵ PCMLTFR subsection 47(3)

⁶ FINTRAC, *Accountants*, July 12, 2021

⁷ FATF, *Report on Money Laundering Typologies 2003-2004*, p. 24, February 26, 2004

⁸ FATF, *Guidance for A Risk-Based Approach – Accounting Profession*, June 2019

⁹ Under the AML/ATF legislation, giving instructions is a covered activity when related to other triggering activities and is distinct from giving advice. See *FINTRAC Interpretation Notice No.2* (August 16, 2019).



As a result, professional accountants play a crucial role in contributing to the integrity of the financial system globally. In Canada, accountants and accounting firms contribute to the safety and security of Canadians by complying with the AML/ATF legislation as required.

3. Record keeping

The purpose of keeping records under the AML/ATF legislation is to facilitate investigative work by police, security agencies or other designated law enforcement authorities to follow the money trail when threats to Canadian security are suspected, money is laundered, or terrorist activity is financed.

FINTRAC has issued **new guidance on record keeping for accountants** (included at the link below) that identifies the key requirements. The **new record keeping requirements** in effect as of June 1, 2021, for accountants and accounting firms include:

- a large virtual currency transaction record
- a beneficial ownership record
- politically exposed persons or heads of international organizations record
- various reasonable measures records

FINTRAC's new guidance document on record keeping (included at the link below) however does not cover all the records that must be potentially kept. Section 3.2 below provides an overview of record keeping requirements and references to related FINTRAC guidance documents.


FINTRAC GUIDANCE

[Record keeping requirements for accountants](#)

3.1 Exceptions to record keeping

There are exceptions to record keeping, for example:

- If the information required to be kept in a record is readily available in other records, you do not have to record the information again.
- If cash, virtual currency or funds are received from a client that is a financial entity or a public body, or from a person who is acting on behalf of a client that is a financial entity or public body, you are not required to keep a large cash transaction record, a large virtual currency transaction record or a receipt of funds record.

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- You are also not required to keep a receipt of funds record if the funds are received from a public body, a very large corporation or trust, or a subsidiary of those entities, if the financial statements of the subsidiary are consolidated with those of the public body, or very large corporation or trust.

3.2 Records to keep

3.2.1 Reports

A copy of every report sent to FINTRAC must be kept.¹⁰ This includes the:

- suspicious transaction report (STR)
- terrorist property report (TPR)
- large cash transaction report (LCTR)
- large virtual currency transaction report (LVCTR)

The STR and TPR must be kept **at least five years** after the day they were **submitted**. The LCTR and LVCTR must be kept **at least five years** from the date they were **created**.

3.2.2 Other records

Other records that must be kept, when applicable, include:

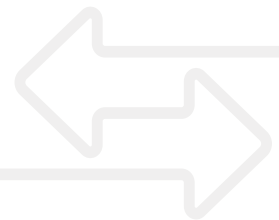
- **large cash transaction record** when you receive an amount of C\$10,000 or more in cash
- **large virtual currency (VC) transaction record** when you receive an amount in VC equivalent to C\$10,000 or more
- **receipt of funds record** when you receive an amount of C\$3,000 or more in funds¹¹

The large cash transaction record and the large virtual currency transaction record are subject to the **24-hour rule**.¹²

¹⁰ PCMLTFR section 144 “A person or entity that sends a report to the Centre shall keep a copy of the report.”

¹¹ FINTRAC, *Guidance Glossary*, May 4, 2021. Funds means: (a) cash and other fiat currencies, and securities, negotiable instruments or other financial instruments that indicate a title or right to or interest in them; or (b) a private key of a cryptographic system that enables a person or entity to have access to a fiat currency other than cash. For greater certainty, it does not include virtual currency.

¹² FINTRAC, *Transaction reporting guidance: the 24-hour rule*, May 4, 2021



The **24-hour rule** is the requirement to aggregate multiple transactions when they total C\$10,000 or more within a consecutive 24-hour window and the transactions are conducted by the same person or entity; conducted on behalf of the same person or entity (third-party), or for the same beneficiary (person or entity).

All transactions that total C\$10,000 or more within a consecutive 24-hour window are to be reported to FINTRAC in a single report and should not be reported separately.

The large cash transaction record, large virtual currency transaction record and receipt of funds record must be kept for **at least five years** from the date the record was **created**.¹³

- **Record of verification of client identity:**¹⁴ You must keep a record (for large cash transaction records/reports, large virtual currency transaction records/reports, receipt of funds records, suspicious transactions and terrorist property reports) that contains the information required when verifying the identity of the client whether the client is a person or an entity. The information to be retained varies depending on the method used to verify your client whether a person or an entity.¹⁵ When you verify the identity of another person or an entity you must keep a record of the measures taken when you conduct ongoing monitoring of the business relationship with that person or entity and of the information obtained from that ongoing monitoring.¹⁶
- **Business relationship:**¹⁷ A **business relationship is established** for an accountant or accounting firm the **second time within a 5-year period** that the accountant or accounting firm is required to verify the identity of the client when engaged in triggering activities. A **business relationship ends** when a period **of at least five years** has passed since the day of the last transaction that required you to verify the identity of the client.¹⁸

If you have a business relationship, you must keep a record that sets out the purpose and intended nature of the business relationship.¹⁹ Also, when you enter into a business relationship with a client you must periodically

¹³ PCMLTFR paragraph 148(1)(c)

¹⁴ FINTRAC, *Methods to verify the identity of persons and entities*, August 4, 2021

¹⁵ Ibid

¹⁶ PCMLTFR subsection 146(1)

¹⁷ PCMLTFR section 145

¹⁸ FINTRAC, *Business relationship requirements*, August 4, 2021

¹⁹ PCMLTFR section 145



conduct ongoing monitoring of that business relationship, based on your risk assessment.^{20 21} You must keep a record of the measures taken:

a) when you conduct ongoing monitoring of the business relationship, and b) of the information obtained from that ongoing monitoring²² for the purpose of:

- detecting any reportable suspicious transactions or attempted suspicious transactions
- keeping client identification information up to date
- reassessing the level of risk associated with the client's transactions and activities
- determining whether transactions or activities are consistent with the information obtained about the client, including the risk assessment of the client

You must keep these records for **five years** from the day they were **created**.²³

- **Beneficial ownership record:**²⁴ 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. Beneficial owners cannot be other corporations, trusts or other entities. They must be the individuals who are the owners or controllers of the entity.

When you verify the identity of an entity, you must also obtain information about its beneficial ownership. You must keep a record of the beneficial ownership information you obtain and of the measures you take to confirm the accuracy of the information. The beneficial ownership information required varies depending on whether the client is a corporation, a trust, a widely held or publicly traded trust or an entity other than a corporation or trust.²⁵ In all cases, you must obtain information establishing the ownership, control and structure of the entity (except when the client is a not-for-profit organization).

20 PCMLTFR subsection 123.1

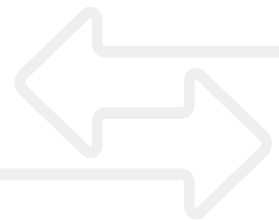
21 FINTRAC, *Ongoing monitoring requirements*, August 4, 2021

22 PCMLTFR subsection 146(1)

23 PCMLTFR paragraph 148(1)(c) and FINTRAC, *Business relationship requirements*, August 4, 2021

24 PCMLTFR subsection 138(1) to (5) and FINTRAC, *Beneficial ownership requirements*, August 4, 2021

25 Ibid



Further information regarding beneficial ownership can be found in a previous CPA Canada article, *Anti-Money Laundering/Anti-Terrorist Financing (AML/ATF) Developments* [New “Know Your Client” AML/ATF Rules for CPAs](#).

In situations where no individual directly or indirectly owns or controls 25 per cent or more of a corporation, a widely held or publicly traded trust, or an entity other than a corporation or trust, you must keep a record of the measures you took to confirm the accuracy of the information, as well as the information you obtained in order to reach that conclusion. The date you took the measures should also be included as a best practice.²⁶

If you established a business relationship with that client, you must also confirm the accuracy of the beneficial ownership information when you obtain it, in the course of ongoing monitoring, and keep a **record of the reasonable measures**²⁷ taken to confirm the accuracy of beneficial ownership information.


FINTRAC’s glossary defines **reasonable measures** as steps taken to achieve a desired outcome, even if they do not result in the desired outcome. For example, this can include doing one or more of the following: asking the client, conducting open-source searches, retrieving information already available, including information held in non-digital formats, or consulting commercially available information.

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, you must take **reasonable measures** to verify the identity of the entity’s chief executive officer or the person who performs that function and take **enhanced measures**.²⁸

²⁶ FINTRAC, *Beneficial ownership requirements*, August 4, 2021.

²⁷ FINTRAC, *Guidance Glossary*, May 4, 2021

²⁸ PCMLTFA subsection 9.6(3), PCMLTFR section 157 and FINTRAC, *Compliance program requirements* section 5, August 4, 2021.



Enhanced measures are the additional controls and processes that you have put in place to manage and reduce the risks associated with your high-risk clients and business areas. For example, enhanced measures to mitigate risk can include: obtaining additional information on a client (for example, information from public databases and the internet); obtaining information on the client's source of funds or source of wealth; obtaining information on the reasons for attempted or conducted transactions; or any other measures you deem appropriate.

You must keep these records for at least **five years** from the day the last business transaction is **conducted**.²⁹

- **Third-party determination:**³⁰ A third-party is any individual or entity that instructs another individual or entity to act on their behalf for a financial activity or transaction.³¹

You must take reasonable measures to make a third-party determination when you are required to report a large cash transaction or keep a large cash transaction record; or report a large virtual currency transaction or keep a large virtual currency transaction record.

When you receive the cash or virtual currency you must take reasonable measures to determine whether the person that the cash or virtual currency is received from is acting on behalf of a third-party. You must keep a record of third-party information, the reasonable measures taken to determine the third party (in a large cash or large virtual currency transaction) and record the grounds to suspect third-party involvement (in a large cash or large virtual currency transaction). Reasonable measures for third-party determination could include asking the client if they are acting at the instruction of another person or entity or asking whether another person or entity will be instructing on the account.

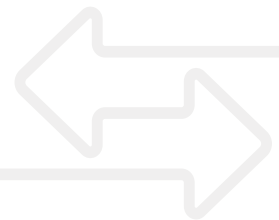
You must keep these records for **five years** from the date the record was **created**.³²

29 PCMLTFR section 148(1)(b) and FINTRAC, *Beneficial ownership requirements*, August 4, 2021.

30 FINTRAC, *Third-party determination requirements*, August 4, 2021

31 FINTRAC, *Guidance Glossary*, May 4, 2021

32 PCMLTFR paragraph 148(1)(c) and FINTRAC, *Third party determination requirements*, August 4, 2021



- **Record of politically exposed person (PEP), head of an international organization (HIO), their family member or close associate:**³³ You must take reasonable measures to make a business relationship related PEP, HIO, family or close associate (of foreign PEP only, in certain circumstances) determination when you:
 - enter into a business relationship
 - conduct periodic monitoring of your business relationships
 - detect a fact about your existing business relationships that indicates a PEP or HIO connection

When you **enter into a business relationship, conduct periodic monitoring of business relationships, or detect a fact about an existing business relationship**, and determine that the person is a PEP, HIO or a family member or close associate of one of those persons, you must keep a record of:³⁴

- the office or position and the name of the organization or institution of the PEP or HIO
- the date of the determination
- the source of the person's wealth, if known

If senior management reviews **a transaction where you had received an amount of \$100,000 or more in cash or an amount of virtual currency equivalent to \$100,000 or more** for which you made a PEP or HIO determination, then you must keep a record of:³⁵


- the office or position and the name of the organization or institution of the PEP or HIO
- the date of the determination
- the source of the cash or source of the VC used for the transaction, if known
- the source of the person's wealth, if known
- the name of the member of senior management who reviewed the transaction
- the date of that review

In the case of family members and close associates of PEPs and HIOs, you may also want to include in the record the nature of the relationship between the person and the PEP or HIO, as applicable.

³³ FINTRAC, *Politically exposed persons and heads of international organizations guidance for non-account-based reporting entity sectors*, June 11, 2021

³⁴ PCMLTFR subsection 123(4)

³⁵ PCMLTFR subsection 123(5)



Some examples of the type of information to keep in these records would include:

- the office or position and the name of the organization or institution in respect of which the person is determined to be a politically exposed foreign person
- the date of the determination
- the source, if known, of the person's wealth

The records must be kept for at least **five years** after the day on which they were **created**.³⁶

4. Reporting to FINTRAC

The AML/ATF legislation includes a number of reporting requirements to FINTRAC for accountants and accounting firms carrying out triggering activities, including the STR, the TPR, the LCTR and as of June 1, 2021, the new LVCTR is required. Below are some requirements that accountants and accounting firms should be aware of related to these reports.

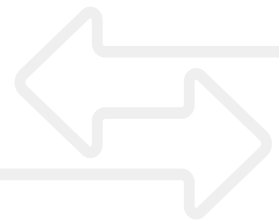
FINTRAC NOTICE

In a January 22, 2021 notice,³⁷ FINTRAC advised that reporting entities are expected to continue submitting reports using the current reporting forms and systems while FINTRAC updates its reporting forms. This additional time is to allow reporting entities to update their processes and systems in accordance with the amended regulations. The reporting forms for the STR and the LCTR will remain the same until further notice. However, the reporting form for the LVCTR is new and FINTRAC expects accountants and accounting firms to use the new form in submitting reports. For further information please consult other FINTRAC notices.³⁸

36 PCMLTFR paragraph 148(1)(c) and FINTRAC, *Politically exposed persons and heads of international organizations guidance for non-account-based reporting entity sector*, June 11, 2021.

37 FINTRAC, *Notice on forthcoming regulatory amendments and flexibility*, January 22, 2021

38 FINTRAC, *Notice on the assessment of obligations coming into force on June 1, 2021*, July 14, 2021



4.1 Suspicious transaction reports

Changes to the regulations affecting the STR require that the report be sent to FINTRAC “**as soon as practicable**” after taking measures to establish reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering offence or a terrorist activity financing offence.

4.2 Large cash transaction reports

When you receive C\$10,000 or more in cash, either in a single transaction or in multiple transactions, over 24 consecutive hours (**the 24-hour rule**), by, or on behalf of, the same person or entity, or the amounts are for the same beneficiary, you must submit a LCTR to FINTRAC **within 15 calendar days**. You must also take reasonable measures to determine whether there is third-party involvement.

4.3 Large virtual currency transaction report

When you receive an amount of C\$10,000 or more in virtual currency over one or more transactions over 24 consecutive hours (**the 24-hour rule**), by, or on behalf of, the same person or entity, or the amounts are for the same beneficiary, you must submit a LVCTR to FINTRAC **within five working days** after the day on which you receive the amount and take reasonable measures to determine whether there is third-party involvement.

4.4 Terrorist property report

You must submit a TPR to FINTRAC electronically by fax if you have the technical capability to do so. If you do not have the capability to submit by fax, you must send the report by mail. A TPR must now be sent “**immediately**” as opposed to what was previously required as “without delay.”

REMINDER: Concurrent with the filing of a TPR to FINTRAC, the accountant or accounting firm must send the information to the Royal Canadian Mounted Police (RCMP) and to the Canadian Security Intelligence Service (CSIS) immediately.³⁹

³⁹ FINTRAC, *Reporting terrorist property to FINTRAC*, August 4, 2021



The TPR (available from the FINTRAC website) must be filed with FINTRAC immediately by faxing it to 1.866.226.2346. Submit a TPR by mail through regular or registered mail to: Financial Transactions and Reports Analysis Centre of Canada, Section A, 234 Laurier Avenue West, 24th floor, Ottawa ON K1P 1H7 Canada.

FINTRAC GUIDANCE

[Transaction reporting requirements](#)

[Reporting forms \(paper reporting\)](#)

[Transaction reporting guidance: the 24-hour rule](#)