

User guide for the implementation of an anti-money laundering and anti-terrorist financing Compliance Program

Purpose

This guideline has been prepared to help you implement your compliance program intended to ensure compliance with your obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the “Act”).

Background

The implementation of a compliance program is a legislative requirement and a good business practice for anyone subject to the Act and its regulations. A well-designed, applied and monitored program will provide a solid foundation for compliance with the legislation. As not all individuals and entities operate under the same circumstances, your compliance program must be tailored to fit your individual needs. It should reflect the nature, size and complexity of your operations.

The risks of non-compliance with this legislative requirement are severe. Please review the Risk of Non-Compliance information found in Attachment A of this guide.

Compliance program requirements

The following five elements must be included:

- The appointment of a compliance officer
- The development and application of written compliance policies and procedures
- The assessment and documentation of risks for money laundering and terrorist financing and measures to mitigate high risks
- Implementation and documentation of an ongoing compliance training program
- A documented review of the effectiveness of policies and procedures, training program and risk assessment

See FINTRAC’s *Guideline 4: Implementation of a Compliance Regime* for additional information

How to use this template:

1. Enter the information in the text boxes provided
2. Sections in blue font may need to be removed depending on how you do business. Ensure to customize these sections to your practice and change font to black. Any red instructions relating to these sections need to be removed when customization is completed.
3. Print the completed program and keep in your compliance program binder. Consider adding tabs between sections

4. Sign required pages
5. Update as required

Explanation of each section

The compliance program template constitutes a guide of the main requirements for compliance under the anti-money laundering and anti-terrorism legislation in Canada. We've provided this template to our advisors for their own personal use, so we ask that you don't give it as a sample to others. It is provided to you for information and education purposes only and should not be construed as legal advice. The information is accurate to the best of our knowledge at this time but keep in mind that rules and interpretation may change. Therefore, applicable laws and regulations have priority over the content of this document. For any particular or complex situation, it is advisable to seek the advice of a legal advisor.

The following describes each requirement.

Cover

Indicate;

- Your corporate name if a corporation. If not then just your name
- The name of the compliance officer – if you're not incorporated you will likely be the compliance officer
- The effective date of the compliance program, and any subsequent revision dates – for example when you update or make changes to the program.

Appointment of a compliance officer:

The individual you appoint will be responsible for the implementation of your compliance program. Your compliance officer should have the authority and the resources necessary to discharge his or her responsibilities effectively. Depending on your type of business, your compliance officer should report, on a regular basis, to the board of directors or senior management, or to the owner or chief operator.

If you are a small business, the appointed officer could be a senior manager or the owner or operator of the business. If you are an individual, you can appoint yourself as compliance officer or you may choose to appoint another individual to help you implement a compliance program.

For consistency and ongoing attention to the compliance program, your appointed compliance officer may choose to delegate certain duties to other employees. For example, the officer may delegate an individual in a local office or branch to ensure that compliance procedures are properly implemented at that location. However, where such a delegation is made, the compliance officer retains responsibility for the implementation of the compliance program.

For a sole proprietor the name of the compliance officer on the cover is sufficient. Delete the Resolutions of the Board of Directors page from your compliance program. For corporations, complete, print, sign and date the Resolutions of the Board of Directors.

Section 1 - Reviews and amendments of the compliance program

You must complete a review of your compliance program, including your policy, procedures, training for your employees and people acting on your behalf, and your business risk assessment at least every two years, or before if changes in your activities would dictate a review.

Record any changes/updates to your compliance program in this section. For example: updates resulting from any inspection by FINTRAC or copies of communications of new requirements or changes to the legislation or purchase of a book of business. Insert all documentation regarding any FINTRAC inspections including any assessment reports.

Insert all documentation regarding current inspection by FINTRAC.

If the review results in no amendments, note no amendments were made further to the review including the date of when the review was completed.

Section 2 - Self-review

The compliance officer needs to answer the questions set out in the self-review to test effectiveness of the compliance policies and procedures, assessment of business' risks related to money laundering and terrorist financing including risk mitigation measures, and training every two years or more frequently as other factors dictate; changes in legislation or niche markets, including the purchase of a book of business, and high risk clients.

See Attachment B of this guide – Self-review comments, testing and evidence of effectiveness for examples/demonstration of testing and evidence of effectiveness.

Remember - Once you have completed this entire document and have printed it off to keep in your compliance program binder, the compliance officer needs to sign on the signature line provided.

Section 3 - Risk assessment

The information in this section is offered as an example and is to be used as a guide only. Your business must go through the exercise of analyzing its clientele, products and services and evaluate its own risks based on its specific business model – please use FINTRAC's Guideline 4 for further guidance or contact Canada Life's Market Conduct area for assistance.

Risk assessment requires good knowledge of your business operations and sound judgment exercised by your personnel so that risks of money laundering and terrorist financing can be weighted according to each individual factor as well as a combination of them. The risk assessment is not static and will change over time.

Risk mitigation is about implementing strategies to limit the potential money laundering and terrorist financing risks you have identified while conducting your risk assessment to stay within your risk tolerance level. As part of your compliance program, when your risk assessment determines that risk is high for money laundering or terrorist financing, you have to develop written risk-mitigation strategies (policies and procedures designed to mitigate high risks) and apply them for high risks situations.

Answer the questions provided. If you answer "Yes" to any question, you will need to assess the risk (Low, Moderate or High) using the risk matrix provided on the following page and provide the steps you have or will establish to mitigate the risk for each factor. Risk mitigations steps include things like client identification and ongoing monitoring as a minimum baseline requirement to frequent monitoring of transactions for high risk clients, more detailed records, and increased frequency of keeping identification up to date.

See subsection 6.2 of FINTRAC's Guideline 4 for more information. Use the blank space provided to customize your risk assessment to your business model.

See Attachment C of this guide – Risk assessment examples for a look at specific examples of assessing risk.

Section 4 - Policies & Procedures

Your compliance program has to include written policies and procedures to assess the risks related to money laundering and terrorist financing in the course of your activities. The level of detail of these policies and procedures depends on your needs and the complexity of your business. It will also depend on your risk of exposure to money laundering or terrorist financing.

The material included in the section has been developed based on the requirements to report and maintain written records. Review this section and customize to your practice. Since most if not all insurers do not accept cash transactions or limit the amount of cash accepted, the large cash transaction report section will generally not be applicable to your practice and will need to be revised.

Subsection 1.2. Large Cash Transaction Report (LCTR) prompts you to choose between two options - not accepting cash transactions and limited cash transactions. If you do not accept cash, choose the first option and delete the second option. Any attempts to place large cash amounts with you would require you to submit a STATR. In the rare practice where you may accept large sums of cash you would be required to submit a LCTR. Refer to Guideline 7 – *Submitting Large Cash Transaction Reports to FINTRAC* www.fintrac.gc.ca for procedures. . Additionally, you are also required to keep a large cash transaction record – See **Attachment D of this guide – Large cash transaction record policy** for wording that should need to be added to your policies.

Subsection 2 Required written records and Client Identification Obligations details your record keeping and client identification obligations. Specific information as documented in Subsection 2 must be kept in your records. Your client files should contain much of the information needed to meet your record keeping obligations for individual clients, for example; client name, date of birth, purpose of sale, occupation etc. Identification referred to for the purpose of ascertaining identity is collected and submitted to the company on applications and other company forms as required.

If the client is a corporation, a trust or entity other than a corporation or trust, beneficial ownership records must be kept as documented in 2.2 of your policies and procedures. Keeping beneficial ownership information up to date is part of your ongoing monitoring obligations. The frequency with which you review beneficial ownership information and keep it up to date will vary depending on your risk assessment. For example if you designate a client as high-risk, you will need to update beneficial ownership information

more frequently and perform more frequent monitoring which must be detailed in your risk mitigation steps of your Risk assessment.

Reporting entities are asked to identify business relationships, as defined in the regulation and conduct ongoing monitoring of the business relationship. This ongoing monitoring has to be conducted in order to meet your obligations to identify and report suspicious transactions. You need to obtain information concerning the purpose and intended nature of a business relationship when entering into a business relationship and keep a record of this information - examples include; financial planning, capital preservation, estate planning and preservation. Your risk assessment will determine monitoring frequency. Review periodically and keep it up to date to ensure that you continue to understand the client's activities over time so that any changes can be measured to detect high risk. Frequency will vary depending on risk assessment. The purpose and intended nature of the business relationship is information that should allow you to anticipate the transactions and activities of the client.

Subsection 3. Adoption as Policies and Procedures

Once you have completed your compliance program, you need to sign a printed copy to keep in your compliance binder. The advisor/principal signs.

Appendices to Section 4 Policies and procedures of the compliance program template

Appendix A - Descriptive scenarios of suspicious life insurance transactions or attempted transactions

This appendix provides scenarios of suspicious life insurance transactions or attempted transactions. Review and be familiar with these scenarios and consider adding other scenarios you may have encountered.

Appendix B - Methods of money laundering and terrorist activity financing

This appendix provides methods of money laundering and terrorist activity financing.

Appendix C – Undertakings of employee and advisors

Employees/advisors are required to review your policies and procedures and agree to comply with them. The form included is an example only. Consider having your lawyer review. Complete the form and file a signed copy in this section.

Appendix D – Identification of clients

Attach copies of insurer forms and procedures followed for client identification. For example, insurance applications politically exposed foreign persons (PEFP), beneficial owners, etc.

Print copies of applicable forms for various insurers, including specifics from lines of business from the advisor portals and FINTRAC's pamphlet from: <http://www.fintrac-canafe.gc.ca/publications/brochure/06-2008/1-eng.asp>). File printed copies in this section.

Appendix E - Process for reporting suspicious transactions and attempted suspicious transactions

User ID and password

Insert user ID – password should be known by compliance officer and principal only

Process

Include your internal process to report suspicious transactions – for example all employees and advisors are to report to the compliance officer and the compliance officer will report to FINTRAC.

You can also add - For more information, see: <http://www.fintrac-canafe.gc.ca/reporting-declaration/1-eng.asp> - this takes you to the Reporting to FINTRAC section on FINTRAC's site.

Include a copy of FINTRAC's F2R Web reporting quick reference pamphlet:

http://www.fintrac-canafe.gc.ca/publications/brochure/02-2006/FINTRAC_F2R-eng.pdf

Section 5 - Declarations of suspicious transactions and suspicious attempted transactions

If you've submitted any suspicious transaction reports to FINTRAC, in accordance with the Making Reports to FINTRAC section, keep copies of the report and FINTRAC acknowledgment here.

If no reports have been made to FINTRAC, you can note that you haven't had any dealing with clients where there was suspicion that would necessitate reporting to FINTRAC.

Section 6 - Training Training program

Create your internal training program with a description and process for the initial and continuous education of all staff and advisors within your business – it should be adapted to different roles of these individuals (e.g. a person involved in transaction would not have the same training as someone who is not). Training materials can be found on RepNet under Advisor support> compliance> Money laundering and terrorist reporting. If used in your practice you can print a copy and include in this section.

Example:

Initial and ongoing training:

- Carrier training program
- Webinars for reporting entities <http://www.fintrac.gc.ca/multimedia/1-eng.asp>
- Automatic email updates from FINTRAC and insurance carriers
- Industry and insurer seminars and workshops

Action plan 20XX-20XX

Include your action plan for offering training internally or by external sources for the two next years, including means, timing and format.

Add following years at the time of review of the compliance program at least every two years

Example:

- Annual training scheduled for December. Advisors and staff will complete online training as provided by carrier.
- New staff are provided initial training during the first week of employment and ongoing training as indicated above.
- Annual compliance training and education scheduled to be included during 3rd quarter team meeting
- FINTRAC/insurer email updates will be circulated when received and training will be provided prior to any resulting policies and procedures being implemented.
- Insurer advisor AML/TF seminar scheduled for September 20XX.
- Insurer operations staff AML/TF seminar scheduled for April 20XX.

Training material and proofs of training

List or include copies of any training module used for training and insert proof of completion of training. For example the confirmation of completion of the training module, any attendance sheets of training sessions/presentations for advisors or staff and copies of CE certificates for training industry or corporate AML/ATF training.

Examples:

- Meeting sign in and sign out pages
- Email updates
- Seminar materials

Additional information

Insert any emails, brochures, or documents relating to the compliance program for the fight against money laundering and terrorism financing including links to relevant websites.

Attachment A - Risk of non-compliance

Penalties:

- Failure to file a Suspicious Transaction or Attempted Transaction Report (STATR) - up to 5 years in jail and/or a fine of \$2,000,000 (s.75 of the Act);
- Failure to file a Large Cash Transaction Report (LCTR) - \$500,000 for first offence and \$1,000,000 for each subsequent offence (s.77 of the Act);
- Failure to file a Terrorist Group or Listed Person Property Report - up to 5 years in jail and/or a fine of up to \$2,000,000 (s.75 of the Act);
- Failure to maintain a record of a large cash transaction - \$500,000 for first offence and \$1,000,000 for each subsequent offence (s.77 of the Act);
- Failure to retain required records - up to 5 years in jail and/or fine of \$500,000 (s.74 of the Act);
- Failure to implement a compliance regime - up to 5 years in jail and/or a fine of \$500,000 (s.74 of the Act);
- Disclosing the fact that an STATR has been made with the intent to prejudice a criminal investigation - up to 2 years in jail (s.76 of the Act); and
- Failure to assist in a compliance review - up to 5 years in jail and/or fine of \$500,000 (s.74 of the Act).

Generally, these fines are not covered by errors and omissions insurance unless coverage is specifically mentioned.

Administrative monetary penalties may be applicable under the Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations (the AMPR), such as failure to implement any of the five elements of the compliance regime - a fine of up to \$100,000 for each one.

The AMPR specifies a range of penalties for each of the three types of violations. The three types of violations are minor, serious and very serious. The penalty can be up to \$500,000 in the case of a very serious violation.

For more information on administrative monetary penalties, visit www.fintrac.gc.ca and refer to Guideline 4 – Implementation of a Compliance Regime.

Attachment B - Self-review comments, testing and evidence of effectiveness

Examples are provided as guidance only and must be customized to fit your practice.

Compliance items	Yes	No	Comments
Appointment of a compliance officer			
1. I/We have appointed a Compliance Officer for our practice.	X		Principal advisor of the corporation continues as the compliance officer. No planned future changes.
Written compliance policies and procedures			
2. Within the past two years, I/we have reviewed the criteria and process for identifying and reporting suspicious transactions and terrorist property and have established policies and procedures in this regard.	X		Testing is conducted through reviews of the criteria and processes for identifying and reporting suspicious transactions and terrorist property on FINTRAC's site to ensure established policies and procedures are being adhered to and whether they comply with legislative and regulatory requirements. Established policies and procedures continue to comply with legislative and regulatory requirements. No changes required at this time. OR Changes to regulations require updates to our policies and procedures. Changes will be implemented as follows: <ul style="list-style-type: none"> List changes
3. I/We are aware of the requirements under the legislation for record keeping.	X		Current record keeping processes in line with legislative and regulatory requirements. No changes required at this time. OR Changes to regulations require updates to our policies and procedures. Changes will be implemented as follows: <ul style="list-style-type: none"> List changes
4. I/We have reviewed the requirements under the legislation for client identification and verification and I/we collect all information required on product applications, or as required, for each particular line of business.	X		<ul style="list-style-type: none"> Testing is conducted through reviews of client identification requirements as outlined on FINTRAC's site. Any changes noted are compared to current procedures and updated as required. No changes were noted. Any changes to Insurers forms are updated in procedures section of this program. No changes were noted. No insurer requests over the last two years to complete client identification missed during the application process. OR <ul style="list-style-type: none"> Testing is conducted through reviews of client identification requirements as outlined on FINTRAC's site.

			<p>Any changes noted are compared to current procedures and updated as required. Changes were noted as follows:</p> <ul style="list-style-type: none"> ○ List changes. • Any changes to Insurers forms are updated in procedures section of this program. Changes noted as follows: <ul style="list-style-type: none"> ○ List changes. • Insurer requests over the last two years to complete client identification missed during the application process therefore new process developed for verification of client identification as follows: <ul style="list-style-type: none"> ○ List process changes.
5. I/We have reviewed the legislated requirements with respect to reporting large cash transactions and comply with the requirements.		X	I/We do not accept cash transactions and have no plans to do so in future, however I/we understand the requirement to report.
Money laundering and terrorist financing risk evaluation			
6. Within the past year, I/we have reviewed and documented my/our business' exposure to risk and have taken special measures to lower high risks.	X		Risk exposure assessed as low based on analysis of clientele, products and services. See Risk Assessment section of this compliance program.
Ongoing compliance training			
7. I/We have established standards for the frequency and method of training with documentation on file.	X		See Training plan for 2014 -2015 included in the training section of this compliance program.
8. Details of the specific training material (i.e., what training was completed, who completed the training and when was it completed) are documented and on file? If not, provide details here.	X		See proofs of training included in the training section of this compliance program
Actions required:			
Add any actions required based on the above self-review. Ensure updates to training plan are included as well.			
Details of follow-ups completed:			
Add details here and dates updates completed.			

Attachment C – Risk assessment examples

Description of clientele

Is the client a politically exposed foreign person?

Where it has been determined that a person is a PEF – you've answered yes to this question - you should consider it as higher risk for money laundering or terrorist financing. Where appropriate, risk-mitigation controls and monitoring may be required – in these cases, as indicated in the policy and procedures section, you must take reasonable measures to establish the source of the funds that have been used for the transaction in question, have the transaction reviewed by a member of senior management (where applicable), and the review must be completed within 14 days after the day on which the transaction occurred. As well you are to use the insurers' forms to verify identity of these clients.

Risk-mitigation examples

Clientele profile	Yes	No	N/A	Risk Assessment L = Low M = Moderate H = High	Risk-mitigation steps
Politically exposed foreign persons?		X		L	I do not have any clients at this time who are politically exposed persons, either foreign or domestic; however, as outlined in my policies and procedures I take reasonable measures to determine if a person is a politically exposed. If the determination is made I verify identification using insurers' forms and monitor client transactions every six months.
Politically exposed foreign persons?	X			L	I have few clients who are politically exposed foreign persons. Insurers' forms used to verify identity of these clients. Transactions for these clients monitored semi-annually.
Politically exposed foreign persons?	X			H	20% of clients associated with my practice are politically exposed persons, both foreign and domestic. Insurers' forms used to verify identity of these clients. Client files are flagged to ensure quarterly monitoring of transactions.
Is the client a cash-intensive business		X			I do not have any clients at this time who own their own business. Procedures in place to verify identification if business owners become clients.
Is the client a cash-intensive business	X				I have few clients who are business owners in cash-intensive businesses. Two mini-mart owners and one vending machine business owner. Insurers' forms used to verify clients' identity and transactions monitored semi-annually to ensure consistent investment deposits.
Is the client a cash-intensive business	X				My niche market is made up of small business owners. Approximately 40% accept cash and of those 10% would qualify as cash-intensive business. I verify identification using insurers' forms and a database is in place to monitor transactions on a monthly basis for cash-intensive business owners.
Does the client deal offshore		X			See procedures for client identification process if this situation presents itself.
Does the client deal offshore	X				Few clients deal offshore. Insurers' forms used to verify clients' identity and transactions monitored semi-annually.
Does the client deal offshore	X				50% of my practice are new immigrants to Canada. Many have significant residential ties outside Canada (assets – including homes, businesses) using wire transfers to fund policies. I verify identification using insurers' forms and red flag clients with assets and businesses outside Canada to monitor transactions quarterly. I have complete documentation related to source of funds, bank – individual or corporate account and/or owner of the policy. I keep record of proof of assets used to demonstrate that the coverage applied for is reasonable and supportable in the circumstances.

Money coming in from outside Canada is seen as a higher risk for potential money laundering/terrorist financing and the question “Does the client deal offshore” would include any location outside Canada not only offshore banking and tax havens.

Practices with clients who deal offshore are businesses which FINTRAC may consider as potentially high risk for money laundering and your goal should be to put yourself in a position to be able to effectively answer FINTRAC’s questions.

Wire transfers are scrutinized at home office and as a company we need to be able to explain these types of transactions and submit suspicious transaction reports as required. An advisor practice, as a reporting entity, will have to provide an explanation of these types of transactions as well and report where required. Do you have complete documentation related to source of funds, bank – individual or corporate account and/or owner of the policy. Where did the money come from? Do you keep a record of proof of assets – especially if out of country – used to demonstrate that the coverage applied for is reasonable and supportable in the circumstances? Do you monitor transactions more often for clients who fall under this category? These questions cover off some of the information you need to record and things you need to do.

Clients with significant residential ties outside Canada (assets – including homes, businesses) are deemed a higher risk and therefore you need to be able to mitigate this risk.

Product types

Under products: any product with investment features or features of stored value and transferability are defined as high risk e.g. Non-registered individual annuities and investments, Universal Life, Non-registered group retirement plans allowing ad hoc contribution (not salary deducted or employer contribution).

Any product that has no investment features of stored value and transferability and any product with a restriction on accessibility or availability (must be registered, must be a group member) making the product less attractive to money launderers are defined as low risk e.g. Temporary insurance (Term), Group insurance, Registered individual annuities and investments, Annuity purchased with products of a life insurance policy, Registered group plans.

Products not covered by the legislation requirements include individual and group disability, critical illness, health, medical and dental insurance.

Types of transaction and services

Types of transaction such as Premium/deposit coming from OR proceeds going outside of Canada, Significant premiums, Early surrender of a policy, Non face-to-face transactions significantly increase the risk of money laundering where as premium coming from/proceeds paid to third party and transfer of ownership can be considered moderate risk. Group Life to individual life conversion have a limited risk of money laundering.

Attachment D – Large cash transaction record policy

2.1 Large cash transaction record

The requirements are as follows.

Prepare a large cash transaction record in respect of every amount in cash of \$10,000 or more that is received in the course of a single transaction, unless the cash is received from a financial entity (such as a bank, credit union, caisse populaire or trust company) or public body.

Ascertain the identity of the individuals involved in the transaction at the time of the transaction.

Determine whether the individual who in fact gives the cash in respect of which the record is being made is acting on behalf of a third party.

Prepare and retain a third party disclosure statement signed by the client if they are acting on behalf of a third party.

Where we are not able to determine if the client is acting on behalf of a third party but there are reasonable grounds to suspect that the client is acting on behalf of a third party, prepare and retain a third party disclosure statement signed by the client stating that they are not acting on behalf of a third party.

* Please note: the client signature on the form is not a requirement under the *Act*, it is a suggested industry practice. See Section 2.5, Third party determination record (below). There is no standard format or template for the large cash transaction record. We are to design one ourselves (if not furnished by the insurer) that will include the required information. The information required is specified in detail in the regulations. The information required in the large cash transaction record includes the following:

- The name of the individual who in fact gives the amount (cash).
- The address and date of birth of the individual and the individual's principal business or occupation.
- The date and of the transaction.
- The number of any account that is affected by the transaction as well as the type of account, the name of any person or entity who holds/owns the account, and the currency in which the account transactions are conducted.
- The purpose and details of the transaction, including other persons or entities involved and the type of transaction (such as cash, electronic funds transfer, deposit, currency exchange, or the purchase or cashing of a cheque, money order, travelers' cheque or banker's draft).
- How the cash was received e.g. in person, by mail, or in any other way.
- The amount and currency received.

It is important to remember that the *large cash transaction record* is different from the *large cash transaction report* (LCTR). Although there is some overlap of information required in each of these reports/records, there are differences. As such, the filing of a LCTR is not a substitute for having to also maintain the *large cash transaction record*. Keeping a copy of the LCTR that was submitted to FINTRAC can be used as large cash transaction record if all of the information for the record is included.

Comment - Client identity for a large cash transaction record must be at the time of the transaction