



MODULE 3: COMPLIANCE REPORTING AND RECORD KEEPING

LESSON 1 OF 20

Welcome

Introduction

Module 3 discusses the record keeping, client identification, and reporting requirements under Canadian anti-money laundering and anti-terrorist financing legislation that help inform brokerage-specific compliance policies and procedures. The obligations that brokerages and Realtors are subject to under these laws and the importance of these requirements are also examined.

Learning Objectives

By the end of this module, learners will be able to:

1. understand the regulator's expectations in terms of compliance policies and procedures as they pertain to record keeping, client identification, and reporting;
2. evaluate their brokerage specific policies and procedures as they pertain to record keeping, client identification, and reporting; and
3. integrate the knowledge they have acquired to help enhance their brokerage policies and procedures with respect to their brokerage's specific record keeping, client identification, and reporting compliance program.

Content within this module is plentiful; therefore, it is broken into three parts: **Record Keeping**, **Client Identification**, and **Reporting**. Some content may already be familiar, especially among brokerages with practices in place that apply the principles shared here.

Even if one is not already familiar with the content, the expectation is not to memorize or recite the volume of content in this module. Rather, it is to read, understand, and know where to find information when needed.

In the Module 4 virtual class, key concepts from this module will be revisited, providing opportunities for questions to be asked and clarification from a subject matter expert to be presented.

MODULE 3 | Mastering Compliance

The live virtual class will create discussions with fellow brokers on understanding, interpretation, and implementation on record keeping, client identification, and reporting at different brokerages.

Remember to pause and reflect whenever questions arise or if there is uncertainty as to whether current brokerage practices are consistent with the content/requirements presented here.

It is beneficial to take notes and save reference links when working through the content. Identifying areas of uncertainty that can be brought up during the upcoming live virtual class will be valuable to all learners.

RECORD KEEPING

LESSON 2 OF 20

General Policies and Procedures

FINTRAC's Expectations

Realtors acting as designated agents for buyers and sellers with respect to the purchase and sale of real estate are subject to regulation under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)*.

Where a Realtor is acting on behalf of a brokerage, the requirements are the responsibility of the brokerage, except for reporting suspicious transactions and terrorist property, which apply to both the brokerage and the Realtor.

The brokerage may set their own specific policies and procedures outlining additional roles and responsibilities that the Realtor must adhere to, as was covered in Module 2. However, this module proceeds from the brokerage's point of view, while recognizing that in some cases, specific obligations may be administered by individual Realtors, the compliance officer, or brokerage staff. It is important to note that it is ultimately the responsibility of the brokerage to meet its compliance program requirements.

To effectively comply with the PCMLTFA, compliance officers must document their brokerage's policies and procedures in writing and communicate the standards expected of the brokerage's Realtors and staff. To meet this purpose, the compliance policies and procedures should clearly document how they will comply with the PCMLTFA and its associated regulations.

Brokerages and Realtors do not have obligations under the PCMLTFA for activities that relate to property management. This means that if the brokerage only deals in property management transactions, such as leases or rental management (not purchases or sales), the obligations under PCMLTFA do not apply.

The compliance policies and procedures set out every applicable obligation and the measures that must be taken to ensure compliance and must be accessible to their intended audience (e.g., Realtors and staff) so that expectations are clear.

A good compliance program allows the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to receive the quantity and quality of information it requires to produce reliable financial intelligence to help combat money laundering and terrorist financing activity.

FINTRAC may impose administrative monetary penalties for failing to develop and apply written compliance policies and procedures that are kept up to date and, in the case of a brokerage, approved by a senior officer.

These penalties are intended to be non-punitive and are focused on changing the non-compliant behaviour of businesses.

CREA's Template

While there is no mandatory template to document a brokerage's policies and procedures, CREA provides a **manual** to assist brokerages and compliance officers in meeting their FINTRAC obligations. CREA's template and its content will be referenced throughout the program.

- ◆ To meet their FINTRAC obligations, brokerages are expected to customize the template to ensure it represents the activities and processes specific to the brokerage.
- ◆ A brokerage's policies and procedures should consider the specific risks that it faces and any mitigation measures to address those risks.

Compliance officers may use alternative methods to document their brokerage policies and procedures if they meet the requirements under the PCMLTFA, its associated regulations, and FINTRAC guidance and are specific to the brokerage.

Updating

It is the compliance officer's responsibility to ensure that the brokerage's compliance policies and procedures are documented and kept up to date. The requirements in the PCMLTFA, its associated regulations, and regulatory guidance issued by FINTRAC are updated frequently.

Part of the compliance officer's role is to monitor these updates regularly and incorporate them into the brokerage's compliance policies and procedures.

In Module 1 and 2, suggestions were provided to help keep compliance officers informed of changes issued by FINTRAC. Compliance policies and procedures may also require updating in response to any issues of non-compliance or where new products or services are offered by the brokerage.

Reviews

Compliance policies and procedures, the brokerage's risk assessment, and the training program (discussed later in this program) are reviewed every two years to test their effectiveness by an internal or external auditor.

This effectiveness review may expose weaknesses or gaps in a brokerage's compliance policies and procedures that require further attention.

FINTRAC also reviews compliance policies and procedures during its compliance examinations. They also assess how the compliance program is maintained and put into practice.

Approval

Considering their essential role, a brokerage's compliance policies and procedures must be approved by a senior officer. The regulations under the PCMLTFA define a "senior officer" as follows:

- "senior officer, in respect of an entity, means, if applicable,*
- (a) a director of the entity who is one of its full-time employees;*
 - (b) the entity's chief executive officer, chief operating officer, president, secretary, treasurer, controller, chief financial officer, chief accountant, chief auditor or chief actuary, or any person who performs any of those functions; or*
 - (c) any other officer who reports directly to the entity's board of directors, chief executive officer or chief operating officer."*

– [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Regulations, s. 1\(2\)](#)

Depending on the size and structure of a brokerage, some examples of a "senior officer" may include the following:

- ◆ the brokerage's managing broker,
- ◆ a member of the brokerage's board of directors who is also a full-time employee of the brokerage, or
- ◆ a general manager of the brokerage who reports directly to the board of directors or the managing broker.

FINTRAC treats the failure to develop and apply written compliance policies and procedures that are kept up to date and approved by a senior officer as a serious violation as it can lead to non-compliance with other requirements in the PCMLTFA and its associated regulations.

Content Requirements

The compliance officer must ensure that the compliance policies and procedures outline all obligations under the PCMLTFA and its associated regulations.

In particular, the compliance policies and procedures must include the brokerage's processes and controls in relation to:

- ◆ compliance program requirements;

- ◆ know your client requirements;
- ◆ ongoing monitoring and business relationship requirements;
- ◆ special instructions for high-risk assessments (i.e., taking enhanced measures to verify the identity of high-risk clients, keep client and beneficial ownership information up to date, and conduct ongoing monitoring of business relationships);
- ◆ record keeping requirements;
- ◆ transaction reporting requirements; and
- ◆ requirements under ministerial directives and transaction restrictions.

This module will focus on the client identification, record keeping, and reporting requirements that are applicable to brokerages.

General Record Keeping Policy

The PCMLTFA and its regulations require a brokerage that acts as a designated agent respecting the purchase or sale of real estate to create and maintain the following records:

1. Client information records
2. Receipt of funds records
3. Large cash transaction records
4. Records of large cash transaction reports (LCTRs), suspicious transaction reports (STRs), and terrorist property reports (TPRs) sent to FINTRAC
5. Client identification records including those relating to business relationships, unrepresented parties, politically exposed persons, third party determinations, and beneficial ownership
6. Reasonable measures records

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Client Information Records Overview

Information Required

For a compliance officer to assess their brokerage's level of risk, they must know their brokerage's clients. Brokerages must keep client information records in respect of every individual or entity for which they act as an agent in the purchase or sale of real estate.

- ◆ INDIVIDUAL

If the client is an individual, the brokerage must collect the client's name, address, date of birth, and the nature of their principal business or occupation. This requirement applies for each individual engaging in the purchase or sale transaction.

- ◆ ENTITY

If the client is an entity, the brokerage must collect the name, address, date of birth, and principal business or occupation of the individual who is conducting the transaction on behalf of the entity, as well as the entity's name, address, and the nature of its principal business.

Identifying the business or occupation of an individual or entity can help brokerages and FINTRAC better understand the client and assess the risk of money laundering or terrorist activity.

Recording the street address where the client lives can also help FINTRAC analyze evidence to establish a connection between a client's physical location, financial transactions, and trends that are suspected of being related to money laundering and terrorist financing. It can also be of great importance in FINTRAC's disclosure to intelligence partners where obtaining warrants may be necessary.

Understanding the importance of completing these forms and the quality of the information needed can help maintain the integrity of the brokerage and help contribute to the integrity of the Canadian financial system.

Client Identification Forms

CREA has created templates that brokerages can use for this documentation:

- ◆ Individual Identification Information Record
- ◆ Corporate/Entity Information Record Identification

These can be accessed via [WEBForms®](#). The term **client information record** includes both the Individual Identification Information Record and the Corporate/Entity Identification Record, as applicable.

Individual Identification Information Record

NOTE: An Individual Identification Information Record is required by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. This Record must be completed by the REALTOR® member whenever they act in respect to the purchase or sale of real estate. It is recommended that the Individual Identification Information Record be completed:

(i) for a buyer when the other is submitting an offer or a deposit made; and
(ii) for a seller when the seller accepts the offer.

Transaction Property Address:
Sales Representative/Broker Name:
Date Information Verified/Credit File Consulted:

A. Verification of Individual

NOTE: One of Section A.1, A.2, or A.3 must be completed for your individual clients or unrepresented individuals that are not clients, but are parties to the transaction (e.g. unrepresented buyer or seller). Where you are unable to identify an unrepresented individual, complete section A.4 and consider sending a Suspicious Transaction Report to FINTRAC if there are reasonable grounds to suspect that the transaction involves the proceeds of crime or terrorist activity. Where you are using an agent or mandatary to verify the identity of an individual, see procedure described in CREA's materials on REALTOR LINK.

1. Full legal name of individual:
2. Address:
3. Date of Birth:
4. Nature of Principal Business or Occupation:

A.1 Federal/Provincial/Territorial Government-Issued Photo ID

Ascertain the individual's identity by comparing the individual to their photo ID. The individual must be physically present.

1. Type of Identification Document:
2. Document Identifier Number:
3. Issuing Jurisdiction: Country:
4. Document Expiry Date:

A.2 Credit File

Ascertain the individual's identity by comparing the individual's name, date of birth and address information above to information in a Canadian credit file that has been in existence for at least three years. If any of the information does not match, you will need to use another method to ascertain client identity. Consult the credit file at the time you ascertain the individual's identity. Use addresses does not have to be physically present.

1. Name of Canadian Credit Bureau Holding the Credit File:
2. Reference Number of Credit File:

A.3 Dual ID Process Method

1. Complete two of the following three checkboxes by ascertaining the individual's identity by referring to information in two independent, reliable, sources. Each source must be well known and reputable (e.g., federal, provincial, territorial and municipal levels of government, crown corporations, financial entities or utility providers). The individual does not need to be physically present.

Verify the individual's name and date of birth by referring to a document or source containing the individual's name and date of birth.
 Name of Source:

Individual Identification Information Record

Corporation/Entity Identification Information Record

NOTE: A Corporation/Entity Identification Information Record is required by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. This Record must be completed by the REALTOR® member whenever they act in respect to the purchase or sale of real estate. It is recommended that the Corporation/Entity Identification Information Record be completed:

(i) for a buyer when the other is submitting an offer or a deposit made; and
(ii) for a seller when the seller accepts the offer.

Transaction Property Address:
Sales Representative/Broker Name:
Date:

A.1. Verification of Corporation

NOTE: Either section A.1 or A.2 must be completed for your corporate/entity clients or unrepresented entities that are not clients, but are parties to the transaction (e.g. unrepresented buyer or seller). Where you are unable to identify an unrepresented entity, complete section A.3 and consider sending a Suspicious Transaction Report to FINTRAC if there are reasonable grounds to suspect that the transaction involves the proceeds of crime, or terrorist activity. Where you are using an agent or mandatary to verify the existence of an entity, see procedure described in CREA's materials on REALTOR LINK.

1. Name of Corporation:
2. Corporate Address:
3. Nature of Principal Business:
4. Name of Directors: As set out in certificate of corporate status or other record confirming corporation's existence.

5. Type and Source of Verification Record:
Must confirm existence of the corporation (e.g., certificate of corporate status, published annual report, government notice of assessment). If record is in paper format, a copy must be kept. If record is an electronic version, a record of the corporation's registration number and type and source of record (e.g., Corporations Canada website) must be kept.

6. Registration number of corporation:
7. Attach a copy of corporate records showing authority to bind corporation regarding transaction:
(e.g., certificate of incumbency, articles of incorporation, by-laws setting out officers duty authorized to sign on behalf of corporation)

A.2. Verification of Other Entity (if applicable)

Corporate/Entity Identification Information Record

As FINTRAC also requires a client information record for the individual conducting the transaction on behalf of an entity, a brokerage can use the Individual Identification Information Record for this purpose.

BCREA has also created a BCREA Client Information Identification Record that can be used in identifying clients in low risk face-to-face transactions. The video [Using BCREA's Individual Identification Information Record to Help with FINTRAC Compliance](#) provides an overview of the form. This form can be downloaded via [WEBForms®](#).

Exceptions

A brokerage is not required to keep a client information record if the funds are received from:

- ◆ a public body,
- ◆ a very large corporation (or, effective June 1, 2021, a very large trust), or
- ◆ a consolidated subsidiary of one of those entities.

BCREA Individual Identification Information Record

THIS FORM IS ONLY TO BE USED FOR FACE TO FACE MEETINGS WITH LOW RISK INDIVIDUALS

If the person being identified is not an individual or is a Medium Risk or High Risk individual, this form should not be used.

TRANSACTION PROPERTY ADDRESS:
DATE OF VERIFICATION:
REALTOR/BROKERAGE:

PURPOSE OF RELATIONSHIP WITH INDIVIDUAL:
 Residential Property Residential Property for Income Purposes
 Commercial Property Land for Commercial Use Other, please specify:

FULL LEGAL NAME:
ADDRESS:
Date of Birth: IDENTIFICATION NUMBER:
PRINCIPAL BUSINESS OR OCCUPATION: IDENTIFICATION TYPE:
Use exact title, not a generic descriptor like business person or self-employed. EXPIRY DATE:
ISSUING JURISDICTION:

ADDITIONAL INFORMATION:

1. Are any parties to the transaction acting on behalf of a third party? Yes No 2. When asked, did the person say they were acting on behalf of a third party? Yes No
3. Do you suspect that any parties to the transaction are acting on behalf of a third party? Yes No 4. Are any third parties providing deposit funds? Yes No

If you answered "Yes" to any of the above questions, you must also identify and complete this form for all such third parties.

If your brokerage conducts two or more activities with the same individual, where they act as an agent in respect of the purchase and sale of real estate or where the law otherwise requires the client to be identified in a five-year period, the brokerage is deemed to have a "business relationship" with that individual. For the purposes of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations, having a "business relationship" gives rise to heightened monitoring and record keeping responsibilities of that relationship.

If you have any questions with respect to this form, the measures you should take to verify the identity of non-clients or the classification of an individual as low risk, or if you determine that your clients are medium risk or high risk, you should contact your managing broker or compliance officer, as applicable, and/or consult your brokerage's policies and procedures before continuing or agreeing to represent the client. You should also contact your managing broker or compliance officer, and/or consult your brokerage's policies and procedures before continuing or agreeing to represent the client if your client is not an individual, if you have questions about the consequences of entering into a "business relationship" with an individual, or if you answered "Yes" to any of the questions above.

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BCREA Individual Identification Information Record

“A “public body” is:

- *a Canadian provincial or federal department or Crown agency;*
- *an incorporated Canadian municipal body (e.g., a city, town, village, metropolitan authority, township, district, county, rural municipality, etc.);*
- *a hospital authority that is designated by the Canada Revenue Agency for GST/HST purposes; or*
- *an agent of any of the above.”*

– Summarized from s. 1(2) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations

A “very large corporation” (or, effective June 1, 2021, a “very large trust”) is one that is operating in a country that is a member of the Financial Action Task Force (FATF), with a minimum net assets of \$75 million on its last audited balance sheet, and whose shares or units are traded on a Canadian stock exchange or a stock exchange designated by the Canada Revenue Agency.

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Receipt of Funds Overview

Information Required

Brokerages must keep receipt of funds records in respect of amounts that they receive in the course of a single transaction. A receipt of funds record includes the following information:

1. The name of the individual or entity from whom the amount is in fact received and
 - where the amount is received from an individual, their address and date of birth and the nature of their principal business or their occupation; and
 - where the amount is received from an entity, their address and the nature of their principal business.
2. The date of the transaction
3. For any account that is affected by the transaction
 - the number of the account;
 - the type of account;
 - the full name of the individual or entity that is the account holder; and
 - the currency in which the transaction is conducted.
4. The purpose and details of the transaction, including other individuals or entities involved and the type and form of the transaction
5. If the funds are received in cash, whether the cash is received by armored car, in person, by mail or in any other way
6. The amount and currency of the funds received

CREA's Receipt of Funds Form

CREA has a Receipt of Funds form that brokerages can use to fulfill this requirement. This form can be found on [WEBForms®](#). The form is not mandatory, but it is an excellent resource for brokerages.

However, there are no fields in the form specifying from whom the funds are coming from. Instead, that relevant information should be recorded using CREA's client information record and include it with the receipt of funds record.

Receipt of Funds Record

NOTE: A Receipt of Funds record is required by the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulation for every amount of funds that a REALTOR® member receives in the course of a single purchase or sale real estate transaction.

A REALTOR® does NOT have to complete a Receipt of Funds Record if:

(i) the funds are received from a financial entity, very large corporation or a public body that is buying or selling; or

(ii) a Large Cash Transaction Record must be completed; or

(iii) the deposit does not go into the trust account of a licensed practitioner. In other words, if the deposit goes directly into the account of a builder, lawyer or notary, or developer, a Receipt of Funds Record does not have to be completed by a member acting as the buyers' agent.

When this Record is completed, it is the responsibility of the broker to ensure that a record is kept for five years from the date it was created. When both the buyer and seller are represented, it is the agent of the buyer who is required to complete and retain a Receipt of Funds Record in respect of the deposit made, regardless of who retains the deposit.

A. BASIC TRANSACTION INFORMATION

Transaction Property Address:

Sales Representative/Broker Name:

Date:

B. INFORMATION ON FUNDS

Amount of Funds Received: Currency of Funds Received:

Date of receipt of funds:

Type of funds received:

Cheque Certified Cheque Cash Bank Draft e-transfer Wire Transfer

Other, explain:

Purpose of funds (e.g., deposit for purchase):

Other details concerning receipt of funds*:

*Including whether other individuals or entities were involved in the transaction

C. INFORMATION ON INDIVIDUAL/ENTITY PROVIDING FUNDS

When a REALTOR® member completes a Receipt of Funds Record, they must also complete an Identification Information Record at the same time on the individual (or entity from whom you receive the funds. Complete that record and attach it to this record.

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Receipt of Funds Form (pg. 1)

Receipt of Funds Record

D. ADDITIONAL INFORMATION

D.1. If funds received in cash. Indicate method of receipt:
 In Person Mail Armoured Car Other, explain:

D.2. If an account is affected* by the transaction complete this section for each affected account:**
 *Some examples of when an account is affected are when funds are received by cheque, or a money order or bank draft purchased from an account. The account from which the funds are drawn is "affected".
 **Add additional information for additional accounts, if necessary

Currency of transaction: CAD Other, explain:

Account 1: Number of account: Name of account holder:
 Type of account: Cheque Saving Trust Other, explain:

Account 2: Number of account: Name of account holder:
 Type of account: Cheque Saving Trust Other, explain:

Account 3: Number of account: Name of account holder:
 Type of account: Cheque Saving Trust Other, explain:

Account 4: Number of account: Name of account holder:
 Type of account: Cheque Saving Trust Other, explain:

Account 5: Number of account: Name of account holder:
 Type of account: Cheque Saving Trust Other, explain:

NOTE:
TWO AGENTS: Where there are two agents involved in a transaction, the buyer's agent is responsible for completing the receipt of funds record.
LISTING AGENT TRUST ACCOUNT: If funds are deposited into a listing agent's trust account, the buyer's agent is only required to record the fact that the funds were deposited into the listing agent's trust account but is not required to include the number of the trust account or the name or entity that holds the trust account.
REASONABLE MEASURES RECORD: If the buyer agent's client provides funds directly to the listing agent, where a client account is affected in a client's checking account, the buyer agent is only obligated to take reasonable measures to obtain the account number, the name of the account holder and the type of account. However, if the buyer's agent would need to complete Section E, below, to document that they tried to get this information.
MULTIPLE ACCOUNTS: Note that if multiple accounts are affected, information on all accounts affected needs to be recorded subject to the caveat noted above with respect to listing agent trust accounts and the reasonable measures record.

E. RECEIPT OF FUNDS - REASONABLE MEASURES RECORD

Complete this section if applicable.

Measures taken (check one):
 Asked listing agent for information
 Asked individual or entity from whom REALTOR® received the funds for information
 Other, explain:

Date on which above measures taken:

Reason why measures were unsuccessful (check one):
 Listing agent or individual/entity providing the funds did not provide information
 Other, explain:

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Receipt of Funds Form (pg. 2)

Unrepresented and Represented Parties

In situations where there is only one brokerage involved in a transaction, the brokerage is obligated to create the receipt of funds record that includes all specified account information, including trust account information.

Where there are **two brokerages involved** in a transaction and the funds are deposited in the listing brokerage's account, the buyer's brokerage is responsible for completing the receipt of funds record. In this case, the buyer's brokerage is not required to include the following information if, after taking reasonable measures to do so, it is unable to obtain it:

- ◆ **ACCOUNT** – The number and type of any account that is affected by the transaction
- ◆ **NAME** – The full name of the individual or entity that is the holder of the account
- ◆ **NUMBER** – A reference number that is connected to the transaction (effective June 1, 2021)

If the buyer's brokerage determines that the transaction affects a trust account held by the listing brokerage, the buyer's brokerage must include that information in the receipt of funds record but is not required to include:

- ◆ the number of the trust account; or
- ◆ the name of the holder or holders of the trust account.

There is no requirement to provide another brokerage with copies of the completed receipt of funds record.

Changes coming to Receipt of Funds Records

Effective June 1, 2021, the information required in a receipt of funds record will be expanded to include the following information:

1. The date of the receipt
2. If the amount is received from an individual, their name, address and date of birth and the nature of their principal business or their occupation
3. If the amount is received from or on behalf of an entity, the entity's name and address and the nature of its principal business
4. The amount of the funds received and of any part of the funds that is received in cash
5. The method by which the amount is received
6. The type and amount of each fiat currency involved in the receipt
7. If applicable, the exchange rates used and their source
8. For every account that is affected by the transaction in which the receipt occurs:
 - the number of the account;
 - the type of account; and
 - the name of each account holder
9. For every other individual or entity that is involved in the transaction:
 - their name and address;
 - the nature of their principal business or occupation; and
 - in the case of an individual, their date of birth
10. Every reference number that is connected to the transaction and has a function equivalent to that of an account number
11. The purpose of the transaction

While these changes do not apply until June 1, 2021, it is a good idea for brokerages to consider how their policies and procedures on record keeping will need updating when these requirements take effect.

Exceptions

Brokerages are not required to keep a receipt of funds record where the amount is received from:

- ◆ a financial entity (or, effective June 1, 2021, from an individual who is acting on behalf of a financial entity)
- ◆ a public body (or, effective June 1, 2021, from an individual who is acting on behalf of a public body)
- ◆ a very large corporation (or, effective June 1, 2021, a very large trust)
- ◆ a consolidated subsidiary of a public body or a very large corporation (or, effective June 1, 2021, of a very large trust)

“A “financial entity” is:

- *a bank or authorized foreign bank with respect to its operations in Canada;*
- *a credit union or caisse populaire;*
- *a financial services cooperative (in Quebec) or a credit union central (in other provinces);*
- *a trust and loan company; or*
- *an agent of the Crown that accepts deposit liabilities*

– Summarized from s. 1(2) of the Proceeds of Crime
(Money Laundering) and Terrorist Financing Regulations

The funds must originate from the financial entity itself. The mere fact that an individual gives the Realtor a bank draft or certified cheque drawn on a bank account does not qualify for this exception.

Brokerages do not have to keep a receipt of funds record if they are required to keep a large cash transaction record for the same transaction. Effective June 1, 2021, this exception will no longer be available.

If the funds are received in cash and a large cash transaction record must be created, the brokerage must complete a copy of that record in lieu of completing a receipt of funds record.

FINTRAC provides further guidance for receipt of funds recording keeping on their website, under the heading: [Record keeping requirements for the real estate sector](#).

Receipt of Funds and Client Information Records for Corporations

If a receipt of funds record or client information record is created in respect of a corporation, the brokerage must also keep a copy of the part of the official corporate records that relates to the power to bind the corporation in respect of the transactions (e.g., certificate of incumbency, articles of incorporation, or bylaws that set out the officers duly authorized to sign on behalf of the corporation).

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Large Cash Transaction Records Overview

Defining a Large Cash Transaction

If the brokerage receives an amount in cash of CAD\$10,000 or more in the course of a single transaction, a large cash transaction record must be created and maintained. For this purpose, “cash” includes coins, notes issued by the Bank of Canada, and coins or bank notes of countries other than Canada (it does not include certified cheques issued by Canada Post).

A “single transaction” includes situations where the brokerage receives two or more cash amounts of **less** than CAD\$10,000 each, that together total CAD\$10,000 or more, if the transactions are made by or on behalf of the same individual or entity within 24 consecutive hours of each other.

Effective June 1, 2021, a “single transaction” will include situations where the brokerage receives two or more cash amounts that **together** total CAD\$10,000 or more within 24 consecutive hours, if the transactions are made by or on behalf of the same individual or entity or if the amounts are for the same beneficiary.

Information Required

The large cash transaction record must contain:

- ◆ **NAME** – The name of the individual from whom the amount is in fact received, their address and date of birth and the nature of their principal business or their occupation
- ◆ **DATE** – The date of the transaction
- ◆ **ACCOUNT** – For any account that is affected by the transaction:
 - the number of the account;
 - the type of account;
 - the full name of any individual or entity that holds the account; and
 - the currency in which the account transactions are conducted
- ◆ **PURPOSE** – The purpose and details of the transaction, including other individuals or entities involved and the type of transaction (e.g., the cash was for a deposit on the purchase of a house, etc.)
- ◆ **RECEPTION** – How the cash was received (e.g., by armoured car, in person, by mail or in any other way)
- ◆ **AMOUNT** – The amount and currency of the cash received

All of this information may be documented in the Large Cash Transaction Report (LCTR) form on the FINTRAC website. This form can be printed off and used as a large cash transaction record. Large cash transactions must also be reported to FINTRAC (this is discussed in more detail later in this module).

Changes Coming to Large Cash Transaction Records

Effective June 1, 2021, the scope of large cash transaction records will be expanded to include the following information:

1. The date of the receipt
2. For every other individual or entity that is involved in the transaction:
 - their name and address;
 - the nature of their principal business or their occupation; and
 - in the case of an individual, their date of birth
3. The type and amount of each fiat currency involved in the receipt
4. The method by which the cash is received
5. If applicable, the exchange rates used and their source
6. For every other account that is affected by the transaction:
 - the number of the account;
 - the type of account; and
 - the name of each account holder
7. Every reference number that is connected to the transaction and has a function equivalent to that of an account number
8. The purpose of the transaction
9. The following details of the remittance of, or in exchange for, the cash received:
 - the method of remittance;
 - if the remittance is in funds, the type and amount of each type of funds involved;
 - if the remittance is not in funds, the type of remittance and its value, if different from the amount of cash received; and
 - the name of every individual or entity involved in the remittance and their account number or policy number or, if they have no account number or policy number, their identifying number

Exceptions

Brokerages do not need to keep a large cash transaction record where the amount is received from a financial entity or a public body (or, effective June 1, 2021, from an individual who is acting on behalf of one of those entities).

The cash must originate from the financial entity itself. The mere fact that an individual gives the brokerage cash withdrawn from a bank account does not qualify for this exception.

LESSON 6 OF 20

Additional Records

Reasonable Measures Records

The PCMLTFA and its associated regulations occasionally specify that a real estate broker or sales representative must take “reasonable measures” in order to meet certain obligations. If these reasonable measures are unsuccessful (i.e., no conclusive determination can be made), the real estate broker or sales representative must keep a record describing:

- ◆ MEASURES – The measures taken
- ◆ DATE – The date on which those measures were taken
- ◆ REASONS – The reasons why the measures were unsuccessful

Effective June 1, 2021, this requirement will no longer exist, except when a real estate broker or sales representative is required to verify the identity of an unrepresented party, as described above.

Other Records

Compliance officers are also expected to keep copies of client identification information; official corporate records; and all LCTRs, STRs, and TPRs that they file with FINTRAC. These records will be discussed in more detail later in this module.

LESSON 7 OF 20

Record Retention

Brokerages are required to retain the records described in this module for a period of at least five years following:

- ◆ in the case of client information records and records used to confirm the existence of an entity (including a corporation), the day the last business transaction was conducted;
- ◆ in the case of a STR or TPR, the day the report was submitted; and
- ◆ in respect to all other records, the day on which they were created.

A record may be kept in electronic form if a paper copy can easily be produced, so that it can be provided to FINTRAC within 30 days of a request to examine it.

Record keeping requirements are the responsibility of the brokerage. If a Realtor or staff have records, the brokerage must obtain and keep these records prior to the Realtor's or staff's contract or employment with the brokerage ending.

Brokerages may also have other record keeping obligations under other laws or regulations (e.g. RECBC, PIPA, CASL, CRA. etc.). Brokerages must continue to meet those obligations as well.

While the brokerage can retain records for a longer period than required under PCMLTFA, where it is required to meet other regulatory compliance obligations, the retention period cannot be shorter than prescribed.

Exceptions

EXCEPTION 1

A brokerage is not required to keep or retain a record or include information in it if the information is readily obtainable from other records that the brokerage is required to keep or retain under the PCMLTFA and its associated regulations.

EXCEPTION 2

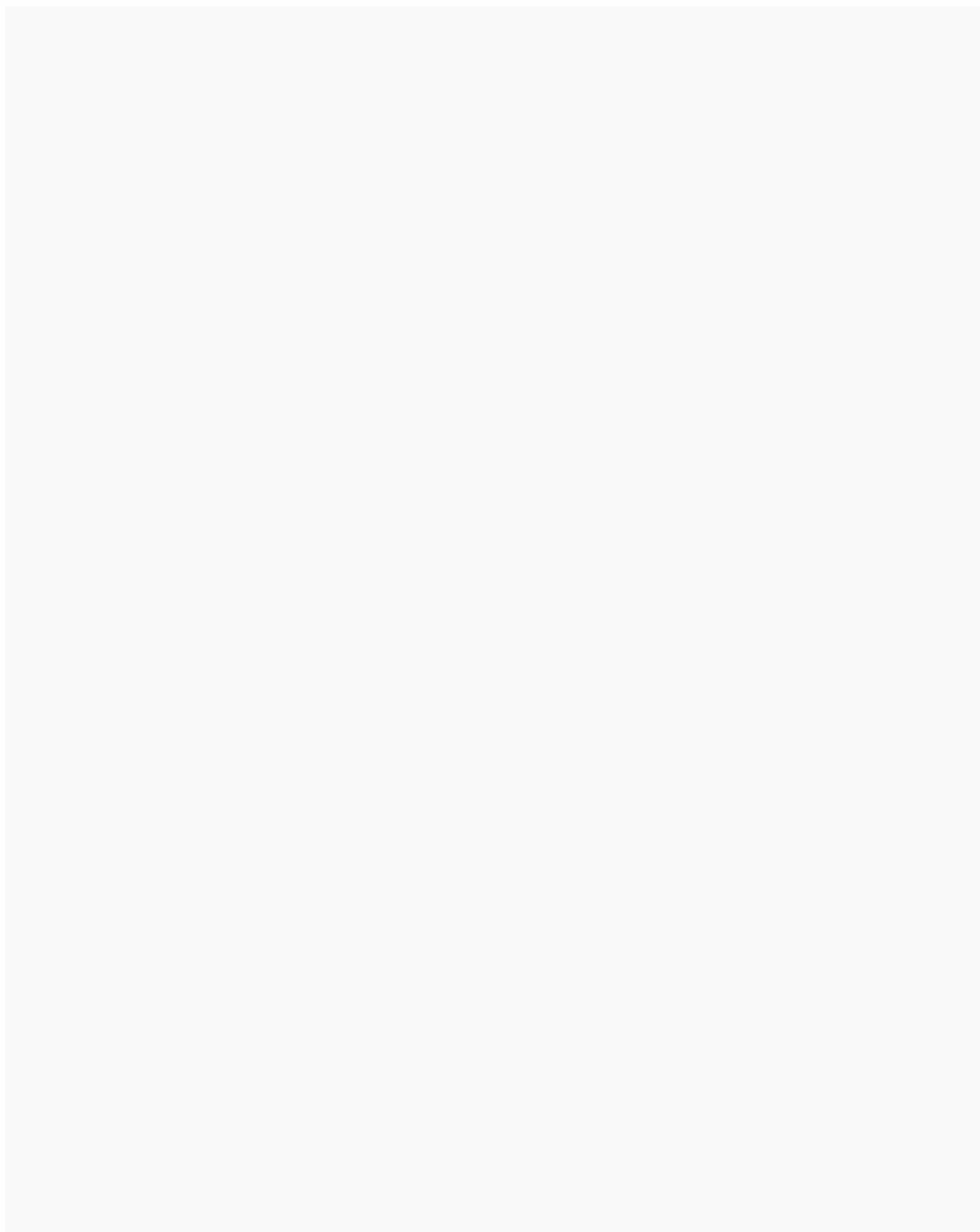
A brokerage is not required to keep a large cash transaction record or a receipt of funds record if the cash or funds are received from a financial entity or a public body (or, effective June 1, 2021, from an individual who is acting on behalf of one of those entities).

EXCEPTION 3

A brokerage is not required to keep a receipt of funds record if they are required to keep a large cash transaction record for the same transaction (effective June 1, 2021, this exception will no longer be available).

EXCEPTION 4

A brokerage is not required to keep a client information record or a receipt of funds record if the funds are received from a public body, a very large corporation (or, effective June 1, 2021, a very large trust), or a consolidated subsidiary of one of those entities.



CLIENT IDENTIFICATION

LESSON 8 OF 20

Know Your Client Requirements

Brokerages are required to ascertain the identity of clients upon certain triggering events. The information that is required to verify a client's identity will vary depending on whether the client is an individual, corporation, or other entity.

Legally, the requirements to verify a client's identity and to keep a client information record are separate. However, properly completed, a brokerage may use CREA's Individual Identification Information Record and the Corporate/Entity Identification Information Record to satisfy both requirements.

To help brokerages and Realtors explain the purpose of gathering personal information for the purposes of preventing money laundering, BCREA has created this video: [Using BCREA's Individual Identification Information Record to Help with FINTRAC Compliance](#). Realtors can share this video with their clients.

Triggering Obligations

Know your client obligations for brokerages are triggered by record keeping or reporting requirements under the PCMLTFA. Realtors must "ascertain the identity" of individuals and "confirm the existence of entities" when they are:

- ◆ Required to create a receipt of funds record in respect of an individual or an entity
- ◆ Required to create a client information record in respect of an individual or an entity
- ◆ Required to keep a large cash transaction record in respect of an individual (or, effective June 1, 2021, an entity)
- ◆ Filing a STR in respect of an individual (or, effective June 1, 2021, an entity), unless the identity verification would inform the individual that the transaction is being reported to FINTRAC

Effective June 1, 2021, these identity verification requirements will be slightly different and will require every brokerage to "verify the identity" of an individual or entity who conducts a purchase or sale transaction or, in the case of an entity, on whose behalf an individual conducts such a transaction.

RECEIPT OF FUNDS RECORDS

Brokerages are required to verify identity when completing a receipt of funds record. As discussed above, a receipt of funds record is required when a brokerage receives funds (in cash or otherwise) from an individual or an entity, other than a financial entity or a public body. Where the individual or entity who provides the funds is represented by another brokerage, the other brokerage is responsible for creating the receipt of funds record. Therefore, the other brokerage is also required to verify the individual's or entity's identity.

CLIENT INFORMATION RECORDS

Brokerages must also verify the identity of an individual or entity when they create a client information record in respect of the purchase or sale of real estate. Brokerages must keep client information records for every individual or entity for which they act on behalf of in the purchase or sale of real estate.

LARGE CASH TRANSACTIONS

Brokerages must also verify the identity of every individual who conducts a large cash transaction. A large cash transaction occurs when the brokerage receives \$10,000 or more in cash in a single transaction. A single transaction can also include multiple transactions consisting of amounts that are each less than \$10,000 if they are received within 24 consecutive hours and they are conducted by or on behalf of the same individual or entity. Effective June 1, 2021, brokerages will also have to verify the identity of entities (not only individuals) in respect of whom they create large cash transaction records.

SUSPICIOUS TRANSACTION REPORTS

Brokerages are required to verify the identity of every individual in respect of whom they are filing a STR. This requirement does not apply if the brokerage believes that verifying the individual's identity would inform them that the transaction and related information is being reported to FINTRAC. Effective June 1, 2021, brokerages will also have to verify the identity of entities (not only individuals) in respect of whom they file STRs.

Represented and Unrepresented Parties

Where all the parties to a real estate transaction are represented by a brokerage, each brokerage is only required to ascertain the identity or confirm the existence of the party or parties that they represent.

However, where one or more of the parties to a real estate transaction is not represented by a brokerage, each brokerage that is involved in the transaction must take reasonable measures to ascertain the identity or confirm the existence of the unrepresented parties.

The obligation to identify unrepresented parties is less onerous than the requirement brokerages have when identifying their own clients, in that a brokerage only needs to take reasonable measures to identify an unrepresented party.

If these measures are unsuccessful, then the brokerage must keep a record setting out the measures taken, the date on which they were taken, and the reasons why they were unsuccessful.

For example, if the unrepresented party refuses to be identified, then a record describing the reasonable measures taken to identify the party must be kept.

This may be satisfied by completing section A.4 in CREA's Individual Identification Information Record and section A.3 in the Corporation/Entity Identification Information Record or by documenting the required information on an alternate form.

A.4 Individual Identification Information Record

A.3 Corporation/Entity Identification Information Record

Timing

An **individual's identity** must be ascertained at the time of the transaction, except where the individual's identity is being ascertained in respect of a suspicious transaction. In that case, the identity must be ascertained before the STR is filed.

- ◆ In the context of large cash transaction records and receipt of funds records, this means the identification should be performed at the time that the brokerage receives the funds.
- ◆ In the context of a client information record, this means that the identification should be performed at the time of the purchase or sale of real estate.

Recognizing that a Realtor may not always be present at the time of the transaction, FINTRAC has noted that a brokerage may wish to verify identity when the opportunity arises (for example, at the time the brokerage first meets the client or signs an agreement to represent them).

An **entity's existence** must be confirmed within 30 days after the transaction.

- ◆ In the context of a receipt of funds record, this means that the confirmation should occur within 30 days of receiving the funds.
- ◆ In the context of a client information record, this means that the confirmation should occur within 30 days of the purchase and sale transaction.

Beginning June 1, 2021, brokerages will also be required to verify the identity of entities in respect of whom they keep a large cash transaction record or file a STR. Identifications that occur in respect of large cash transaction records must occur at the time of the transaction. Identifications that occur in respect of STRs must occur before the report is filed.

Identification Requirement Exceptions

Certain exceptions may apply to these identification requirements.

1. PREVIOUSLY IDENTIFIED

Brokerages do not have to re-identify individuals or entities if identification was previously performed in accordance with the regulations under the PCMLTFA and if there is no reason to doubt the information that was used for this purpose.

For example, if a brokerage ascertained the identity of an individual because they received funds from that individual, and they do not doubt the information that was used to do so, they are not required to re-ascertain that individual's identity because they are now filing a suspicious transaction report in respect of that individual.

2. UNDERLYING RECORD KEEPING REQUIREMENTS

As the client identification requirements are dependent on other record keeping and reporting requirements under the PCMLTFA and its associated regulations, brokerages are not required to verify identity when they are not required to create the underlying records (i.e., large cash transaction records, receipt of funds records, client information records, STRs).

For example, if a listing brokerage is not required to keep a receipt of funds record because the buyer is also represented by a brokerage, the listing brokerage is also not required to verify the buyer's identity in respect of that receipt of funds record.

3. PUBLIC BODY OR LARGE CORPORATION

Brokerages are not required to identify an individual or an entity in respect of a receipt of funds or a client information record when the transaction is conducted for:

1. A public body
2. A very large corporation (or, effective June 1, 2021, a very large trust)
3. A consolidated subsidiary of one of those entities

4. RISKS ALERTING THE INDIVIDUAL

Brokerages are not required to ascertain the identity of an individual in respect of whom they are filing a STR if they believe that doing so would alert the individual that the transaction and related information is being submitted to FINTRAC.

For more information on client identification requirements, see FINTRAC's guidance: [When to identify individuals and confirm the existence of entities – Real estate brokers or sales representatives, and real estate developers.](#)

LESSON 9 OF 20

Individual Identification

To verify the identity of an individual, brokerages can use CREA's [Individual Identification Information Record](#) template or another form. Brokerages must identify the individual using one of the methods described below and record the relevant information associated with the method of identification they are using.

This requirement applies for each individual client engaging in the purchasing or selling transaction.

Individual Verification Methods

There are three ways that brokerages can ascertain the identity of an individual:

1. Photo Identification Method
2. Credit File Method
3. Dual Process Method

1. PHOTO IDENTIFICATION METHOD

A brokerage may ascertain the identity of an individual by referring to a government document that contains the individual's name and photograph. The brokerage must verify that the name and photograph are those of the individual.

The identification document must be **issued by a federal, provincial, or territorial government** but not a municipal government. Types of acceptable documents include:

- ◆ Passports
- ◆ Drivers' Licenses
- ◆ BC Services Cards
- ◆ Permanent Resident Cards

Health cards can only be used if allowed under provincial legislation. In British Columbia, BC Services Cards are acceptable forms of government photo identification.

A brokerage may accept a foreign government-issued photo identification document for the purposes of the photo identification method if it is equivalent to a Canadian document, such as those listed above.

The identification document must be authentic, valid, and current (i.e., not expired).

A brokerage that uses the photo identification method must first determine the authenticity of the document. This can be done in person or virtually.

- ◆ **IN PERSON**

If the authenticity is determined in person, the brokerage must view the characteristics of the physical document and its security features or markers in the presence of the individual. The brokerage must be satisfied that the document is authentically issued by the applicable government authority, that it is valid (unaltered and not counterfeit), and that it is current (not expired).

- ◆ **VIRTUALLY**

If the authenticity is determined virtually, the brokerage must use a technology capable of determining the document's authenticity. The technology would compare a scanned image of the photo identification document against known characteristics, security features, or markers of the document.

Once the brokerage is satisfied that the photo identification document is authentic, they can determine if the name of the individual presenting the document matches the name and appearance of the individual.

If this is done virtually, FINTRAC has provided examples on how this may be accomplished:

- ◆ the brokerage may participate in a live video chat session with the individual where they compare the name and features of the individual on the live video to the name and photo on the photo identification document; or
- ◆ the brokerage may use facial recognition technology to compare a photo sent by the individual to the photo on the photo identification document. The brokerage would also need a process to compare the name on the photo identification document to the name provided by the individual.

Records

A brokerage that uses the photo identification method to ascertain the identity of an individual must keep the following records:

- ◆ the individual's name;
- ◆ the date on which the identity was ascertained;
- ◆ the type of document that was referred to, its number and its jurisdiction and country of issue; and
- ◆ the document's expiry date, if applicable.

2. CREDIT FILE METHOD

A brokerage may also ascertain the identity of an individual by referring to information that is in the client's credit file, with the client's written consent. The brokerage must verify that the name, address, and date of birth in the credit file are those of the individual.

The credit file must:

- ◆ be located in Canada and from a Canadian credit bureau (e.g., Equifax Canada, TransUnion Canada or an authorized third-party vendor);
- ◆ have been in existence for at least three years;
- ◆ and be valid and current.

Effective June 1, 2021, the credit file must also contain information that is derived from more than one source.

If a brokerage uses the credit file method to ascertain the identity of an individual, they must conduct the search at the time that they are verifying the individual's identity. A previously obtained credit file cannot be used. The individual cannot provide the brokerage with the credit file.

Records

A brokerage that uses this method to ascertain the identity of an individual must keep the following records:

- ◆ the individual's name;
- ◆ the date on which the identity was ascertained;
- ◆ the source of the information; and
- ◆ the number of the individual's credit file.

3. DUAL PROCESS METHOD

The dual process method allows a brokerage to refer to information from two separate reliable sources to verify that it contains information that matches the information provided by the individual. Under this method, the brokerage must ascertain the identity of an individual by referring to information that includes any two of the following:

1. The individual's name and address,

For example:

- Canada Revenue Agency notice of assessment;
- federal, provincial, territorial, or municipal benefits statements;
- Canada Pension Plan statements;
- record of employment;
- T4 statement;
- utility bill.

2. The individual's name and date of birth, or

For example:

- birth certificate;
- marriage certificate;

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- divorce documentation;
 - permanent resident card;
 - temporary driver’s license;
 - citizenship certificate.
3. The individual’s name and confirmation that the individual has a deposit account or a credit card or other loan account with a financial entity (effective June 1,2021, information relating to a prepaid payment product account may also be used for this purpose).

For example:

- credit card statement,
- bank statement,
- loan account statement,
- cheque that has been processed in the last statement period by a financial institution.

If a brokerage chooses to use a Canadian credit file as one of its sources in the dual process method, the credit file must have existed for at least 6 months. Information from a Canadian credit file could also be used as both sources if the credit bureau acts as an aggregator and the information contains two independent tradelines. In this case, each tradeline is considered a separate source, rather than the credit bureau.

FINTRAC offers more guidance on independent tradelines on their website under the subheading: [How to use a credit file under the dual process method to verify the identity of an individual.](#)

The brokerage can take information from one source and verify that the name and address are those of the individual and take information from another source and verify that the name and date of birth are those of the individual. Information may also be used to confirm the individual’s name and the fact that they have an account with a financial entity such as a deposit, credit card, or other loan account.

The information that is referred to must be from two different sources and be valid and current. The information cannot be from the individual whose identity is being ascertained or from the brokerage.

According to FINTRAC, reliable sources may include:

- ◆ federal, provincial, territorial, or municipal governments;
- ◆ crown corporations;
- ◆ federally regulated financial institutions; or
- ◆ utility providers.

Information used for the dual process method may be found in statements, letters, certificates, forms, or other sources. The information can be an original version or a fax, photocopy, scan, or electronic image.

Records

A brokerage that uses the dual process method to ascertain the identity of an individual must keep the following records:

- ◆ the individual's name;
- ◆ the date on which the identity was ascertained;
- ◆ the sources of the information;
- ◆ the type of information referred to; and
- ◆ the account number included in the information referred to or, if there is no account number, a number associated with the information.

Agents

If a brokerage is not dealing with an individual face-to-face and therefore, cannot personally verify the individual's identity, an agent or mandatary can be used to fulfill the client information record obligation.

If using an agent or mandatary, the regulations under the PCMLTFA require an agreement in writing between the brokerage and the agent/mandatary outlining what is required of the agent/mandatary. CREA's [Identification Mandatary Agent Agreement](#) or a form that contains all the necessary information can be used for this purpose.

The agent/mandatary must then obtain the client information pursuant to their agreement. The brokerage must get all the information that the agent or mandatary referred to in order to verify the person's identity as well as the information that the agent or mandatary got from the person as part of the ID process. Effective June 1, 2021, the brokerage must obtain this information "as soon as feasible".

A mandatary is one who is acting in their own capacity, on behalf of a brokerage, and as an agent under a written agreement. A mandatary does not need a professional designation.

The compliance officer must be satisfied that the information is valid and current, and that the person's identity was ascertained in accordance with one of the identification methods described above (i.e., photo identification, credit file or dual process). To learn more about using agents or mandataries to identify an individual, consult CREA's [FINTRAC FAQs](#).

Summary

The following table from [FINTRAC](#) provides a summary of the methods to verify the identity of individuals and the associated record keeping obligations.

Identification method	Documents or information to review	Identification details that must match	Information that must be recorded
Photo identification	Photo identification document issued by a government that is authentic, valid, and current	Name and photograph	<ul style="list-style-type: none"> • Individual's name, • date of verification, • type of document, • document number, • province or state and country that issued the document, and • expiry date (if applicable).
Credit file	Valid and current information from a Canadian credit file that has been in existence for at least three years	Name, address, and date of birth	<ul style="list-style-type: none"> • Individual's name, • date that the credit file was consulted/ searched, • name of the credit bureau, and • individual's credit file number.
Dual process	<p>Valid and current information from two reliable sources such as:</p> <ul style="list-style-type: none"> • federal, provincial, territorial, or municipal governments; • crown corporations; • federally regulated financial institutions; or • utility providers. 	<p>A combination of two of the following:</p> <ul style="list-style-type: none"> • name and address; • name and date of birth; or • name and confirmation of a financial account. 	<ul style="list-style-type: none"> • Individual's name, • Date that the information was verified, • Name of the two different sources used to verify the identity of the individual • Type of information consulted • Account number or number associated with the information

For more information about individual identification methods, please see FINTRAC's guidance: [Methods to verify the identity of an individual and confirm the existence of a corporation or an entity other than a corporation.](#)

LESSON 10 OF 20

Corporate/Entity Identification**Corporations**

Brokerages must confirm the existence of corporations and ascertain their name and address and the names of its directors in respect of whom they create receipt of funds records or client information records.

Effective June 1, 2021, identification requirements will also apply for corporations in respect of whom large cash transaction records are required or STRs are filed. Brokerages can use CREA's Corporation/Entity Identification Information Record or another record for this purpose.

This information can be verified by referring to one of the following documents:

- ◆ the corporation's certificate of incorporation or certificate of active corporate status;
- ◆ a record that the corporation is required to file annually under the applicable provincial securities legislation; or
- ◆ the most recent version of any other record that ascertains its existence as a corporation and contains its name and address and the names of its directors.
 - For example: 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.

A brokerage can obtain a corporation's name and address and the names of its directors from a provincial or federal database, such as the [Corporations Canada database](#). A brokerage may also consider subscribing to a corporate searching and registration service.

Other Entities

Brokerages must confirm the existence of entities, other than corporations, for whom they create receipt of funds records or client information records. Effective June 1, 2021, identification requirements will also apply for corporations in respect of whom large cash transaction records are required or STRs are filed. Brokerages can use CREA's Corporation/Entity Identification Information Record or another record for this purpose.

This information can be verified by referring to one of the following documents:

- ◆ a partnership agreement;
- ◆ articles of association; or
- ◆ the most recent version of another similar record that ascertains its existence and contains its name and address, such as a trust agreement.

Records

A record that a brokerage uses to confirm the existence of an entity (including a corporation) may be in paper form or in an electronic version that is obtained from a source that is accessible to the public. If the brokerage referred to an electronic version of a record, a record must be kept that sets out:

- ◆ NUMBER – The entity's registration number
- ◆ TYPE – The type of record referred to
- ◆ SOURCE – The source of the electronic version of the record

If a paper copy was used, the brokerage must keep the record or a copy of it.

If a brokerage needs to contact an entity's accountant or lawyer to obtain the relevant information, they may wish to use the template Consent Letter, available from CREA's [FINTRAC Resources®](#) to obtain the information.

Don't forget about receipt of funds records and large cash records, as these still apply to corporations and other entities. In these cases, there is a need to identify the person giving the funds as well.

Summary

The following table from [FINTRAC](#) provides a summary of the methods to confirm the existence of a corporation or of an entity other than a corporation.

Type of entity	Documents to review	Identification details that must match	Information that must be recorded
Corporation	<p>Documents that can be relied on to confirm the existence of a corporation:</p> <ul style="list-style-type: none"> • certificate of incorporation, • certificate of corporate status; • record that has to be filed annually under provincial securities legislation; • published annual report signed by an audit firm; and • letter or notice of assessment from a municipal, provincial, territorial or federal government. 	<p>Name and address of corporation</p> <p>Names of Directors</p>	<p>If an electronic record was consulted:</p> <ul style="list-style-type: none"> • registration number; • type of document consulted; and • source of the electronic document <p>If a paper record was consulted:</p> <ul style="list-style-type: none"> • the paper record or a copy of the record.
Entity other than a corporation	<p>Documents that can be relied on to confirm the existence of an entity other than a corporation:</p> <ul style="list-style-type: none"> • a partnership agreement; • articles of association; • any other similar record that confirms the existence of the entity; and • letter or notice of assessment from a municipal, provincial, territorial or federal government. 	<p>Name and address of the entity</p>	<p>If an electronic record was consulted:</p> <ul style="list-style-type: none"> • registration number; • type of record consulted; and • source of the electronic record <p>If a paper record was consulted:</p> <ul style="list-style-type: none"> • the paper record or a copy of the record.

For more information about identification methods for entities, please see FINTRAC's guidance: [Methods to verify the identity of an individual and confirm the existence of a corporation or an entity other than a corporation](#).

Enhanced Measures for High-Risk Clients

The PCMLTFA and its associated regulations require that where a client is high risk, brokerages must take enhanced measures to ascertain their identity or confirm their existence.

This may include requiring Realtors to:

- ◆ ask high-risk clients for an additional piece of identification when verifying the identity of an individual, or
- ◆ check an additional record if confirming the identity of an entity.

Additional information obtained about high-risk clients could include occupation, volume of assets, information available through public databases, etc.

How to identify whether a client is high risk or not will be covered in greater detail when looking at risk assessments in Module 5.

LESSON 11 OF 20

Beneficial Ownership**The Importance of Beneficial Ownership Information**

Beneficial ownership information is crucial in the real estate sector as money launderers can exploit jurisdictions with lenient beneficial ownership rules.

“Opaque ownership structures allow criminals to remain anonymous and provide a veil with which to conceal money laundering activity in real estate. Of the legal entities that hold \$28 billion in residential property in B.C., the vast majority are privately owned with no information on who ultimately controls them. There is no way to accurately identify nominee owners or properties held through unregistered trusts. Requiring beneficial owners to be identified for all properties (including those held through nominees) would make money laundering in B.C. a much less desirable business.”

– Peter M. German, *Dirty Money Report: Part 2*, March 31, 2019.

Requirement to Obtain Beneficial Ownership Information

Effective June 1, 2021, brokerages will be required to obtain the following beneficial ownership information when they verify an entity's identity:

- ◆ **CORPORATION**
If the entity is a corporation, the names of all directors of the corporation and the names and addresses of all individuals who own or control, directly or indirectly, 25% or more of the shares of the corporation
- ◆ **WIDELY HELD OR PUBLICLY TRADED TRUST**
If the entity is a widely held or publicly traded trust, the names of all trustees of the trust and the names and addresses of all individuals who own or control, directly or indirectly, 25% or more of the units of the trust
- ◆ **TRUST**
If the entity is a trust, the names and addresses of all trustees and all known beneficiaries and settlors of the trust
- ◆ **ENTITY OTHER THAN A CORPORATION OR A TRUST**
If the entity is an entity other than a corporation or a trust (such as a partnership), the names and addresses of all individuals who own or control, directly or indirectly, 25% or more of the entity
- ◆ **IN ALL CASES**
In all cases, information establishing the ownership, control and structure of the entity

If the entity is a not-for-profit corporation, the brokerage must determine and keep a record setting out whether the entity is a charity registered with the Canada Revenue Agency or, if not, an organization that solicits charitable donations from the public.

Confirming Accuracy

Not only is a brokerage required to collect the information outlined above, but they must also take reasonable measures to confirm the accuracy of that information, when it is first obtained and in the course of ongoing monitoring of its business relationships. The brokerage must keep a record setting out the beneficial ownership information and the measures it takes to confirm the accuracy of that information.

If a brokerage is unable to obtain the beneficial ownership information outlined above, to keep it up to date in the course of ongoing monitoring or to confirm its accuracy, the real estate broker or sales representative must take reasonable measures to verify the identity of the entity's chief executive officer (or the individual who performs that function) and take the special measures required for high-risk clients.

LAND OWNER TRANSPARENCY ACT

Remember, the *Land Owner Transparency Act* (LOTA) will require entities to disclose their beneficial ownership information to the Land Title and Survey Authority of British Columbia (LTSA) when they apply to register an interest in land. The LTSA will establish the Land Owner Transparency Registry (LOTR), a registry of beneficial ownership information that will be publicly searchable by any person. The LOTA is currently scheduled to come into force in late fall 2020, with the launch of the LOTR to follow.

LESSON 12 OF 20

Identifying Third Parties**Third-Party Determinations**

The PCMLTFA requires reporting entities, including brokerages, to make third-party determinations when they create client information or large cash transaction records. A third-party determination involves taking reasonable measures to determine whether a person is acting on behalf of a third party.

FINTRAC has defined a “third party” as follows:

“A third party is a person or entity who instructs another person or entity to conduct an activity or financial transaction on their behalf. When you are determining whether a third party is giving instructions, it is not about who owns or benefits from the money, or who is carrying out the transaction or activity, but rather about who gives the instructions to handle the money or conduct a transaction or particular activity. If you determine that the individual in front of you is acting on someone else’s instructions, that someone else is the third party. For example, Jim is the third party when he asks Alice to wire \$12,000 to a business account held by company ABC in country A.”

– FINTRAC Guidance, “Third party determination requirements”, June 2017.

A brokerage must take reasonable measures to determine whether the individual or entity to which the client information record pertains, or the individual who gives the cash, is acting on behalf of a third party.

A brokerage can usually fulfill this requirement by:

- ◆ ASKING – Asking the person if they are acting on someone else’s instructions or
- ◆ REVIEWING – Reviewing information that is already in their records

Third-Party Determination Records

YES

If the brokerage determines that a third party exists, the brokerage must keep the following records:

- ◆ the third party’s name, address, and the nature of the third party’s principal business or occupation (note that, effective June 1, 2021, the third party’s telephone number must also be collected);
- ◆ the third party’s date of birth, if the third party is an individual;
- ◆ the third party’s incorporation number and its jurisdiction and country of issue, if the third party is a corporation (note that, effective June 1, 2021, a brokerage will also be required to collect the registration number and its jurisdiction and country of issue for entities that are not corporations); and

- ◆ the nature of the relationship between the third party and the client, or the individual who gives the cash, as applicable.

<p>B.1 Third Party Reasonable Measures Where you cannot determine whether there is a third party, or there is no third party, complete this section. Is the transaction being conducted on behalf of a third party according to the client? (check one):</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Measures taken (check one):</p> <p><input type="checkbox"/> Asked if client was acting on behalf of a third party <input type="checkbox"/> Other, explain:</p> <p>Date on which above measures taken:</p> <p>Reason why measures were unsuccessful (check one):</p> <p><input type="checkbox"/> Client did not provide information <input type="checkbox"/> Other, explain:</p> <p>Indicate whether there are any other grounds to suspect a third party (check one):</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes, explain:</p>
<p>B.2 Third Party Record Where there is a third party, complete this section.</p> <p>1. Name of other entity:</p> <p>2. Address:</p> <p>3. Date of Birth (if applicable):</p> <p>4. Nature of Principal Business or Occupation:</p> <p>5. Incorporation number and place of issue (if applicable):</p> <p>6. Relationship between third party and client:</p>

When there are third parties, they can be listed in section B.2 of CREA's Corporation/Entity Identification Information Record or Individual Identification Information Record, available on [WEBForms®](#), or on any documentation that meets FINTRAC's requirements.

For example: if an individual "A" is conducting a transaction and they have Power of Attorney for another individual "B", then "A" would be considered the client for identification purposes and "B" would be the third party. Information about "B" would then be recorded in the Verification of Third Parties portion of the Individual Identification Information Record. Note, however, that FINTRAC has stated that B must have the power to give instructions to A. If B is incapacitated, then A would not be acting on behalf of a third party.

MAYBE

If the brokerage is unable to determine whether a third party exists, but has reasonable grounds to suspect that one does, the brokerage should keep the following records:

- ◆ whether, according to the individual or entity, the transaction is being conducted on behalf of a third party or on their own behalf (or, effective June 1, 2021, on their own behalf only); and
- ◆ the reasonable grounds to suspect that the individual or entity is acting on behalf of a third party.

<p>B.1 Third Party Reasonable Measures Where you cannot determine whether there is a third party, or there is no third party, complete this section. Is the transaction being conducted on behalf of a third party according to the client? (check one):</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Measures taken (check one):</p> <p><input type="checkbox"/> Asked if client was acting on behalf of a third party <input type="checkbox"/> Other, explain:</p> <p>Date on which above measures taken:</p> <p>Reason why measures were unsuccessful (check one):</p> <p><input type="checkbox"/> Client did not provide information <input type="checkbox"/> Other, explain:</p> <p>Indicate whether there are any other grounds to suspect a third party (check one):</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes, explain:</p>
<p>B.2 Third Party Record Where there is a third party, complete this section.</p> <p>1. Name of other entity:</p> <p>2. Address:</p> <p>3. Date of Birth (if applicable):</p> <p>4. Nature of Principal Business or Occupation:</p> <p>5. Incorporation number and place of issue (if applicable):</p> <p>6. Relationship between third party and client:</p>

This can be recorded in section B.1 of CREA's Individual Identification Information Record or Corporation/Entity Identification Information Record, as applicable, available on [WEBForms®](#). Other information record keeping forms may also be used for this purpose.

NO

If the reasonable measures are unsuccessful (i.e., no conclusive determination can be made), the brokerage must also keep a record describing:

- ◆ MEASURES – The measures taken
- ◆ DATE – The date on which those measures were taken
- ◆ REASONS – The reasons why the measures were unsuccessful

Effective June 1, 2021, the record keeping requirement in respect of unsuccessful measures will no longer exist.

<p>B.1 Third Party Reasonable Measures <small>Where you cannot determine whether there is a third party, or there is no third party, complete this section.</small> Is the transaction being conducted on behalf of a third party according to the client? (check one): <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Measures taken (check one): <input type="checkbox"/> Asked if client was acting on behalf of a third party <input type="checkbox"/> Other, explain:</p> <p>Date on which above measures taken:</p> <p>Reason why measures were unsuccessful (check one): <input type="checkbox"/> Client did not provide information <input type="checkbox"/> Other, explain:</p> <p>Indicate whether there are any other grounds to suspect a third party (check one): <input type="checkbox"/> No <input type="checkbox"/> Yes, explain:</p>
<p>B.2 Third Party Record <small>Where there is a third party, complete this section.</small></p> <p>1. Name of other entity:</p> <p>2. Address:</p> <p>3. Date of Birth (if applicable):</p> <p>4. Nature of Principal Business or Occupation:</p> <p>5. Incorporation number and place of issue (if applicable):</p> <p>6. Relationship between third party and client:</p>

This can be recorded in section B.1 of CREA's Individual Identification Information Record or Corporation/Entity Identification Information Record, as applicable, available on [WEBForms®](#). Other information record keeping forms may also be used for this purpose.

LESSON 13 OF 20

Business Relationships and Ongoing Monitoring

Business Relationships

Currently, business relationships arise when a brokerage conducts two or more transactions or activities for which they are required to verify the identity of an individual or confirm the existence of an entity. This is the case even if an exception exists for verifying a client's identity for the second time (e.g., if identity has already been verified and there is no reason to doubt the information that was provided). If a period of over five years has passed from the last transaction, the business relationship will end.

In a real estate transaction where both parties are represented by a brokerage or a Realtor, a business relationship may form under the following conditions:

- ◆ BUYER'S REALTOR

When a brokerage represents a buyer, generally there will be two "activities" that will require identity verification. For example, the brokerage will be required to verify the client's identity when it creates a client information record and when it creates a receipt of funds record.

- ◆ SELLER'S REALTOR

When a brokerage represents a seller, there will likely only be one "activity" that will require identity verification. For example, the brokerage will be required to verify the client's identity when it creates a client information record. In a transaction where both parties are represented by a brokerage or a Realtor, generally the obligation to create a receipt of funds record rests with the buyer's brokerage.

However, other scenarios are possible.

FINTRAC provides further guidance for business relationships on their website, under the heading: [Business relationship requirements](#).

BUSINESS RELATIONSHIPS: NEW RULES

The regulations under the PCMLTFA are being specifically amended to address when a business relationship arises for the real estate sector. Effective June 1, 2021, a brokerage will be considered to have entered a business relationship with a client **the first time that they are required to verify the identity of that client**. This means that the representing brokerage will need to perform ongoing monitoring of their clients even if only one activity has occurred.

Given the practical difficulty that some brokerages may experience in tracking "activities" that count toward a business relationship, compliance officers may consider amending their policies and procedures now to reflect the June 1, 2021 requirements.

NATURE OF THE RELATIONSHIP RECORDS

When a brokerage enters a business relationship with a client, the brokerage must keep a record of the purpose and intended nature of the business relationship and keep this information up to date. This determination reflects the client's dealings with the brokerage over time.

Individual Identification Information Record

D. Business Relationship
(ask your Compliance Officer when this section is applicable)

D.1. Purpose and Intended Nature of the Business Relationship
Check the appropriate boxes.
Acting as an agent for the purchase or sale of:

Residential property Residential property for income purposes
 Commercial property Land for Commercial Use
 Other, please specify:

D.2. Measures Taken to Monitor Business Relationship and Keep Client Information Up-To-Date
D.2.1. Ask the Client if their name, address or principal business or occupation has changed and if it has include the updated information on page one.
D.2.2. Keep all relevant correspondence with the client on file in order to maintain a record of the information you have used to monitor the business relationship with the client. Optional - if you have taken measures beyond simply keeping correspondence on file, specify them here:

D.2.3. If the client is high risk you must conduct enhanced measures to monitor the brokerage's business relationship and keep their

This obligation can be satisfied by checking the appropriate box in Section D.1 of the Individual Identification Information Record or the Corporation/Entity Identification Information Record, as applicable, available on [WEBForms®](#). If the Realtor does not feel that any of the boxes apply, they should check "Other" and describe the purpose and intended nature of the relationship. Note that the compliance officer should review this section. If the

compliance officer feels that the purpose and intended nature of the business relationship is inadequately described, the compliance officer must alter this portion of the client information record accordingly.

EXAMPLE

For example, the compliance officer could determine that the client has been repeatedly buying and selling numerous residential properties in a short period of time. Accordingly, the compliance officer could indicate this by indicating the purpose of the business relationship is the "purchase or sale of residential properties for income purposes". Alternatively, after dealing with a client on multiple income property purchases and one residential purchase, the compliance officer could determine the business relationship is still the "purchase or sale of residential properties for income purposes".

The reason for collecting this information, and keeping a record of it, is to allow brokerages to know their client better so that risk can be appropriately assessed.

The purpose of keeping this information is to help ensure that the client's activities match the other information the brokerage keeps on the client.

As will be discussed further in Module 6, transactions that are outside the client's regular activities are often an indicator of suspicious behaviour.

Ongoing Monitoring

Brokerages are required to conduct ongoing monitoring of their business relationships with individuals and entities and keep a record of the measures taken and the information obtained in doing so. As a result of the changes to the definition of "business relationship" coming into force on June 1, 2021, ongoing monitoring will be required even in respect of one-time clients.

Ongoing monitoring is a periodic review of all information relating to clients with whom a business relationship exists, based on the brokerage's risk assessment. Ongoing monitoring is conducted for the purpose of:

- ◆ DETECTING – Detecting any suspicious transactions
- ◆ KEEPING – Keeping up to date all client identification and beneficial ownership information, as well as information on the intended purpose and nature of the business relationship
- ◆ REASSESSING – Reassessing the level of risk associated with the client's transactions and activities
- ◆ DETERMINING – Determining whether transactions or activities are consistent with the information obtained about the client, including the risk assessment of the client

If a brokerage becomes aware of suspicious information about a client during the course of ongoing monitoring, the brokerage needs to review its information on that client to determine whether, considering this new information, the transaction appears suspicious. If it does, the brokerage must submit a STR to FINTRAC.

FINTRAC provides further guidance for ongoing monitoring on their website, under the heading: [Ongoing monitoring requirements](#).

ONGOING MONITORING RECORDS

A brokerage must keep a record of the measures it takes for, and the information obtained through, ongoing monitoring of its business relationships. To do so, a brokerage may complete Section D.2 of the Individual Identification Information Record and the Corporation/Entity Identification Information Record, as applicable, which address ongoing monitoring requirements. Alternatively, the brokerage may wish to gather this information from the client directly, in which case Section D.2 does not need to be completed but the relevant information needs to be documented elsewhere.

<p>D. Business Relationship (ask your Compliance Officer when this section is applicable)</p> <p>D.1. Purpose and Intended Nature of the Business Relationship Check the appropriate boxes. Acting as an agent for the purchase or sale of:</p> <p><input type="checkbox"/> Residential property <input type="checkbox"/> Residential property for income purposes <input type="checkbox"/> Commercial property <input type="checkbox"/> Land for Commercial Use <input type="checkbox"/> Other, please specify:</p> <p>D.2. Measures Taken to Monitor Business Relationship and Keep Client Information Up-To-Date D.2.1. Ask the Client if their name, address or principal business or occupation has changed and if it has include the updated information on page one. D.2.2 Keep all relevant correspondence with the client on file in order to maintain a record of the information you have used to monitor the business relationship with the client. Optional - if you have taken measures beyond simply keeping correspondence on file, specify them here:</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <p>D.2.3. If the client is high risk you must conduct enhanced measures to monitor the brokerage's business relationship and keep their client information up to date. Optional - consult your Compliance Officer and document what enhanced measures you have applied:</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div>

FREQUENCY OF MONITORING

A brokerage must define the frequency of ongoing monitoring in their compliance policies and procedures. The frequency of ongoing monitoring is generally dependent on the brokerage's risk assessment of the client. Clients presenting a low risk will require less

frequent monitoring than clients presenting a high risk. The risk assessment of clients will be discussed in more detail in Module 5.

Remember, high-risk clients are subject to enhanced measures, including more frequent ongoing monitoring.

FINTRAC has provided a non-exhaustive list of triggering factors, which may require more frequent ongoing monitoring, on their website under the subheading: [Risk assessment of business relationships](#).

Ongoing monitoring activities can occur based on a set schedule or a triggering system determined by the brokerage.

CREA provides a sample schedule for ongoing monitoring obligations where a brokerage assumes it is always in a business relationship with its clients. The Business Relationship/Ongoing Monitoring Schedule is available in Table 1 page 24 of the [FINTRAC Office Policy 2020](#).

Compliance officers are free to develop their own documentation, schedules, or systems based on a triggering system that reflects their specific brokerage's requirements. The schedule or system should be contained in the brokerage's policies and procedures manual.

Reassessing Levels of Risk

Periodically, brokerages must reassess the level of risk associated with the transactions and activities of clients with whom they are in a business relationship as part of the brokerage's obligation to conduct ongoing monitoring. Compliance officers are also responsible for determining whether all the client's transactions or activities with the brokerage are consistent with the information obtained about the client, including the risk assessment of the client.

The brokerage will use this information when completing its risk assessment and, ultimately, designing its compliance policies and procedures.

Brokerages should consider if they are going to reassess risk after every transaction or do a periodic review. The timing of the reassessment should be considered based on the brokerage's risk assessment. This should be noted in the brokerage's policies.

In practice, this means that if a brokerage becomes aware of suspicious information about a client, even a one-time client, the brokerage will need to review its information on that client to determine whether, in light of this new information, the transaction appears suspicious or the client's risk assessment should be updated. If it does, the brokerage may need to submit a STR to FINTRAC.

Examples of suspicious new information might include:

- ◆ **POLITICALLY EXPOSED PERSONS** – If the brokerage becomes aware that the client is a PEP,
- ◆ **CRIMINAL INVESTIGATIONS** – If the client has been the subject of criminal investigations that are reported in the news, or
- ◆ **PRODUCTION ORDER** – If the brokerage receives a production order from law enforcement in respect of the client.

If the brokerage conducted a transaction with a client within the last 5 years, and that client is the subject of a production order, negative media, or criminal charges, FINTRAC expects a STR to be filed.

Update Client Information

Ongoing monitoring requires a brokerage to keep all information on client identification, beneficial ownership, and the purpose and intended nature of the business relationship up to date.

This obligation may be satisfied by asking the client whether any of this information has changed.

Any changes to this information should be documented in the Individual Identification Information Record and the Corporation/Entity Identification Information Record or elsewhere. Any relevant correspondence and records should also be kept on file and held within the brokerage. Relevant correspondence and records include correspondence (e.g. emails, faxes) that the brokerage sends to or receives from the client during its day-to-day business that pertains to the ongoing monitoring obligations. Relevant correspondence also includes communications which indicate whether the client's activities match the other information that the brokerage keeps on the client.

For example, if an email is sent asking the client if their occupation has changed, the email and the response should be kept and held within the brokerage.

It is good practice for brokerages to keep all correspondence with the client on file as noted in Section D.2.2 of the Individual Identification Information Record or the Corporation/Entity Identification Information Record, as applicable. The Realtor and/or compliance officer may also list any additional steps taken to monitor the business relationship in the blank field provided, although this is optional.

D.2. Measures Taken to Monitor Business Relationship and Keep Client Information Up-To-Date

D.2.1. Ask the Client if their name, address or principal business or occupation has changed and if it has include the updated information on page one.

D.2.2. Keep all relevant correspondence with the client on file in order to maintain a record of the information you have used to monitor the business relationship with the client. Optional - if you have taken measures beyond simply keeping correspondence on file, specify them here:

D.2.3. If the client is high risk you must conduct enhanced measures to monitor the brokerage's business relationship and keep their client information up to date. Optional - consult your Compliance Officer and document what enhanced measures you have applied:

High Risk and Special Measures

If, at any time or as a result of ongoing monitoring, a brokerage considers that there is a high risk of a money-laundering or terrorist-activity financing offence, they must treat the activities respecting that individual or entity as high risk and take special measures required for high-risk clients.

As part of their compliance program, brokerages must develop and apply written policies and procedures for circumstances where they consider the risk of a money-laundering or terrorist-activity financing offence to be high. These policies and procedures must outline the following:

- ◆ ENHANCED MEASURES
 - Enhanced measures, based on the risk assessment, to ascertain the identity of an individual or confirm the existence of an entity
 - Enhanced measures to mitigate the risks that have been identified, including keeping client identification and beneficial ownership information up-to-date, and conducting ongoing monitoring of business relationships

A brokerage should include the following policy in their manual:

“All Realtors shall apply enhanced measures to high risk clients as specified in this [referring to the brokerage’s] policies and procedures manual.”

The brokerage should create the procedures and document how this is done in practice in its compliance policies and procedures.

If a Realtor is dealing with a high-risk client, they should consult with the brokerage’s compliance officer to determine which enhanced measures they should apply to the transaction if they do not know already.

FINTRAC provides a list of other possible measures for high-risk clients. It can be found on their website under the subheading: [Measures to take for high-risk clients](#). The same section discusses the measures that brokerages should consider implementing to monitor high-risk situations.

Some of the measures suggested by FINTRAC may not be applicable to a particular brokerage or may only be applied by the brokerage internally after a transaction is completed.

LESSON 14 OF 20

Politically Exposed Persons

Effective June 1, 2021, brokerages will be subject to the requirements in the PCMLTFA and its associated regulations dealing with politically exposed persons (PEPs) and their family members or close associates.

In particular, brokerages will be required to comply with these rules when they enter into a business relationship and on a periodic basis thereafter, as well as when they receive an amount of CAD\$100,000 or more in cash.

FATF, the international organization that sets the global standards for anti-money laundering and anti-terrorist financing activity laws, has emphasized the importance of PEP determinations. PEPs hold (or have held) positions of power and influence that may be prone to abuse through activity such as bribery or corruption. Although PEPs are not always involved in criminal activity, brokerages must be aware of the potential risks associated with PEPs and should have measures in place to counter those risks for when they are in fact dealing with a PEP.

Defining Politically Exposed Persons

The term **Politically Exposed Person (PEP)** encompasses:

- ◆ PEFs – Politically exposed foreign persons
- ◆ PEDPs – Politically exposed domestic persons
- ◆ HIOs – Heads of international organizations

The PCMLTFA and its associated regulations also require consideration of whether an individual is a family member or a close associate of a PEP.

FINTRAC has defined PEFs, PEDPs, and HIOs on their website under [FINTRAC Policy Interpretations: Politically Exposed Persons or Heads of an international organization](#). Before June 1, 2021, brokerages and compliance officers should familiarize themselves with these definitions and who is considered a family member or close associate of PEFs, PEDPs, and HIOs.

Effective June 1, 2021, an individual will continue to carry HIO status for five years after ceasing to hold the relevant office or position. Currently, HIO status only continues for as long as the individual occupies the relevant office or position.

For more information, consult [FINTRAC's Frequently Asked Questions in relation to Politically Exposed Persons in Canada and Heads of International Organizations](#).

Effective June 1, 2021, a brokerage will be required to take reasonable measures to determine whether an individual with whom they enter into a business relationship is a PEFP, a PEDP, a HIO, a family member of one of those individuals or a close associate of a PEFP. This determination must occur within 30 days after the business relationship is entered into.

Periodically thereafter, the brokerage will be required to take reasonable measures to determine whether an individual with whom they have a business relationship is a PEFP, a PEDP, a HIO, a family member of one of those individuals, or a close associate of a PEFP.

In addition, if at any time the brokerage or any of its employees or officers detects a fact that constitutes reasonable grounds to suspect that an individual with whom they have a business relationship is a PEFP, a PEDP, or a HIO or a family member or close associate of one of those individuals, the brokerage will be required to take reasonable measures to determine whether they are such an individual. This determination must occur within 30 days after the fact is detected.

Receiving \$100,000 or More in Cash

In addition to the business relationship requirements described above, a brokerage will be required to take reasonable measures to determine whether an individual from whom they receive an amount of CAD \$100,000 or more in cash is a PEFP, a PEDP, a HIO, or a family member or close associate of one of those individuals.

Additional Measures for PEFPs

Where a brokerage determines that an individual with whom they enter into or have a business relationship is a PEFP or a family member or close associate thereof, the brokerage will be required to take reasonable measures to establish the source of the individual's wealth and take the special measures for high-risk clients.

Where a brokerage determines that an individual from whom they receive an amount of CAD\$100,000 or more is a PEFP or a family member or close associate thereof, the brokerage will be required to take reasonable measures to establish the source of the funds used for the transaction and the source of the individual's wealth. The brokerage will also be required to ensure that a member of senior management reviews the transaction.

Additional Measures for High-Risk PEDPs and HIOs

A brokerage will also be required to take the measures described for PEFPs, as applicable, if they determine that an individual is a PEDP, a HIO or a family member or close associate thereof and, based on their risk assessment, there is a high risk of a money-laundering or terrorist-activity financing offence.

Timing

The additional measures for PEPs and family members or close associates must be:

Completed within 30 days of:

1. Entering into the business relationship
2. Detecting a fact that constitutes reasonable grounds to suspect PEP status
3. The day on which the transaction was conducted, as applicable

Source of Funds and Source of Wealth

As noted above, brokerages may be required to determine a PEP's source of funds and their source of wealth. This information is important to determine whether the transactions being conducted are consistent with the PEP's overall financial profile. If, based on the PEP's source of wealth or source of funds, a brokerage determines that the real estate transaction is out of the ordinary, they must consider whether to file a suspicious transaction report.

1. Source of Wealth

The source of wealth refers to the origin of the PEP's entire body of wealth (i.e., total assets). This information will usually give an indication as to the volume of wealth the customer would be expected to have, and a picture of how the PEP acquired such wealth. Although [brokerages] may not have specific information about assets not deposited or processed by them, it may be possible to gather general information from commercial databases or other open sources.

2. Source of Funds

The source of funds refers to the origin of the particular funds or other assets which are the subject of the business relationship between the PEP and the [brokerages] (e.g., the amounts being invested, deposited, or wired as part of the business relationship). Normally it will be easier to obtain this information but it should not simply be limited to knowing from which financial institution it may have been transferred. The information obtained should be substantive and establish a provenance or reason for having been acquired.

– FATF Guidance, Politically Exposed Persons
(Recommendations 12 and 22), June 2013.

Records

If a brokerage determines that an individual with whom they have a business relationship is a PEP (or a family member or close associate thereof), they will need to record the following information:

- ◆ THE OFFICE – The office or position and the organization or institution in respect of which the individual is determined to be a PEP (or a family member or close associate thereof).
- ◆ THE DATE – The date of the determination.
- ◆ THE SOURCE – The source, if known, of the individual's wealth.

If a brokerage determines that an individual from whom they receive an amount of CAD\$100,000 or more is a PEP (or a family member or close associate thereof), they will need to record the following information:

- ◆ the office or position and the organization or institution in respect of which the individual is determined to be a PEP (or a family member or close associate thereof);
- ◆ the date of the determination;
- ◆ the source, if known, of the funds used for the transaction;
- ◆ the source, if known, of the individual's wealth;
- ◆ the name of the member of senior management who reviewed the transaction; and
- ◆ the date of that review.

REPORTING

LESSON 15 OF 20

Reporting Overview

Types of Reports

Compliance officers are obligated to file reports with FINTRAC when their brokerage is involved in any of the following situations:

Situation	Report
They are involved in a large cash transaction	Large Cash Transaction Report (LCTR)
They are involved in a suspicious transaction or attempted suspicious transaction	Suspicious Transaction Report (STR)
There is property in their possession or control that is owned or controlled by a terrorist or terrorist group.	Terrorist Property Report (TPR)

Realtors who are employed by brokerages have an independent obligation to report suspicious transactions and terrorist property when they believe that the reports have not been properly submitted by the brokerage.

Sample Policies

Brokerages should create policies and procedures related to reporting obligations to ensure that Realtors and staff have the guidance they need. The following are sample reporting policies and procedures that can be customized to reflect the specific needs of a brokerage's policies and procedures:

- ◆ If the Realtor is unsure of whether they need to make a report to FINTRAC, they shall discuss the situation with the brokerage's compliance officer.
- ◆ If the compliance officer determines that a report needs to be made, the Realtor shall provide the relevant details regarding the transaction to the compliance officer who shall submit the report and alert the "senior officer" that a report has been made.

LESSON 16 OF 20

Large Cash Transaction Reports (LCTRs)

Brokerages must report large cash transactions when they receive CAD\$10,000 or more in cash, or an equivalent amount in a foreign currency, in the course of a single transaction.

If two or more cash transactions of less than \$10,000 each are made within a 24-hour period 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. These transactions must also be reported.

Effective June 1, 2021, a “single transaction” will include situations where the brokerage receives two or more cash amounts that together total \$10,000 or more within 24 consecutive hours, if the transactions are made by or on behalf of the same individual or entity or if the amounts are for the same beneficiary.

This reporting requirement is in addition to the requirement of keeping a large cash transaction record. Large cash transactions must be reported to FINTRAC within 15 calendar days of the transaction.

For individual Realtors acting on behalf of a brokerage, the requirement to submit large cash transaction reports applies at the brokerage level, meaning that the brokerage is responsible for submitting such reports in connection with the activities of its Realtors and staff.

Submitting the Report

LCTRs must generally be submitted to [FINTRAC electronically](#) by completing and sending the report through FINTRAC's [secure website](#). The website provides instructions on how to complete a report and drop-down menus appear wherever a specific selection is required. In addition, details concerning the formatting of particular information may appear at the bottom of the screen.

Certain fields in the LCTR are non-mandatory. Realtors are only obligated to use reasonable measures to obtain this information.

If a brokerage does not have the technical capability to file electronically, it is required to fill out a copy of a [paper form](#) which is available [online](#).

For all reports submitted electronically, FINTRAC issues an acknowledgement message, which can be printed from the browser window. This acknowledgement message will include the date and time that the report was received, together with a FINTRAC-generated identification number.

Sample Policies

The following are **sample** large cash transaction policies and procedures that can be customized to reflect the specific needs of a brokerage:

- ◆ All large cash transactions shall be reported to our compliance officer.
- ◆ The compliance officer shall report all large transactions to FINTRAC within 15 calendar days of the transaction.
- ◆ If FINTRAC notifies our brokerage that a LCTR contains incomplete information, our compliance officer will notify the Realtor concerned and obtain the missing information.

Exceptions

The same exceptions that apply to large cash transaction records apply to LCTRs.

Brokerages do not need to submit a LCTR for a transaction where the amount is received from a financial entity or a public body (or, effective June 1, 2021, from an individual who is acting on behalf of one of those entities).

For more information regarding reporting large cash transactions see FINTRAC's:

- ◆ [Guideline 7A: Submitting Large Cash Transaction Reports to FINTRAC Electronically](#)
- ◆ [Guideline 7B: Submitting Large Cash Transaction Reports to FINTRAC by Paper](#)

LESSON 17 OF 20

Suspicious Transaction Reports (STRs)

Realtors and brokerages must monitor for suspicious activity and report any suspicious transactions or attempted transactions to FINTRAC. Individual Realtors who act on behalf of a brokerage are only required to report suspicious transactions to FINTRAC if they believe that their brokerage has not properly done so (FINTRAC does not require double reporting).

Module 6 will explore STRs in greater detail. This section just focuses on background information to help inform how STRs should be referenced, documented, and demonstrated in policies and procedures.

A suspicious transaction is any real estate transaction that a Realtor, staff, or the compliance officer has reasonable grounds to suspect is related to the commission or attempted commission of a money-laundering or a terrorist-activity financing offence. Suspicious transactions may have been completed or simply attempted by the client.

Note, however, that simply because a client attempts to conduct a transaction, but does not complete it, does not necessarily mean the transaction is suspicious. That said, the circumstances surrounding it might contribute to it being suspicious.

FINTRAC outlines possible indicators of suspicious transactions on their website, under the subheading: [Indicators specific to real estate agents and developers](#).

Establishing Reasonable Grounds

Any brokerage or Realtor who suspects that a transaction, or attempted transaction, may be suspicious is responsible for notifying their compliance officer so that a STR can be completed.

Suspicious transactions must be reported to FINTRAC as soon as practicable after the Realtor or compliance officer has taken measures to establish reasonable grounds to suspect that the transaction is related to the commission or the attempted commission of a money-laundering or terrorist-activity financing offence.

To establish that there are reasonable grounds for suspicion, a Realtor or compliance officer must:

- ◆ SCREEN – Screen for and identify suspicious transactions
- ◆ ASSESS – Assess the facts and context surrounding the suspicious transaction
- ◆ LINK – Link money laundering and terrorist financing indicators to the assessment of the facts and context
- ◆ EXPLAIN – Explain their grounds for suspicion in a STR by articulating how the facts, context, and indicators allowed them to reach their grounds for suspicion

When considering whether to file a STR, it is important for the brokerage or Realtor to understand the “reasonable grounds to suspect” threshold. This means that, in the brokerage’s or Realtor’s point of view, there is a possibility of a money-laundering or terrorist-activity financing offence (as opposed to a probability). When filing a report, there is no requirement to prove the underlying facts that inform this determination.

To learn more about reasonable grounds to suspect, read BCREA’s blog post [Signs You Should File a Suspicious Transaction Report](#) and/or consult FINTRAC’s guidance, [What is a suspicious transaction report?](#) and [Reporting suspicious transactions to FINTRAC](#) for more information. Suspicious transactions and reasonable grounds to suspect will be covered in greater detail later in this program.

Filing a STR with FINTRAC

If the compliance officer has a computer and an internet connection, they must submit STRs to FINTRAC electronically. FINTRAC will accept [paper reports](#) if there is not the technological capacity to send a STR electronically.

When completing a STR, the information provided must be **complete** and **accurate**. The person completing the STR should use clear language and avoid using acronyms, especially if they are unknown or specific to a brokerage.

As discussed in Module 1, FINTRAC uses data from STRs to fulfil its mandate to prevent, detect, and deter money laundering and terrorist financing activities.

ENROLLING

Compliance officers must enroll with FINTRAC to submit a STR electronically. This process may take several days. To complete the enrolment process, compliance officers should contact 1-866-346-8722 or contact FINTRAC at: F2R@fintrac-canafe.gc.ca.

Privacy

Any person reporting a suspicious or attempted suspicious transaction must not inform anyone, including the client, about the contents of the STR or even that such a report has been made or is to be made.

Only the compliance officer can be informed by a Realtor or other staff member. The penalty for breaching this obligation can be up to two years in prison if the information was disclosed with the intent to prejudice a criminal investigation.

Sample Policies

The following are **sample** suspicious transaction policies that can be customized to reflect the specific needs of a brokerage's policies and procedures:

- ◆ Any Realtor or staff who suspects that a suspicious transaction should be reported to FINTRAC must immediately supply the required information to the compliance officer.
- ◆ All STRs will be forwarded to FINTRAC by the compliance officer as soon as practicable after the Realtor or other staff has taken measures to enable them 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.
- ◆ A copy of the STR and the acknowledgement message received from FINTRAC when filing such reports shall be kept in our brokerage's records.
- ◆ If FINTRAC notifies our brokerage that a STR contains incomplete information, our Compliance officer will notify the Realtor or staff concerned and obtain the missing information.

STRs will be explored further in Module 6. Module 6 will be a virtual, multimedia session; therefore, there will be opportunities for learners to ask questions.

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Terrorist Property Reports (TPRs)

Reporting Requirements

Brokerages must submit a TPR to FINTRAC in two circumstances, where the brokerage:

- ◆ KNOWS – Knows that property in their possession or control is owned or controlled by or on behalf of a terrorist group
- ◆ BELIEVES – Believes that property in their possession or control is owned, held, or controlled by or on behalf of a listed person

Property

Property, for the purpose of this reporting obligation, is very broad. In a real estate context, a TPR may be required when a brokerage is holding a deposit for their client and if a Realtor comes to know or believe that the client is associated with a terrorist group or a listed person.

Terrorist Group

A terrorist group includes anyone that has as one of their purposes or activities facilitating or carrying out any terrorist activity. This can be an individual, a group, a trust, a partnership, or a fund. It can also be an unincorporated association or organization.

A terrorist group also includes anyone listed in the Regulations Establishing a List of Entities issued under the Criminal Code. This list is available on [Public Safety Canada's](#) website.

Listed Person

A listed person is any person listed in the schedule to the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism* issued under the *United Nations Act*.

This list is available on the [Justice Laws Website](#).

Determination of Terrorist Status

A brokerage or a Realtor may become aware of the fact that their client is associated with a terrorist group or a listed person through the media, law enforcement, or otherwise. A compliance officer or Realtor may also wish to regularly check the names of its clients against the lists described above or consult information offered online by:

- ◆ Public Safety Canada
- ◆ Department of Justice
- ◆ Department of Foreign Affairs and International Trade

Contents of TPR

The information that must be included in a TPR is listed in FINTRAC's [Guideline 5: Submitting Terrorist Property Reports to FINTRAC](#). Among other things, this information includes:

- ◆ The reason for making the report including how possession or control of the terrorist property was obtained
- ◆ How it became known or believed that the property was terrorist property
- ◆ The type of property and its actual or approximate value
- ◆ The branch and transit numbers of the financial institution where the funds for the completed or proposed transaction were deposited
- ◆ The type of funds or other property involved in initiating the transaction
- ◆ The account number and type of account to where terrorist funds were deposited
- ◆ The amount and type of funds deposited
- ◆ The full name of the account holder to where the funds were deposited
- ◆ The time and date of the transaction
- ◆ How the transaction was, or was proposed to be, completed

The report includes providing information about any transaction or proposed transaction relating to that property.

Submitting a Report

If the reporting requirements above are triggered, the brokerage should not complete the transaction.

This is because terrorist property must be frozen under the *Criminal Code* and the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*. The brokerage cannot deal in any of the property or facilitate any transaction relating to it. The brokerage must send a TPR to FINTRAC, without delay.

Effective June 1, 2021, TPRs must be sent to FINTRAC immediately.

Currently, TPRs must be submitted on paper to FINTRAC. Copies of TPR forms can be printed from [FINTRAC's website](#). To ensure that the information provided is legible, FINTRAC asks that the report be typed. However, if the report must be completed by hand, the person filling it out should use black ink and print using capital letters. For detailed instructions on how to complete the report and where to mail it, consult FINTRAC's [website](#).

Effective June 1, 2021, these reports will need to be submitted electronically.

Upcoming changes can be monitored on [FINTRAC's website](#) or via [FINTRAC's mailing list](#).

The compliance officer must also notify the Royal Canadian Mounted Police (RCMP) and the Canadian Security Intelligence Service (CSIS) without delay.

If a brokerage only **suspects** that a transaction is related to property owned, held or controlled by or on behalf of a terrorist group or a listed person, but do not know for sure, a STR should be filed with FINTRAC.

FORMER CLIENTS

If a brokerage becomes aware that one of their former clients has terrorist associations, and a purchase and sale transaction has already been completed, they must review the transaction for red flags and will likely need to file a STR in respect of the transaction.

Sample Policies

The following are sample terrorist property reporting policies that can be customized to reflect the specific needs of a brokerage's policies and procedures:

- ◆ The compliance officer shall keep a full list and description of known terrorist groups and listed persons.
- ◆ The list of known terrorist groups and listed persons shall be consulted with respect to all transactions.
- ◆ If it is determined that property is owned or controlled by or on behalf of a terrorist group or listed person:
 - The necessary information must be provided to the compliance officer to submit a TPR to FINTRAC.
 - The Compliance officer will contact the RCMP and CSIS as necessary.
- ◆ If it is suspected that property is owned or controlled by or on behalf of a terrorist group or listed person:
 - The brokerage shall provide the necessary information for the compliance officer to file a STR with FINTRAC.
- ◆ The brokerage will retain a copy of the TPR and acknowledgement message from FINTRAC.

For more information regarding terrorist property reporting see FINTRAC's [Guideline 5: Submitting Terrorist Property Reports to FINTRAC](#).

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Ministerial Directives

The Minister of Finance can issue directives that may require brokerages to apply countermeasures to transactions involving designated foreign jurisdictions or entities. Ministerial directives assist in protecting Canada's financial system from jurisdictions and entities that are at a higher risk of money laundering or terrorist activity financing.

Directives Currently in Force

There are currently two ministerial directives in force, relating to the Democratic People's Republic of Korea (the [North Korea Directive](#)) and the Islamic Republic of Iran (the [Iran Directive](#)), both of which were issued in response to FATF's concerns relating to the anti-money laundering and counter-terrorism financing regimes in those jurisdictions.

Only the North Korea Directive applies to the real estate sector.

All transactions to and from North Korea should be treated as high risk. Specific measures should be implemented to mitigate the risk of money laundering and terrorist financing, such as:

- ◆ Enhanced client identification
- ◆ Additional due diligence
- ◆ Ongoing monitoring
- ◆ Comprehensive record keeping

Brokerages must pay attention to whether their clients' transactions involve funds originating from or destined to North Korea. If they do, brokerages must treat the transactions as high risk, regardless of the amount of money involved. Compliance officers must also implement specific measures to mitigate the higher risk posed by these transactions.

Documentation

Brokerages are required to document how their brokerages will handle ministerial directives and transaction restrictions. A brokerage's compliance policies and procedures should detail how the brokerage will know or become aware that a ministerial directive has been issued and what the brokerage will do when a new ministerial directive is issued.

For more information regarding ministerial directives, visit FINTRAC's:

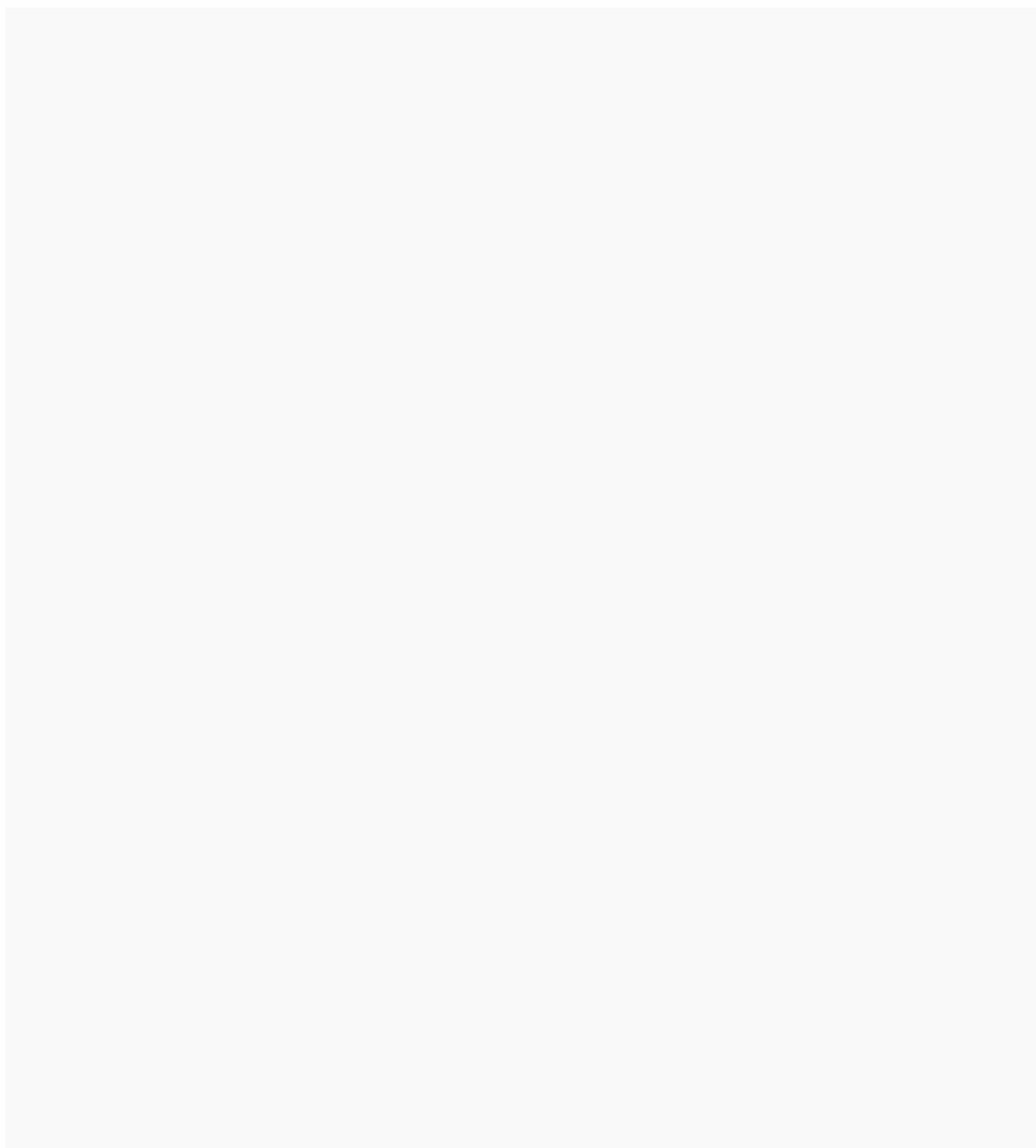
- ◆ [Compliance Program Requirements](#) and
- ◆ [Ministerial directives and transaction restrictions](#).

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Actions

Learners are encouraged to download and use the fillable PDF document on the following pages to stay up to date and prepared for changes related to anti-money laundering compliance. The document provides an opportunity to identify areas in which the brokerage is doing well and areas that need improvement. It is also rich in resources that brokerages can benefit from.

This document does **not** need to be submitted as part of the Mastering Compliance program.



MODULE 3: ACTIONS

1. Record Keeping – The Brokerage requirements and the Realtor

Where a Realtor is acting on behalf of a brokerage, the requirements are the responsibility of the brokerage, except for reporting suspicious transactions and terrorist property, which apply to both the brokerage and the Realtor.

As such, the duty of record keeping is the responsibility of the brokerage. If a Realtor has records in their possession, the brokerage must obtain and keep these records. This is especially important should the Realtor's relationship with the brokerage end. In the event of a FINTRAC examination, the brokerage may be required to produce records within 30 days of notification, and this is not the time to chase after Realtors for past documentation.

- Review your policies and procedures to ensure it is clear which records are to be maintained within the brokerage. If it is not clearly documented, update accordingly.
- Check in with the compliance officer, brokerage staff and Realtors to confirm that these processes are understood and followed to ensure the brokerage is maintaining the required records.
- Identify any gaps in understanding and in following through with the requirements and develop an action plan to rectify these gaps.
- In Module 1 Actions, we considered finding opportunities to recognize those who meet compliance requirements. Consider using this strategy again to further reinforce consistent record keeping and a compliance culture in your brokerage.

2. Roles and Responsibilities

In Module 2 Actions, you created a chart with the delegated roles and responsibilities, in relation to FINTRAC, of individuals who represented the brokerage. Go back and review that chart. With what you've reviewed in Module 3, can the chart be built out? Are the roles and responsibilities articulated well? Are tasks missing? Have the tasks been appropriately delegated?

3. Policy and Procedures Manual

Review your brokerage policy and procedure manual. While there is no mandatory template to document a brokerage's policies and procedures, CREA provides a [manual template](#) to assist brokerages and compliance officers in meeting their FINTRAC obligations. CREA's template and its content is referenced throughout this program.

To meet their FINTRAC obligations, brokerages are expected to customize the template to ensure it represents the activities and processes specific to the brokerage. A brokerage's policies and procedures should consider the specific risks that it faces and any mitigation measures to address those risks.

Access your brokerage's policy and procedures manual and review the following:

- ◆ Is it easily accessible for staff and Realtors within your brokerage?

- ◆ Has it been reviewed and updated recently?

- ◆ Have there been any changes to products and services offered by the brokerage since it was last updated?

- ◆ Do your brokerage's practices reflect the policies and procedures you have documented in your brokerage's FINTRAC compliance manual?

- ◆ Are there any changes to processes and have they been effectively captured in the documentation?

- ◆ What version control measures do you have in place to ensure everyone in the brokerage is referring to the most up-to-date document?

- ◆ Does the manual provide enough guidance for your Realtors and staff to help you meet the brokerage's regulatory requirements? Consider the following:
 - Is there a detailed policy on how to report suspicious transactions and/or attempted transactions?

- Is there a policy for determining whether the brokerage has property in their possession or under their control that they know or believe is owned or controlled by a terrorist group or listed person? For example, by referring to the lists such as Watch Lists – PSC; Global Affairs lists; wanted criminals; PEPs; internal lists of high-risk, de-marketed individuals and entities?

- Is there a detailed procedure of how and when these lists are checked?

- ◆ Interview your Realtors and staff to assess their knowledge of the brokerage's policies and procedures

- ◆ Identify any gaps or required edits and make an action plan to rectify

- ◆ Have you offered training for any updates or changes in procedures? Is that training documented?

- ◆ Has the manual been approved by a senior officer of the brokerage and is this documented?

ADDITIONAL RESOURCES:

4. CREA Café Blog

CREA provides additional resources to support compliance. In the video in the module, Simon Parham, Legal Counsel and Chief Privacy Officer at CREA, mentions the CREA Café blog. Could the blog be used as a discussion point at an office meeting? creacafe.ca

5. Resources for Realtors in the Client ID process

BCREA has created 2 videos as a tool for Realtors:

- ◆ BCREA's Individual Identification Information Record to Help with FINTRAC Compliance (REALTOR® video): youtu.be/vniuAT7H_hM
- ◆ Why Do REALTORS® Ask for Your Personal Information? (Consumer video): youtu.be/Z_xN2owd0M

Videos are a great tool to help Realtors work with clients. As an exercise at a brokerage meeting, ask Realtors to demonstrate how they introduce and explain FINTRAC compliance to their clients, and why Realtors ask for and collect personal information. This is a great opportunity for Realtors to share common questions they receive from clients on these topics. How do they adjust introducing this information for different types of clients?

