



# FINTRAC Real Estate Sector Presentation

April 26, 2018

Toronto Real Estate Board

Toronto, Ontario



# Outline

## Compliance for Intelligence. Intelligence for Enforcement.

- Current obligations
- Regulatory amendments
- FINTRAC Guidance
- Suspicious Transaction Reporting
- Compliance examination results
- Real estate reporting



# Why Real Estate is covered

- Key role documented domestically and internationally
- Exploitation
  - Professional money laundering
  - Criminal organizations
  - Terrorists



# Compliance for Intelligence

- Effectiveness of National AML Program

## FINTRAC's role:

- Collaborative approach to ensure continual supply of financial intelligence

## Brokerage's role:

- Implement effective compliance programs to detect and mitigate risks
- Submit high quality and timely reports



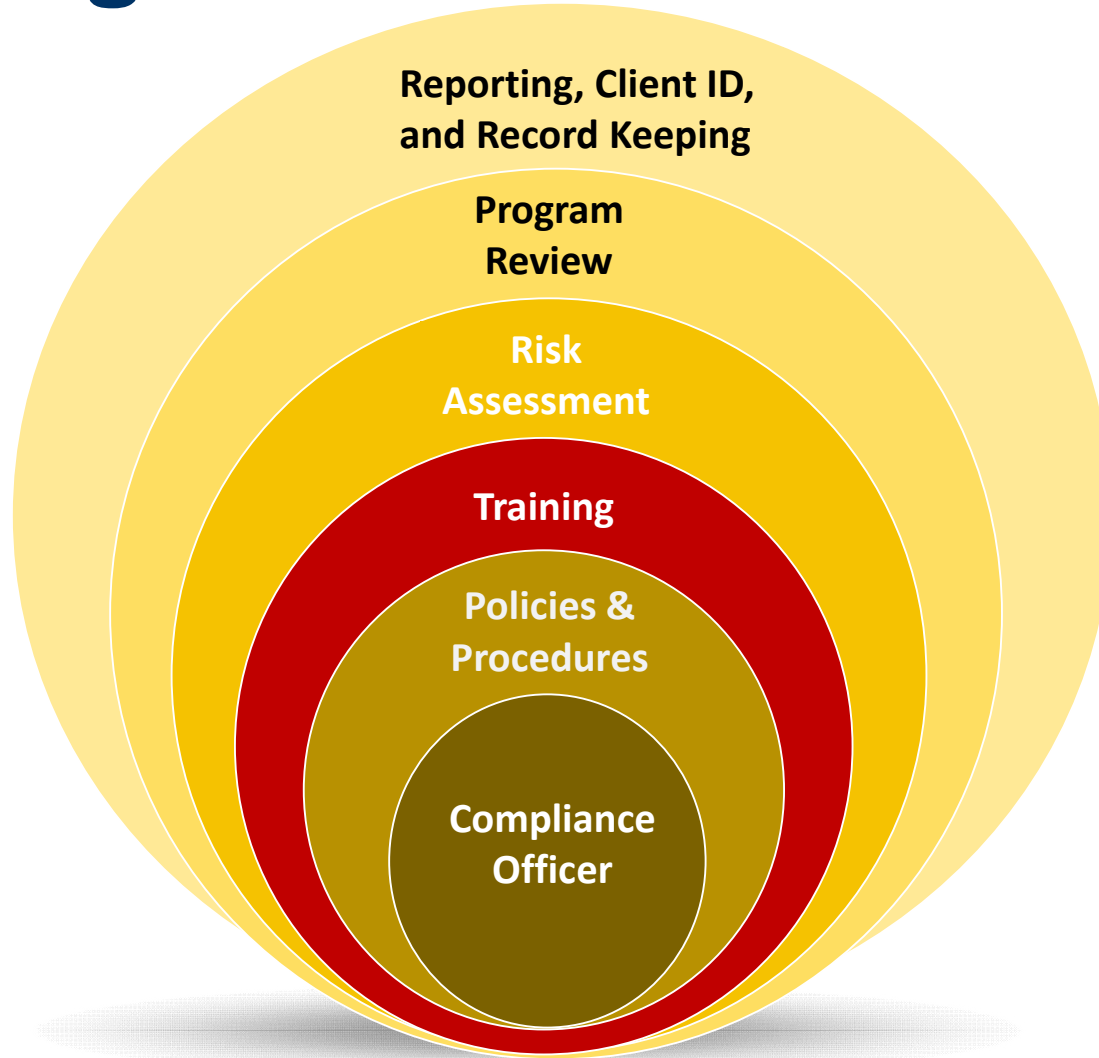
# Intelligence for Enforcement

FINTRAC's approach to intelligence:

- **Align** work plans with partners' priorities – where possible
- **Analysis** of incoming reports to produce actionable intelligence
- **Add value** by corroborating and collating information from multiple sources
- Assist regime partners to **refine scope** by identifying new subjects and assets



# Obligations Overview



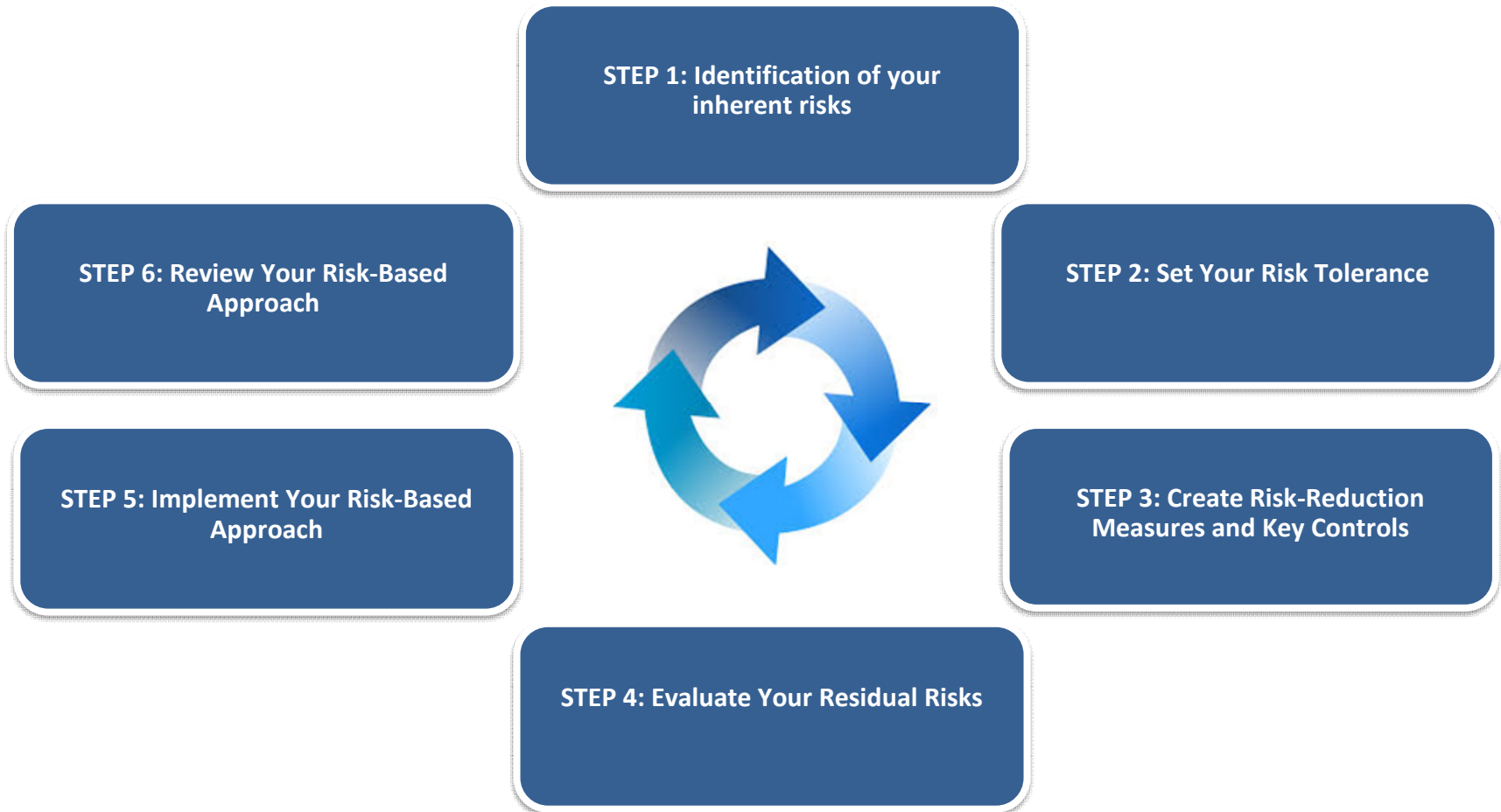


# Obligations – Compliance Program

- Compliance Officer
- Policies and Procedures
- Risk Assessment
  - your clients and business relationships, including their activity patterns and geographic locations;
  - the products, services and delivery channels you offer;
  - the geographic location(s) where you conduct your activities;
  - new technologies and their impacts on your clients, business relationships, and products or delivery channels of your activities;
  - other relevant factors affecting your business (e.g. employee turnover, rules and regulations for your industry, etc.);
- Training Program
- Program Review - every 2 years
  - Policies and Procedures
  - Training Program
  - Risk Assessment



# Obligations - Risk Based Approach







# Obligations – Reporting

## Suspicious Transactions Reports (STR)

- ***Reasonable grounds to suspect*** that the transaction is related to a money laundering offence or a terrorist activity financing offence (includes attempted and completed transactions)

## Large Cash Transactions Reports (LCTR)

- Over \$10,000 cash - 24 hour rule

## Terrorist Property

- Property in your possession or control that you know is owned or controlled by or on behalf of a terrorist/ terrorist group



# Identifying & Knowing Your Client (KYC)

During any sale or purchase of real estate:

- Understand who your clients are
- What their normal behavior is
- Allows you to determine irregular/suspicious activity
- Ascertain the identity of the client
  - Individual
  - Corporation
- Determine if there is any **third party** involved in the transaction and keep a record about that determination



# Business relationships & ongoing monitoring

– Business relationship (BR) :

*Two transactions or activities for which you have to:*

- verify the identity of the individual; or
- confirm the existence of the entity.

– Purpose and intended (PIN) record

– Ongoing monitoring of the BR



# Obligations – Record Keeping

## 1) Client Information Record

- Name
- Address
- Date of Birth
- Principal business/occupation

## 2) Receipt Of Funds Record

- Amount received
- Form of payment (cash, cheque, bank draft)
- Type of currency
- ID of person who gives you the funds

## 3) All submitted reports (STR's and LCTR's)

## 4) Unrepresented Party and Reasonable Measures Records

- Third Party Determination



# Methods to Ascertain Identity

## Three methods to verify the identity

### 1) Photo Identification Method

Documents or Information to review	Identification details that much match	Recordkeeping obligations
<ul style="list-style-type: none"><li>• Photo Identification issued by government</li></ul>	<ul style="list-style-type: none"><li>• Name and photograph</li></ul>	<ul style="list-style-type: none"><li>• Client identification information</li><li>• Type of document</li><li>• Document number</li><li>• Issuing jurisdiction and country</li><li>• Expiry date</li><li>• Date of verification</li></ul>



# Methods to Ascertain Identity

## 2) **New!** Credit File Method

<b>Documents or Information to review</b>	<b>Identification details that much match</b>	<b>Recordkeeping obligations</b>
<ul style="list-style-type: none"><li>• Canadian credit file in existence for at least three years</li></ul>	<ul style="list-style-type: none"><li>• Name, address and date of birth</li></ul>	<ul style="list-style-type: none"><li>• Client identification information</li><li>• Source of credit file</li><li>• Reference number</li><li>• Date of verification</li></ul>



# Methods to Ascertain Identity

## 3) **New!** Dual Process Method

- **must refer to original documents** or information from two independent, reliable sources to ascertain your client's identity,
- all the **information must match** the information provided by your client

Name & address	Name & date of birth	Name & confirm a financial account
<p>Issued by Canadian government:</p> <ul style="list-style-type: none"> <li>• Canadian Pension Plan (CPP) Statement</li> <li>• CRA documents: <ul style="list-style-type: none"> <li>➤ Notice of assessment</li> </ul> </li> </ul> <p>Issued by other Canadian sources:</p> <ul style="list-style-type: none"> <li>• T4 Statement</li> <li>• Record of Employment</li> <li>• Investment account statements <ul style="list-style-type: none"> <li>➤ RRSP</li> <li>➤ GIC</li> </ul> </li> </ul>	<p>Issued by Canadian government:</p> <ul style="list-style-type: none"> <li>• Any card or statement issued by a Canadian government body <ul style="list-style-type: none"> <li>➤ Original birth certificate</li> <li>➤ Marriage certificate</li> </ul> </li> </ul> <p>Issued by other Canadian sources:</p> <ul style="list-style-type: none"> <li>• Insurance documents (home, auto, life)</li> </ul>	<p>Confirm that your client has a <b>deposit account, credit card</b> or <b>loan account</b> by means of:</p> <ul style="list-style-type: none"> <li>• Credit card statement</li> <li>• Bank statement</li> <li>• Loan account statement <ul style="list-style-type: none"> <li>➤ Mortgage</li> </ul> </li> <li>• Cheque has been processed (cleared)</li> </ul>



# Agency / Mandatary Agreements

## Clients can be identified by

**Mandatary / Agency agreement:** In cases where your client is not physically present at the conducting of a transaction, your agent (as outlined in the agency agreement) or mandatary can act on your behalf

## Recordkeeping Obligations

- Client identification information
- Name of the entity that identified your client
- Written agreement with agent
- Identification method used
- Information gathered according to the method used
- Date of verification
- Date you referred to their verification of your client





# FINTRAC Guidance

## Operational Brief

(released November 14<sup>th</sup>, 2016)

- highlights key risk indicators in the real estate sector such as value, anonymity, flipping, transaction speed, geography etc.

## Real Estate Workbook

(released November 21<sup>st</sup>, 2016)

- provides entities/individuals with examples of how to assess and control business and relationship-based risks
- step-by-step guide to develop your risk based approach (RBA)





# Suspicious Transaction Reporting

- STRs are the key output of a reporting entity's compliance regime.
- STRs add value to tactical and strategic analysis by providing objective context to the transaction(s) being reported.
- An adequate compliance regime and governance is necessary for fulfilling suspicious transaction detection and reporting obligations.





# When to Submit an STR

An STR should be submitted when there are **reasonable grounds to suspect** that a financial transaction is related to the commission of a **money laundering and/or terrorist activity financing offence**

- Completed or attempted transactions
- No monetary threshold
- Includes all transactions that contributed to the suspicion



# FINTRAC's disclosure threshold: *Reasonable Grounds to Suspect*

FINTRAC's disclosure  
threshold s.55(3)  
PCMLTFA



Civil standard  
of proof



Suspicion

**Reasonable  
grounds to  
suspect**

Reasonable  
grounds to  
believe

Balance of  
probabilities

Beyond a  
reasonable  
doubt

*"Reasonable grounds to suspect"*

information in the disclosure

*"Would be relevant to investigating or prosecuting a money laundering  
offence or a terrorist activity financing offence"*

s.55(3) PCMLTFA



Criminal standard  
of proof



# Identifying suspicious transactions

“Operational Brief on Real Estate Related Indicators” has 38 indicators

- Start with the trigger and consider other indicators. Ask questions, monitor
- Common ones: anonymity, manipulation of value, foreign buyers higher risk

## 4.1 TABLE OF INDICATORS

THEME	INDICATOR
Value	Client negotiates a purchase for the market value or above, but requests that a lower value be recorded on documents, and pays the difference “under the table”.
Value	Loan/mortgage amount is above the market value of the property/real estate.
Anonymity	Client purchases property in someone else’s name such as an associate, nominee, from a company, corporation, trust or a relative (other than a spouse).
Anonymity	Client inadequately explains the last minute substitution of the purchasing party’s name.
Anonymity	Client pays initial deposit with a cheque from a third party, other than a spouse or a parent.
Anonymity	Transaction is completed anonymously, in collusion or innocently, through lawyer or notary. Deposits are made into lawyer’s or notary’s trust account.
Anonymity	Use of real estate brokers/agents/developers, lawyers or notaries, wittingly or unwittingly, to accept false personal or financial information related to any aspect of a real estate deal, or to mortgage/loans.



# How are Grounds Reached?

- The ‘grounds for suspicion’ threshold is reached by identifying indicators of suspicious transaction(s) displayed in the course of transaction(s).
- Reporting entities must take into account all relevant facts including the customer's business, financial history, background and behaviour.
- To ensure that the ‘reasonable person’ test is met, the rationale to report or not could be shared with a colleague.





# Types of Indicators

- **Transactional Indicators**: Describe a transaction or multiple transactions. For example:
  - Multiple sources of financial instruments being used (i.e. **bank drafts, wires, cash**)
  - Multiple deposits are made by third parties.
- **Contextual Indicators**: Describe a contextual circumstance around which the transaction(s) took place, which can include client behaviour, events involving the client or any other relevant facts that surrounds the transaction(s). For example:
  - Client is secretive and reluctant to meet in person.
  - You are aware or you become aware, from a reliable source (that can include media or other open sources), that a client is suspected of being involved in illegal activity.





# Examples of STR Indicators

Foreign buyers can be higher risk

- Source of funds are harder to track and provide anonymity in the transaction

**Red flags for high-risk activity include:**

- Real estate entities promoting themselves as professionals in **international/foreign deals**
- Agency's or real estate agent's address is used instead of the buyer to dissimulate the origin of the buyer. Address is unknown, or where the details are believed or likely to be false.
- Entities website are primarily in another language other than English or French
- When foreign companies such as foundations, non-profitable business, charities, etc. buys properties when the characteristics of the transaction do not match the goals of the entity





# Common Myths – STR Reporting

“We don’t take cash, therefore we are not vulnerable to money laundering and this doesn’t apply to us.”

- Refusing cash reduces but does not eliminate risk.
- Real estate transactions are most vulnerable to **layering** and **integration stage**



# Common Myths – STR Reporting

“If I have suspicions about a client’s transaction, I won’t be allowed to complete the transaction. I will lose the business.”

“The client will find out that I filed the suspicious transaction report on them.”



# Characteristics of a good STR

- Main STR subject is adequately identified;
- Occupation/employer information is present ;
- Accurate depiction of the transaction(s);
- Time frame of financial activity is defined;
- Part G:
  - Presence of ML/TF indicators ;
  - Potential predicate offence is identified, if known ;
  - 2nd / 3rd parties are adequately identified ;
  - Relationships (business or personal) are clearly defined ;  
and
- Presence of information in Part H



# What Real Estate STRs talk about ...

## Review of 2003-2013 STRs submitted by real estate brokers/agents

- **Over 50%**
  - Hiding obscuring source of funds or buyer ID
  - Nominee, corporation, trust
  - Use of lawyers, notaries, collusion, real estate agent
- **30-40%:** loans, mortgage
- **2-10%:**
  - Offshore acquisition through complex ownership structure, foreign individual
  - Direct sales
  - Income-generating property
- **Main schemes:**
  - Under/over tampering with value
  - Reneging on deal



# Problem STR: not reportable

“We have John Doe’s Toronto property listed for sale at \$2 million. A prospective buyer contacted our Realtor and reported having found adverse media on the seller. Our realtor followed-up and found 3 articles stating that John Doe was previously under suspicion for trafficking fentanyl, but cleared of all charges. He was also found to be a member of the "Nomads", an elite chapter of the Hell's Angels. During meetings with John Doe, the sales agent did not notice any wrong doing. The prospective buyer did not buy the property which is currently still on the market.”

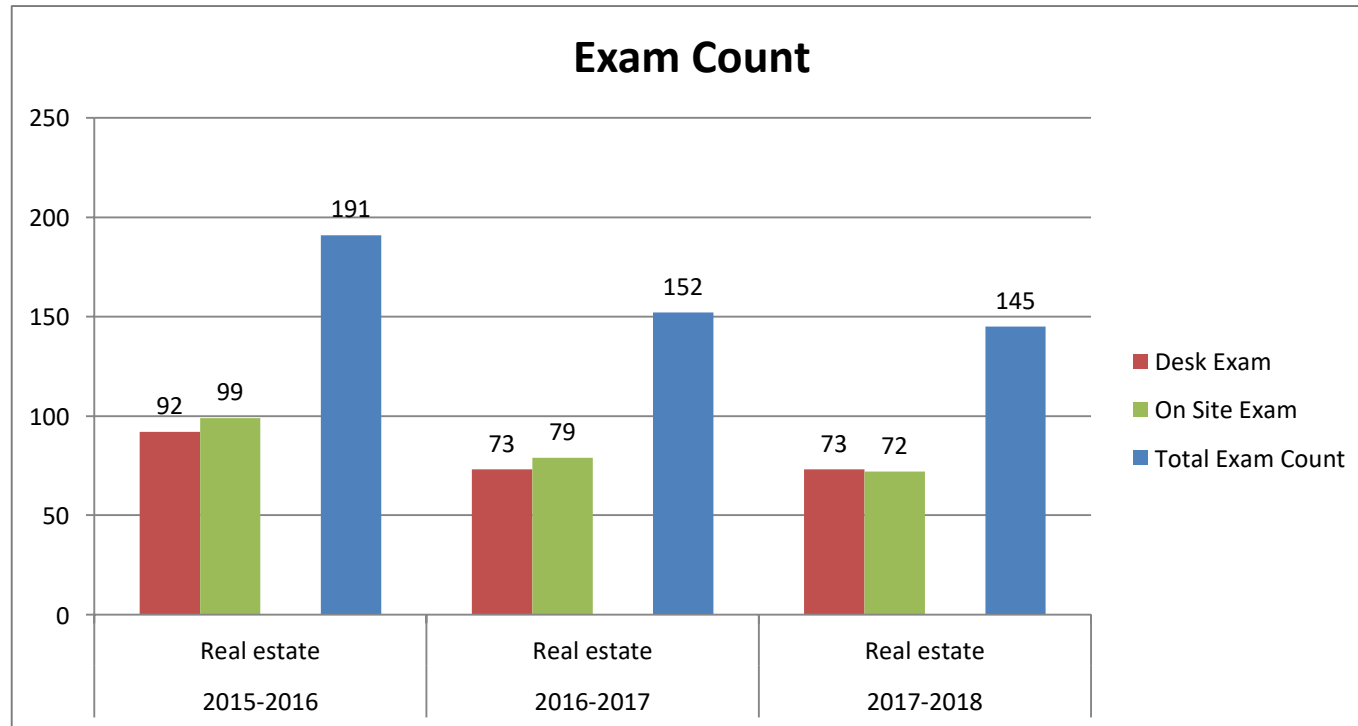


# Compliance Observations



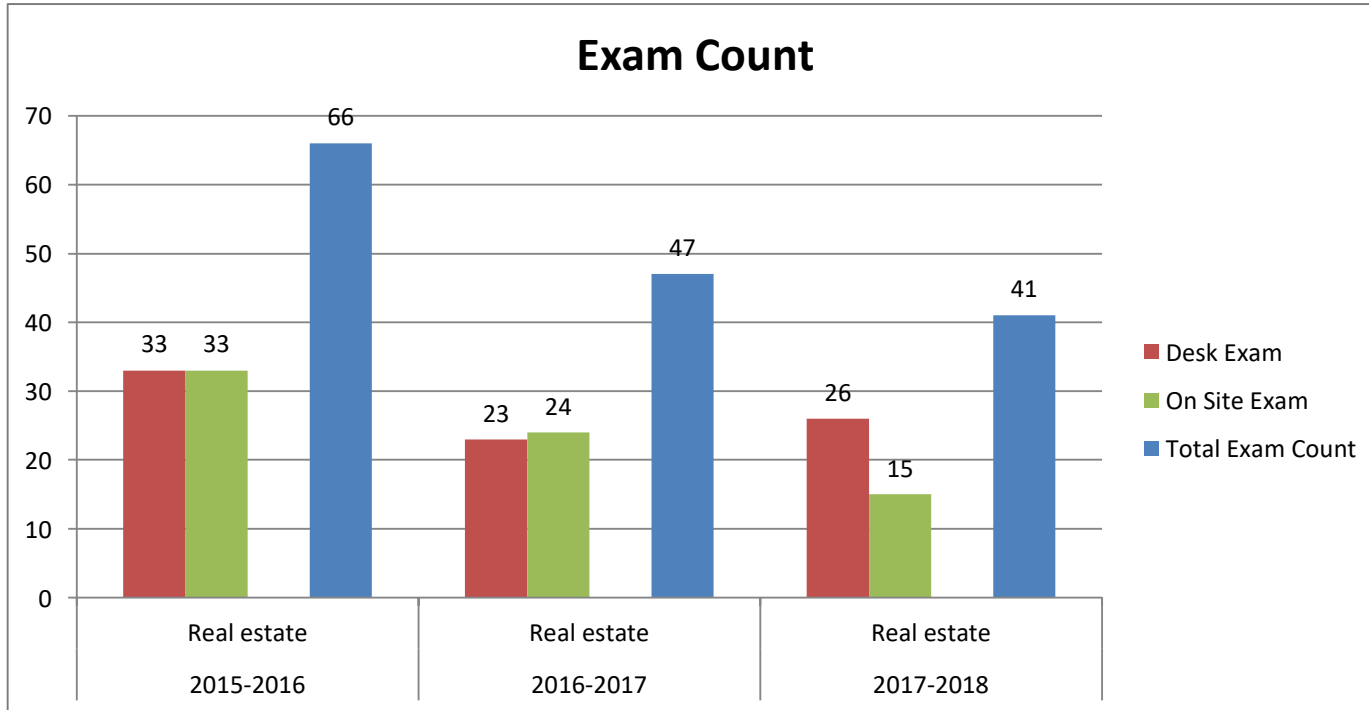


## Number of Real Estate Exams (National)





## Number of Real Estate Exams (Ontario)







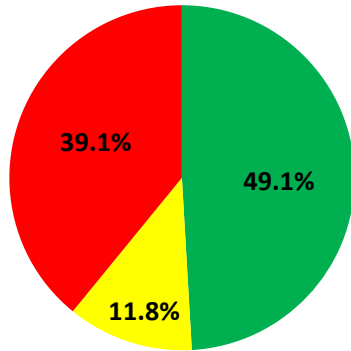
# Common Deficiencies

- Client Identification
- Risk Assessment
- 2 Year Effectiveness Review

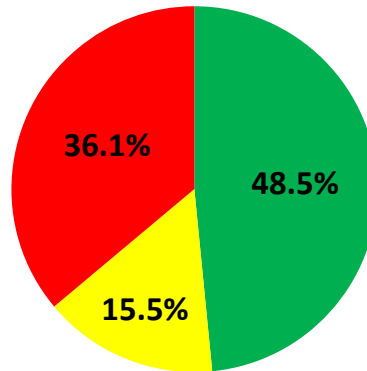


# Client ID Deficiencies

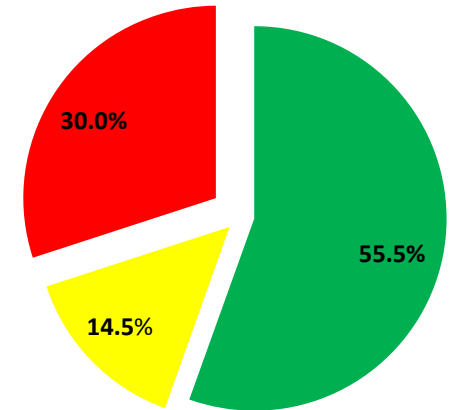
2015-2016



2016-2017



2017-2018

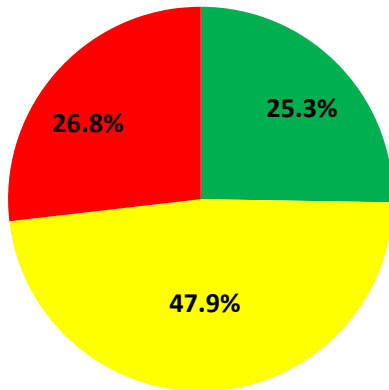


- Compliant%
- Partial\_Def%
- Complete\_Def%

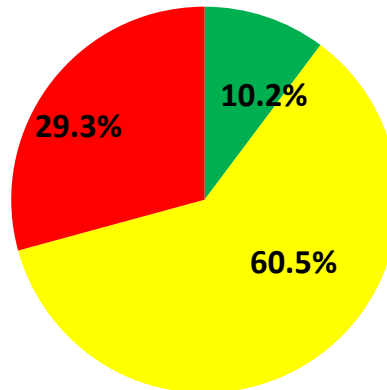


# Risk Assessment Deficiencies

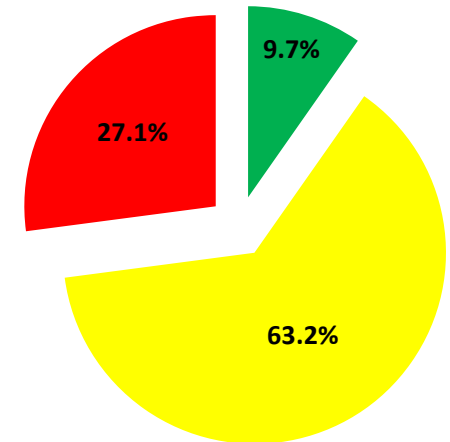
2015-2016



2016-2017



2017-2018

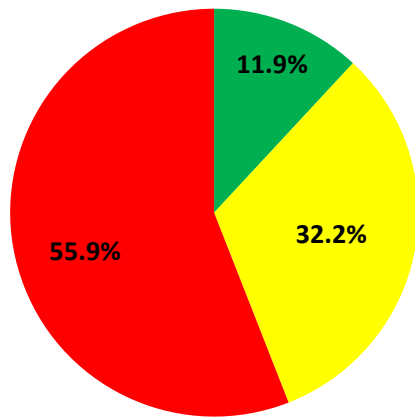


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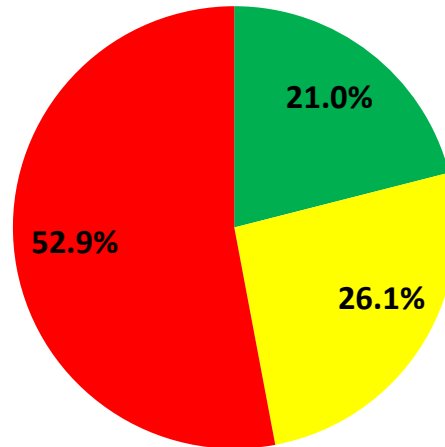


# Two Year Review Deficiencies

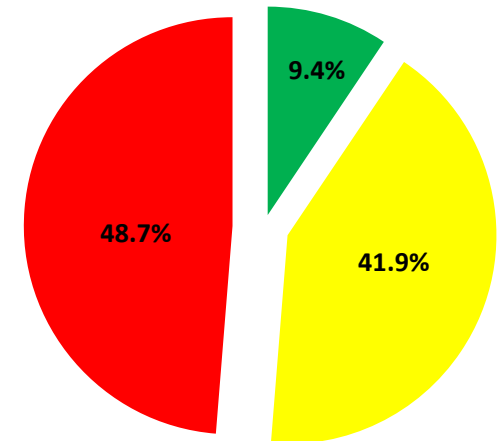
2015-2016



2016-2017



2017-2018

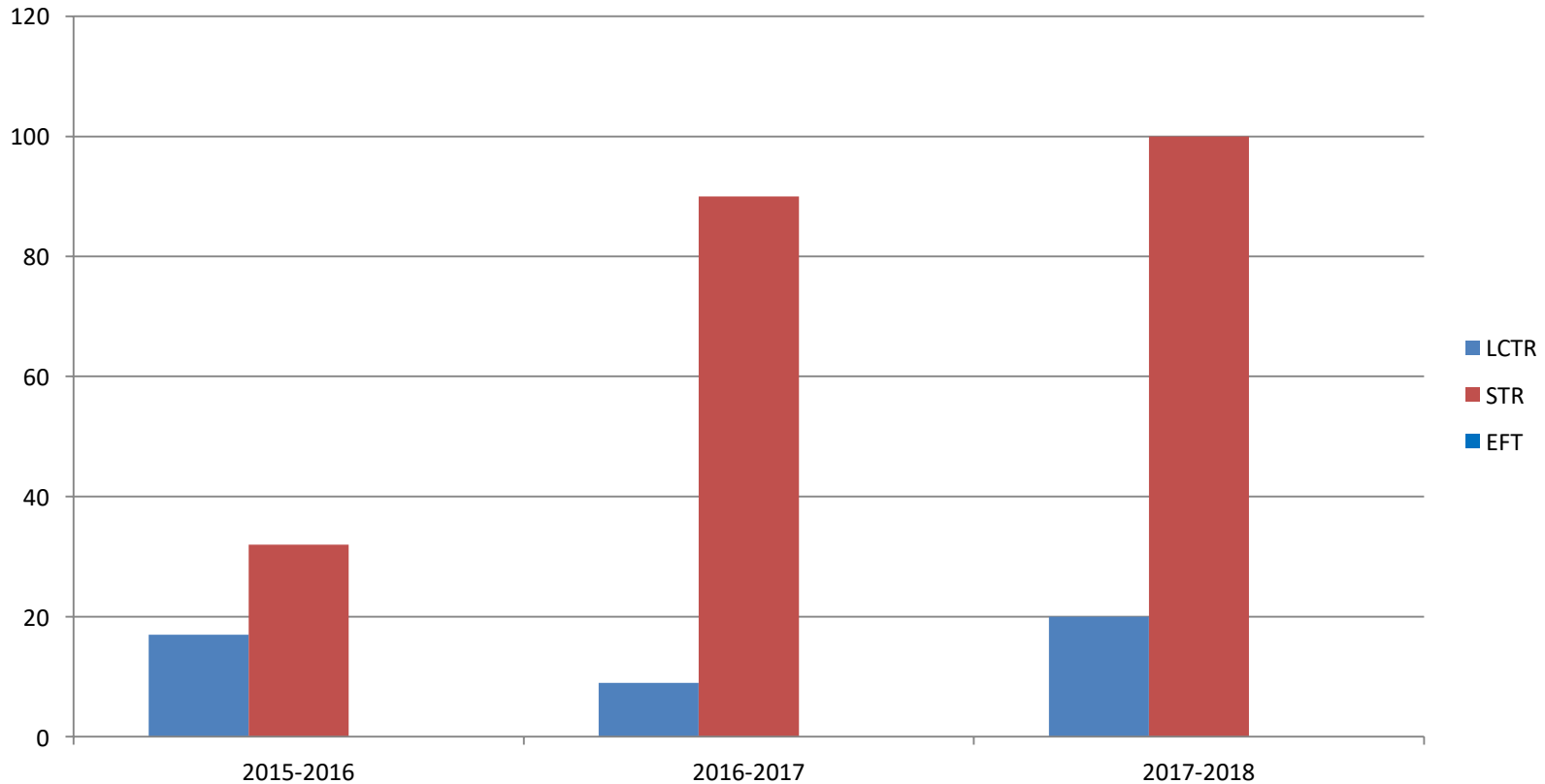


- Compliant%
- Partial\_Def%
- Complete\_Def%



# Real Estate Reporting Count (National)

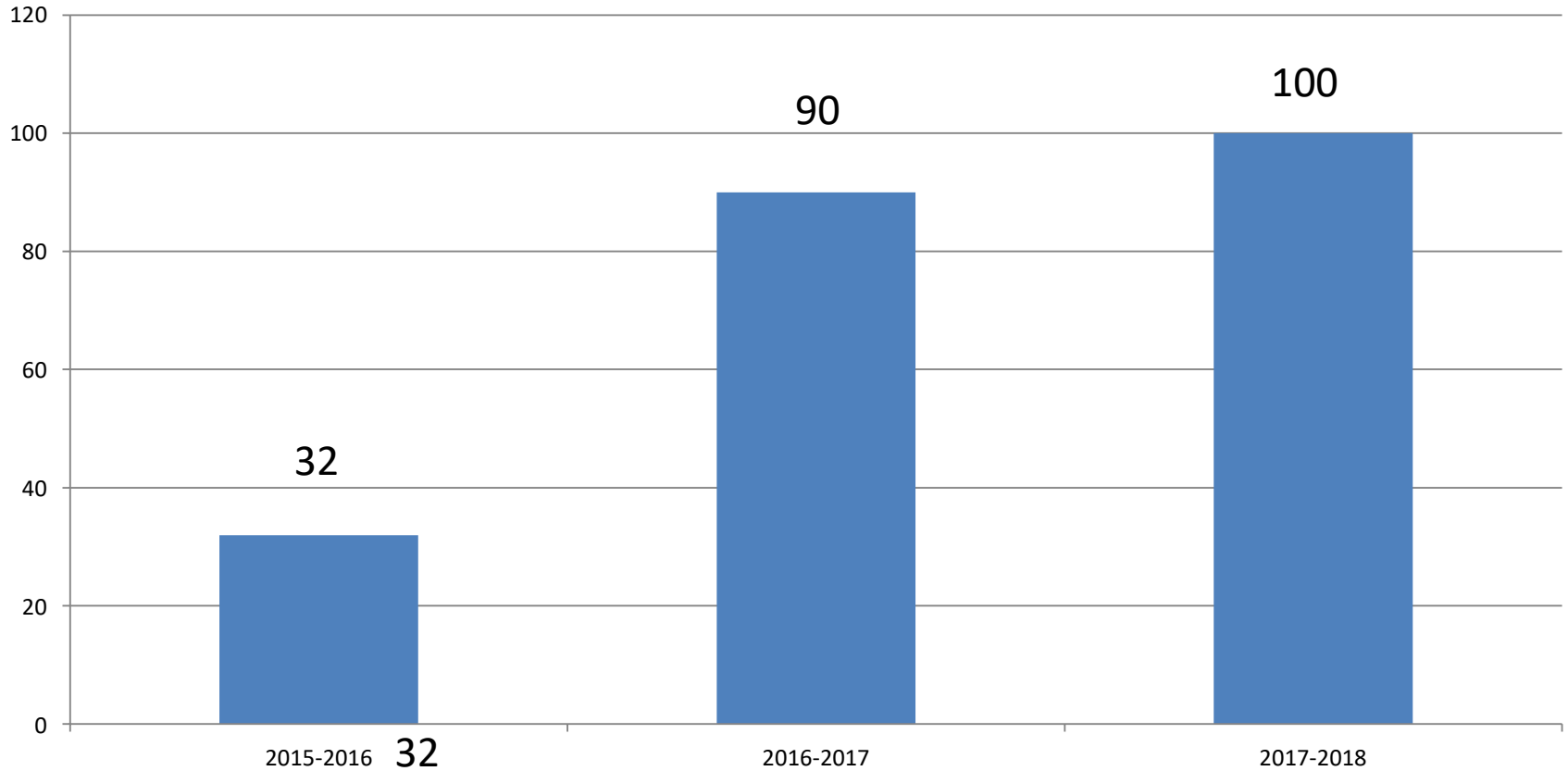
## Total Reports Volume





# STRs submitted (National)

## STR





# Top offenses resulting in disclosures 2015-2016 and 2016-17

- Fraud
- Drug
- Organized Crime
- Tax Evasion
- Customs / Excise
- Immigration & Refugee Protection Act Offences
- **Human Smuggling / Trafficking**
- Corruption
- Theft
- Crimes Against Persons
- Weapons Possession / Arms Trafficking
- Charities
- Illegal Gambling
- Child Exploitation



# Working with our reporting entities

Compliance for  
Intelligence  
and Intelligence  
for Enforcement  
in action

## Ethically Enhanced Due Diligence and Human Trafficking

📅 JUNE 9, 2017



In 2016, *ACAMS Today* published the article, "[Raising Awareness about Human Trafficking](#)," which talked to the value of public-private partnerships and a Canadian anti-human trafficking initiative called Project Protect.<sup>1</sup>

As a result of Project Protect, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) has identified that suspicious transaction reports (STRs) received during 2016 had increased by 500 percent over the previous year and by extension disclosures to law enforcement by 537 percent.





# FINTRAC in the news

## 19 arrested in GTA raids targeting 'Ndrangheta crime families

More than 25 search warrants were carried out by 260 officers across multiple jurisdictions Tuesday, after a two-year investigation



Hundreds of officers executed more than 25 warrants, arresting 19 people and seizing guns and drugs on Tuesday in a

CRIME

September 20, 2017 3:56 pm

Updated: September 20, 2017 8:04 pm

## Toronto police lay 96 charges against 12 in alleged multimillion-dollar fraud scheme

By Staff The Canadian Press

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File photo of a Toronto police cruiser.

Jeremy Cohn / File / Global News



# FINTRAC in the news

## Police reveal details about 'largest ever' drug seizure in OPP history

Investigation traced drugs from Argentina to Montreal to Ontario

By Kate McGillivray, CBC News | Posted: Aug 28, 2017 9:20 AM ET | Last Updated: Aug 28, 2017 12:50 PM ET



Police say three Canadians are behind the importation of 'enormous quantities' of cocaine. (Ontario Provincial Police)

## Ontario man who pleaded guilty to terror charge sentenced to 4 1/2 years in prison, lawyer says

Kevin Omar Mohamed has been in custody since his arrest in March 2016 on weapons-related charges, which were later changed to a terror charge.



Kevin Omar Mohamed, seen in this file photo from Feb. 11, 2015, has been sentenced in a Toronto court to 4 1/2 years in prison, with 2 1/2 years credit for time already served, his lawyer Paul Slansky said. (THE IRON WARRIOR)



## FINTRAC and Real Estate in the News

# How Chinese gangs are laundering drug money through Vancouver real estate

Sam Cooper GlobalNews.ca



April 19, 2018 6:00 am

**WATCH: Explaining the 'Vancouver Model.' How criminal organizations move money and drugs around the world.**

Criminal syndicates that control chemical factories in China's booming Guangdong province are shipping narcotics, including **fentanyl**, to Vancouver, washing the drug sales in British Columbia's casinos and **high-priced real estate**, and transferring laundered funds back to Chinese factories to repeat this deadly trade cycle, a Global News investigation shows.

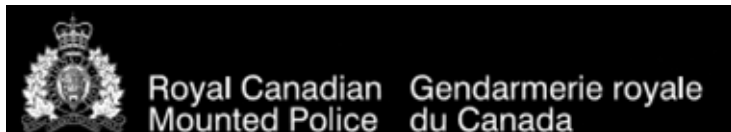
The flow of narcotics and chemical precursors — and a **rising death count in western Canada caused by synthetic opioids** — is driven by sophisticated organized crime groups known as Triads.



## Calgary RCMP charge two Calgary real estate developers with fraud and theft

- *Offences include unlawful diversion of investor funds raised for a proposed real estate development at Crowsnest Lake*
- *Financial loss to investors exceeded \$33 Million*
- *800 investors throughout Alberta were affected*
- *RCMP credits assistance from the Public Services and Procurement Canada, Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and the United States Federal Bureau of Investigation (FBI).*

*Source: RCMP - June 10, 2016*





## FINTRAC sounds alarm on 'deficiencies' at over 100 B.C. real-estate companies

- “FINTRAC, through its compliance examinations, has observed deficiencies in most aspects of the real estate sector’s compliance programs that render it more vulnerable of being used by criminals to launder illicit funds.”
- “FINTRAC received, during the 10-year period (2003 to 2013), 127 suspicious transaction reports nationally by real estate brokers, agents or developers,” the agency added.
- “Minimal filings of suspicious transaction reports regarding real estate transactions indicate a clear need for operational guidance to all relevant reporting entities.”

*Source: Mortgage Broker News: November 22, 2016*

**MORTGAGE  
BROKERNEWS.ca**



# Goal of PCMLTFA

Public Safety of Canadians

Integrity of Canada's Financial System

**We all have a role to play to detect and deter crime**





# Thank you!

**@FINTRAC\_Canada**

**<http://www.fintrac-canafe.gc.ca/>**

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