



FINTRAC INFORMATION FOR REALTOR® MEMBERS

**PROCEEDS OF CRIME (MONEY LAUNDERING) AND
TERRORISM FINANCING ACT AND REGULATIONS**

2014 COMPLIANCE REGIME

Proceeds of Crime (Money Laundering) and Terrorism Financing Act and Regulations

2014 COMPLIANCE REGIME

This step-by-step Compliance Regime manual is provided by CREA as a service to members to make compliance with FINTRAC easier. Its comprehensiveness responds to feedback received from both REALTOR® members and FINTRAC to assist members in meeting legal requirements.

FINTRAC expects brokerages to tailor compliance regimes to reflect their specific risks to money laundering, terrorist financing, and to develop policies and procedures and risk mitigation strategies. As such, you should edit and complete each section of this manual to explain the policies and procedures specific to your brokerage. Once completed and tailored, this manual can be used to satisfy FINTRAC's requirement for documentation of a brokerage's policies and procedures.

This manual is designed to be easy-to-implement by brokerages following four steps:

- 1) Review the background reference text in black.**
- 2) Assess whether the general brokerage policy text in blue applies to the compliance regime in your brokerage and modify as necessary.**
- 3) Explain in the blank boxes provided specific policies and procedures that will be implemented in your brokerage. This could include instructions or steps that will be followed in your brokerage to implement the particular policy or procedure.**

For example, you can list, step-by-step, specific tasks that need to be performed by named individuals in your brokerage to complete the relevant procedure (i.e. "whenever an agent receives cash, phone Jim at 555-555-5555, Jim will fill out and file the report with FINTRAC", etc.).

Although some brokerages may find that the general brokerage policies included in this manual identify their brokerage's policies and procedures, FINTRAC may examine whether these policies and procedures are consistent with how the brokerage actually operates. If they are not

consistent, FINTRAC may conclude that the brokerage's policies and procedures are deficient. Accordingly, we encourage you to think twice before leaving blank spaces in this manual. You may also wish to add "No additional policies and procedures" wherever there is a blank space to demonstrate to FINTRAC that you have thought about each policy area in this manual and have concluded that no other policies are relevant to your brokerage.

- 4) Ensure you have completed the various checklists in this manual and have tailored the manual to your brokerage.

This manual MUST REFLECT YOUR BUSINESS. If audited by FINTRAC, brokers should be prepared to demonstrate that the policies and procedures described in this manual are done in practice, and if any your brokerage's policies or practices change, this manual needs to be updated.

For example, if you have a policy that says the Compliance Officer shall keep all copies of suspicious transaction reports in their filing cabinet, but you later decide to have the broker keep all copies of suspicious transaction reports instead, this manual should be updated to be consistent with the new practice.

This manual is provided as a service to members to more easily meet FINTRAC obligations. Its use is not mandatory. Instead, brokers may opt for an alternative method to document their brokerage's policies and procedures such as amending an existing FINTRAC-compliant policies and procedures manual to incorporate the February 1, 2014 regulatory requirements. The new regulatory requirements are referred to in section 3.1.2.11 of this manual.

Please note this manual is compiled based on the best information available to CREA. It should not be construed as legal advice. If you have further concerns, you may contact your Board, FINTRAC or consult your legal counsel.

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Compliance Regime: Key Details

Print out a blank copy of this page at least once every two years, complete it, and staple it to this manual.

1. Name of Broker:		
2. Name of Compliance Officer ¹ and Contact Details:		
3. Name of Auditor ² and Contact Details:		
4. Confirmation of Completion ³ /Update of this manual ⁴	Signature:	
	Date:	
5. Confirmation of Regime Review by Auditor ⁵	Signature:	
	Date:	
6. Confirmation of Risk Assessment by Broker ⁶	Signature:	
	Date:	
7. Date of next Regime Review and Risk Assessment:		
This manual is intended to be a living, breathing, manual that is consulted as needed by the Broker, the Broker's employees and agents, and the Compliance Officer.		

¹ Identified on page 8.

² Identified on page 57.

³ To be signed when rows 1-5 on page 7 are completed. This includes appointment of a compliance officer, development of written policies and procedures, development of risk assessment and mitigation measures, and establishing a training program.

⁴ This should be the date of whenever the manual is last updated. It may occur after the manual is first prepared but before the bi-annual review.

⁵ Please have your auditor sign and date that they have reviewed your regime. Details of the review should be documented. This needs to be done every two years from when the brokerage is first required to comply with the PCMLTF regime. See Section 6 and Appendix J.

⁶ The broker should sign and date that they have completed and documented a risk assessment of risks to the brokerage of money laundering and terrorist financing. This needs to be done every two years from when the brokerage is first required to comply with the PCMLTF regime. See Section 4 and Appendix F.

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Introduction

Canada's anti-money laundering and terrorist financing regime stems from international obligations and standards developed by the Financial Action Task Force (FATF), Canada is a member of the FATF and is evaluated for its adherence to the policies of the FATF, including those developed to include the real estate sector.

CREA lobbies the federal government to minimize the compliance burden of Canada's anti-money laundering and terrorist financing regime administered by FINTRAC on REALTOR® members. Indeed, most recently CREA obtained ten changes and clarifications to the way in which regulations effective February 1, 2014, apply to the real estate sector. These changes and clarifications include preventing an obligation that would have meant all new clients would be deemed high risk and subject to additional monitoring and scrutiny, as well as a five year time limit that sets out when business relationships form and expire.

REALTOR® members have a number of obligations under the *Proceeds of Crime (Money Laundering) and Terrorism Financing Act* and Regulations (the PCMLTF Regime). Information regarding these obligations can be found in numerous locations, such as in the legislation itself, in FINTRAC guidelines, on FINTRAC's website, and in the information CREA has provided on REALTOR Link® and in WEBForms®. The purpose of this Compliance Regime manual is to consolidate the basic information that REALTOR® members must know in order to comply with the PCMLTF Regime and to provide a template Policies and Procedures Manual that REALTOR® members can tailor and use to document their brokerages' policies and procedures; however, you may still need to resort to other resources for more detailed information. This manual includes information available to comply with regulations effective February 1, 2014.

Note that if you are a real estate agent (*i.e.* salesperson) and you are acting on behalf of a broker, the requirements identified in this manual are the responsibility of your broker except with respect to reporting suspicious transactions and terrorist property, for which you have independent obligations. For clarity, real estate agents do not need to draft their own policies and procedures manual when they work for a broker. For simplicity, this manual refers to "agents" where actions are likely to be performed by real estate agents and "brokers" when the actions are likely to be performed by brokers. However, brokers should keep in mind that they retain ultimate responsibility for the actions of their agents.

1. Compliance Regime Obligations

The PCMLTF Regime requires brokers to establish a compliance regime, which must contain several elements. The compliance regime must include:

1. The appointment of a Compliance Officer;
2. The development and application of written policies and procedures;
3. A risk assessment of risks to the brokerage related to money laundering and terrorist financing, as well as the documentation and implementation of mitigation measures to deal with those risks;
4. A training program for all employees; and
5. A review of the compliance policies and procedures, assessment of risks related to money laundering and terrorist financing and training program, every two years (a.k.a. “effectiveness testing”).

Completing this template manual is intended to assist brokers in fulfilling their compliance regime obligations.

The following checklist shall be completed when the relevant portion of our compliance regime is completed:

Obligation	Check when completed	Signature and Date ⁷
1. Appointment of Compliance Officer	<input type="checkbox"/>	
2. Development of written Policies and Procedures	<input type="checkbox"/> ⁸	
3. Risk Assessment and Mitigation Measures	<input type="checkbox"/>	
4. Training Program	<input type="checkbox"/>	
5. Review Procedures	<input type="checkbox"/> ⁹	

Each requirement is discussed in further detail on the following pages.

For more information see FINTRAC’s *Guideline 4: Implementation of a Compliance Regime*: <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s33>.

⁷ This should be the date of when the relevant section of your policies and procedures manual is prepared. Updates to the manual by the Compliance Officer can be documented and dated on page 3, “Compliance Regime: Key Details”, row 4, instead.

⁸ Check this when you have tailored this entire policies and procedures manual to your brokerage. Every row on page 9, “Policies and Procedures” should have a checkmark next to it as well as every other row in this checklist.

⁹ Check when you have first prepare policies and procedures prepared for your brokerage. For your bi-annual review complete the checklist on page 3 (The Key Details checklist) instead.

2. Appointment of Compliance Officer

Every broker must appoint someone to be responsible for implementing a compliance regime for their brokerage. This person is referred to as a Compliance Officer. While a broker can appoint any employee as its Compliance Officer, the broker is ultimately responsible for adherence to the PCMLTF Regime.

Our Compliance Officer is _____.

The duties of the Compliance Officer are as follows (**alter as applicable to your brokerage**):

- (a) to register with FINTRAC and obtain an ID number, logon id, and password for reporting purposes (It is not necessary to do this until you are faced with a situation that needs to be reported to FINTRAC);
- (b) to file any necessary reports with FINTRAC relating to suspicious transactions, large cash transactions, or terrorist property;
- (c) to maintain associated records as required by FINTRAC;
- (d) to implement and administer a compliance regime for money laundering and terrorist property financing reporting; this includes the completion of the Compliance Assessment Report form when requested to do so by FINTRAC.¹⁰
- (e) to ensure that all employees/agents of the firm receive training and to keep a record indicating when those requiring such training received it;
- (f) to ensure that all employees/agents receive ongoing training as required to remain current with legislative changes or changes to our firm's policies and procedures;
- (g) to prepare any necessary forms to facilitate reporting by employees/agents within our organization to the Compliance Officer;
- (h) to maintain lists of terrorist individuals and organizations available on the identified web sites for review by the firm's staff/agents;
- (i) to assess the need to review compliance policies and procedures;
- (j) stay up-to-date on FINTRAC information by subscribing online to the "FINTRAC Mailing List" < <http://www.fintrac-canafe.gc.ca/contact-contactez/list-liste-eng.asp>>;
- (k) to advise agents if a business relationship has been entered into with a client and what actions agents must perform as a result;¹¹ and
- (l) for the purposes of ongoing monitoring, to review the purpose and intended nature of business relationships and conduct risk re-assessments of clients.¹²

Don't forget to mark and sign the checklist on page 7 once you've appointed a Compliance Officer!

For more information see FINTRAC's *Guideline 4: Implementation of a Compliance Regime*: <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s44>.

¹⁰ This form can be downloaded from the web site: www.fintrac.gc.ca; click on 'Real Estate' and select Compliance Assessment Report. This form is not completed until requested to do so by FINTRAC.
<<http://www.fintrac.gc.ca/publications/cars-srec/1-eng.asp>>.

¹¹ May not be applicable. See Section 3.1.2.11.

¹² May not be applicable. See Section 3.1.2.11.

3. Policies and Procedures

Written policies and procedures must be established by a broker for their brokerage.

The following checklist shall be signed and dated when the relevant portion of our policies and procedures is initially completed by our brokerage.¹³

Policy/Procedure	Check when completed	Signature	Date ¹⁴
Record Keeping			
General	<input type="checkbox"/>		
Client Information Record	<input type="checkbox"/>		
Updates to Client Information Record due to Business Relationship	<input type="checkbox"/>		
Receipt of Funds Record	<input type="checkbox"/>		
Large Cash Transaction	<input type="checkbox"/>		
Reporting			
General	<input type="checkbox"/>		
Large Cash Transaction Reports	<input type="checkbox"/>		
Suspicious Transaction Reports	<input type="checkbox"/>		
Terrorist Property Reports	<input type="checkbox"/>		
Client Identification	N/A	Included under "Client Information Record"	
Ongoing Monitoring	N/A	Included under "Updates to Client Information Record due to Business Relationship"	

Don't forget to mark and sign the checklist on page 7 once you've verified that your brokerage has a complete set of policies and procedures!

For more information see FINTRAC's *Guideline 4: Implementation of a Compliance Regime*: <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s55>.

¹³ Note that you need to have policies and procedures for the Compliance Officer, Brokerage Risk Assessment, Risk Mitigation, Training Program and your Bi-annual Review also but this is documented by completing the checklist on page 7.

¹⁴ This should be the date of when the relevant section of your policies and procedures manual is prepared. Updates to the manual can be documented and dated on page 3 (row 4) instead.

3.1. Record Keeping Obligations

3.1.1. General Record Keeping Policy

The PCMLTF Regime establishes that whenever a broker or agent acts as an agent in respect of the purchase or sale of real estate, they are required to create and maintain: Client Information Records¹⁵; Receipt of Funds Records; and Large Cash Transaction Records. See Sections 3.1.2, 3.1.3 and 3.1.4 respectively for more information. Just a reminder, for simplicity, this manual refers to “agents” where actions are likely to be performed by real estate agents (for example, filling out records). However, brokers should keep in mind that they retain ultimate responsibility for the actions of their agents and so may want their Compliance Officer to create/maintain some of these records.

In order for a broker to assess their brokerage’s level of risk every two years, brokers are required to know their brokerage’s clients. One way of doing so is for agents to complete a record of each client’s level of risk. This can be documented on the Client Information Record. See Section 3.1.2.10 below for more information.

When a client conducts two or more purchase or sale transactions with your brokerage in a five year period regardless of whether the two transactions were conducted with the same agent, the broker enters into a “Business Relationship” with that client under the PCMLTF Regime. In this case the broker is required to keep the following additional records, which are suggested to be included on CREA’s template Client Information Record:

- A Record of the Purpose and Intended Nature of the Relationship with that Client (“Purpose Record”); and
- A Record of the Measures the broker or his/her agents have taken to monitor the Business Relationship with that client (“Measures Record”) as well as update existing information on that client.

Note that if no subsequent transaction occurs within a five year period the “business relationship” expires. See Section 3.1.2.11 below for more information.

All of these records must be maintained by the broker for FIVE years. Brokers are also expected to keep copies of official corporate records and copies of Suspicious

¹⁵ Note that in this Manual, “Client Information Record” refers to both the Individual Identification Information Record and the Corporate/Entity Identification Record.

Transaction Reports, which will be discussed in the Reporting Obligations section in more detail.

The general brokerage policy with respect to record keeping shall be:

- **The Compliance Officer shall develop and implement a filing system for the keeping of forms or records required for compliance.**
- **All records prepared for compliance with FINTRAC are the property of the brokerage and shall be kept in a manner that permits the brokerage to access them within thirty (30) days of a request from FINTRAC for the brokerage to provide them.**
- **All records, forms and materials prepared for compliance purposes shall be kept for a period of five (5) years.**

Our additional policies and procedures with respect to record keeping are described below:

Brokerage-specific Record Keeping Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to general record-keeping!

For more information see FINTRAC's *Guideline 6B: Record Keeping and Client Identification for Real Estate*: <http://www.fintrac.gc.ca/publications/guide/Guide6/6B-eng.asp#s33>.

3.1.2. Client Information Records

3.1.2.1. Timing

Agents are required to ascertain the identity of clients at the time of the transaction; completing a Client Information Record fulfills this obligation. The information that is required in order to verify a client's identity will vary depending on whether the client is an individual (a live human being), corporation, or other entity.

Tip: FINTRAC defines "time of the transaction" as the time when the deed is signed. However, since agents are often not present when transactions are closed, it would be prudent to verify the client's identity prior to closing, such as when a listing is accepted or when an offer is made. If the client is a corporation or other entity, their identity must be verified within 30 days of the transaction, i.e. within 30 days of signing the deed.

3.1.2.2. Individuals

To verify the identity of an individual, agents must record their client's name, address, date of birth, and principal business or occupation.

Tip: Be as descriptive as possible regarding the business or occupation. Record information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation recorded should reflect the area of consulting, such as "information technology consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

A client will need to produce a valid Provincial, Territorial, or Federal piece of ID with a unique identifier number for this purpose.

Examples: birth certificate, driver's licence, provincial health insurance card (not acceptable if from Ontario, Manitoba, Nova Scotia or Prince Edward Island), passport, record of landing, permanent resident card, old age security card, a certificate of Indian status, or SIN card (although SIN numbers are not to be included on any report sent to FINTRAC). Other acceptable identification documents: provincial or territorial identification card issued by the Insurance Corporation of British Columbia, Alberta Registries, Saskatchewan Government Insurance, the Department of Service Nova Scotia and Municipal Relations, the Department of Transportation and Infrastructure Renewal of the Province of Prince Edward Island, Service New Brunswick, the Department of Government Services and Lands of the Province of Newfoundland and Labrador, the Department of Transportation of the Northwest Territories or the Department of Community Government and Transportation of the Territory of Nunavut. If identification document is from a foreign jurisdiction, it must be equivalent to one of the above identification documents

Examples are also printed on CREA's template Individual Identification Information Record, which may be inserted at Appendix A, is posted on REALTOR Link® and is available in WEBForms®.

3.1.2.3. Corporations and Other Entities

If the client is a corporation, agents are obligated to confirm the existence of the corporation, to determine the corporation's name and address, and to determine the names of its directors. This information can be verified using the corporation's certificate of corporate status, a record that has to be filed annually under provincial securities legislation, or any other record that confirms the corporation's existence. Similarly, if the client is another type of legal entity, the existence of the entity must be confirmed through appropriate records.

Tip: FINTRAC also requires the person conducting the transaction to be identified. This should be done using the Individual Identification Information Record.

The documents used to verify the existence of the corporation do not have to be in hard copy; an electronic document may be used as long as it is a public record such as Corporation Canada's federal corporations database, which is accessible from Industry Canada's website (www.ic.gc.ca).

If using an electronic record, the Corporation/Entity Identification Information Record should state the corporation registration number, the type of document referred to, and the source of the document. A copy of CREA's template Corporation/Entity Identification Information Record may be inserted at Appendix B, is posted on REALTOR Link® and is available in WEBForms®. If you need to contact the corporation's accountant or lawyer to obtain the relevant information, you may wish to use the template letter listed at Appendix C, which is also posted on REALTOR Link®.

Tip: Don't forget about the receipt of funds and large cash record keeping requirements still apply to corporations and other entities. In these cases you need to ID the person giving you the funds as well. See sections 3.1.3 and 3.1.4.

3.1.2.4. Non Face-to-Face Identification

If an agent is not dealing with a client face-to-face and therefore cannot personally verify the client's identity, an agent or mandatary can be used to fulfill the Client Information Record obligation. If using an agent or mandatary, the PCMLTF Regime requires there to be an agreement in writing between the broker and the agent/mandatary outlining what is required of the agent/mandatary. The agent/mandatary must then obtain the client information pursuant to their

agreement. A copy of CREA's template Identification Mandatory/Agent Agreement form may be inserted at Appendix D, is posted on REALTOR Link® and is available in WEBForms®.

Alternatively, the PCMLTF Regime specifies that a combination of two of five designated methods may be used to identify a client who is not physically present:

1. Refer to an independent and reliable identification product. It must be based on personal information as well as Canadian credit history about the individual of at least six months duration. This type of product can use a series of specific questions, based on an individual's credit file, to enable verification of client identity.
2. Confirming, after obtaining authorization from the person, their name, address and date of birth by referring to a credit file in respect of that person in Canada that has been in existence for at least six months.
3. Obtain attestation of ID from a Commissioner of Oaths or guarantor;
4. Confirm that cheque drawn on a deposit account from a Canadian financial entity has cleared;
5. Confirm existence of a deposit account from a Canadian financial entity. You could do this by viewing an original bank statement.

However, methods (1) and (2) cannot be used together, nor methods (4) and (5).

Tip: The PCMLTF Regime has a specific definition of "guarantor" and may be an individual engaged in one of the following professions in Canada: a dentist, medical doctor, chiropractor, judge, magistrate, lawyer, notary (in Quebec) or notary public, optometrist, pharmacist, accredited public accountant, chartered accountant, certified general accountant, certified management accountant, public accountant, registered public accountant, professional engineer (P. Eng., in a province other than Quebec) or engineer (Eng. in Quebec) or a veterinarian.

Tip: Note that the five methods may not apply to all clients. For example, where a client has no deposit account from a Canadian entity, methods (4) and (5) cannot be used because the client doesn't have a deposit account from a Canadian entity. In some circumstances the only way to identify a client may be to use an agent or mandatary. For more information see FINTRAC's *Guideline 6B: Record Keeping and Client Identification for Real Estate*: <http://www.fintrac.gc.ca/publications/guide/Guide6/6B-eng.asp#s446>.

Tip: The records that you have to keep for the above methods varies according to the method used:

- If you use a cleared cheque to confirm the individual's identity, the record has to include the name of the financial entity and the account number of the deposit account on which the cheque was drawn;

- If you confirm that the individual holds a deposit account with a financial entity, the record has to include the date on which you made the confirmation as well as the name of the financial entity where the account is held and the number of the account;
- If you use an identification product, the record has to include the name of the identification product, the name of the entity offering it, the search reference number and the date you used the product to identify the individual;
- If you consult a credit file, the record has to include the name of the entity keeping the credit file and the date you consulted it; and
- If you use an attestation signed by a commissioner of oaths in Canada or a guarantor in Canada, you have to keep the attestation.

3.1.2.5. Enhanced Measures to Ascertain Identity or Existence of Entity

Note that the PCMLTF Regime requires that where a client is high risk enhanced measures be taken to ascertain their identity or confirm the existence of the entity. Such measures could include:

- Requiring agents to ask high risk clients for an additional piece of identification if verifying the identity of an individual or checking an additional record if confirming the identity of an entity.

3.1.2.6. Third Party Records

When verifying the identity of clients, agents are required to take reasonable measures to determine if a third party is involved in the transaction. FINTRAC defines a third party as an individual or entity other than the individual who conducts the transaction. If there are any third parties, they can be listed in section B of the Corporation/Entity Identification Information Record or Individual Identification Information Record. Both forms may be inserted in the Appendix of this manual, posted on REALTOR Link® and are available in WEBForms®.

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.

3.1.2.7. Unrepresented Parties

Agents should also keep in mind that their obligation to verify the identity of parties to a transaction may, in some circumstances, extend beyond their own clients. If the agent is dealing with an unrepresented party (including mere poster sellers), they are expected to take reasonable measures to ascertain the identity of the unrepresented party. If unable to ascertain that party's identity, the agent should indicate in the Client Information Record that the required information is unavailable and describe the measures taken to obtain the information. The obligation to identify unrepresented parties is less onerous than the requirement agents have when identifying their own clients, in that an agent only needs to take reasonable measures to identify an unrepresented party.

Tip: If the unrepresented party is physically present, the agent may simply ask for ID, and if the unrepresented party refuses to provide it, document that they were asked on a given date and refused.

Template Client Information Records (which may be inserted at Appendix A and B), posted on REALTOR Link® and available in WEBForms®, may be used to document the measures used to ascertain the identity of an unrepresented party by making a notation of such measures and when they were made.

3.1.2.8. Exchanging information

There is no obligation to exchange client information with other agents if both the buyer and seller in a transaction are represented.

3.1.2.9. Exceptions

There are two exceptions to an agent's client identification obligations. One, agents do not have to verify the identity of a client that they recognize and have previously identified in a past transaction. Two, agents do not need to complete a Client Information Record for certain public bodies and very large corporations. A public body means any of the following: a Canadian provincial or federal department or Crown Agency; an incorporated Canadian municipal body (e.g. a town); or a hospital authority (*i.e.* an organization that operates a public hospital that is designated to be a hospital authority for GST/HST purposes).

Tip: If you don't have to verify the identity of an individual you still need to keep an Individual Identification Information Record for them but you don't need to complete rows 5-8 of Section A of the Individual Identification Information Record. If you don't ascertain identity for this reason it is a good idea to document this on the Individual Identification Information Record.

Tip: Keep in mind that even if exception one applies, you also still need to complete Sections C and D of the Individual Identification Information Record, if used by the brokerage (see Sections 3.1.2.10 and 3.1.2.11 below).

Tip: Keep in mind that transactions conducted with public bodies and very large corporations (exception two) do not form “business relationships”.

Our policies and procedures with respect to our client ID and third party record obligations shall be:

- Each agent shall ascertain the identity of every client and third party at the time of the transaction and complete a Client Information Record pursuant to the policies and procedures identified in section 3.1.2.1-3.1.2.9 of this manual.

Our additional policies and procedures with respect to our client ID and third party record obligations are as follows:

Category	Brokerage-specific Identification Policies and Procedures
Individuals	
Corporations/ Entities	

Add Additional Pages If Necessary

Third Parties	
Non-face-to-face meetings and Unrepresented Parties	<p style="text-align: right;">Add Additional Pages If Necessary</p>

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to Client Information Records!

For more information see FINTRAC's *Guideline 6B: Record Keeping and Client Identification for Real Estate*: <http://www.fintrac.gc.ca/publications/guide/Guide6/6B-eng.asp#s446>.

3.1.2.10. Client Risk

FINTRAC has stated that brokers have an obligation to conduct a risk assessment of each client although such risk assessments do not have to be in writing. This requirement has existed for some time. Indeed, it is implicit in answering the questions on CREA's template Brokerage Risk Assessment Form pertaining to a broker's clients that the broker has considered the level of risk of money laundering and terrorist financing to the brokerage due to its clients.

For example, “Are client properties located in a high-crime rate area?”

For this reason, and to assist brokers in the event of a FINTRAC audit, brokers may wish to have their agents document on existing forms that they have conducted the necessary risk analysis. This may be demonstrated by completing Section C in the Client Information Record, which should be done no later than shortly after each transaction.¹⁶

Section C of the Client Information Record refers to several template Client profiles or “clusters” that can be checked, if applicable. Each cluster refers to a generic client profile.

For example, Canadian Clients who are being ID’ed and who are physically present when ID’ed.

Brokers are encouraged to develop their own clusters for clients that they frequently encounter in their business. See Appendix I for sample clusters and a template that can be used to create new clusters. Template Client Information Records may be inserted at Appendix A and B, are posted on REALTOR Link® and are available in WEBForms®. Note that agents should be told what these clusters mean in order for them to be able to apply them correctly. **Also note that the clusters a broker uses are not necessarily static; brokers may wish to alter the clusters they use if their client base changes.** Also note that the templates are samples only and may need to be tailored to your business. As a result, different brokers may come to different conclusions with respect to seemingly similar clients depending on the particular circumstances of their brokerage.

For example, broker A may conclude that foreign clients are low risk while broker B may conclude that some foreign clients are high risk as broker B deals with clients from a country with highly publicized money-laundering problems. Accordingly, broker B could create a new cluster to deal with the high risk customers or modify the generic template relating to foreign clients.

Brokers may develop alternative systems to demonstrate to FINTRAC that they have satisfied their brokerage risk assessment obligations. If they choose to do so it is not necessary to complete Section C in the Client Information Record. One system that could be put in place would be to segregate medium and high risk clients from low risk clients in specially marked folders. If the broker develops an alternative system they should explain it in detail below.

¹⁶ Completing Section C may also make it easier for the broker to re-assess the level of risk if the broker enters into a “business relationship” with the client (see Section 3.1.2.11 below).

Our policies and procedures with respect to client risk shall be:

1. Each agent shall complete Section C of the Client Information Record for every purchase or sale transaction.

Our additional/alternative policies and procedures with respect to client risk are described below:

Brokerage-specific Client Risk Policies and Procedures

Add Additional Pages If Necessary

For more information see FINTRAC's *Guideline 4: Implementation of a Compliance Regime*: <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s661>.

3.1.2.11. Updates to the Client Information Record due to Business Relationship

If this is at least the second time the client has conducted a purchase or sale transaction with the brokerage in the past five years the PCMLTF Regime deems that the broker has a “business relationship” with that client. Once a “business relationship” is formed the broker needs to ensure additional information is gathered from this client. This can be accomplished by requiring the broker’s real estate agents to complete Section D, (the “Business Relationship” sections) of the relevant Client Information Record. Alternatively, the broker may wish to gather this information from the client directly himself/herself, in which case Section D

does not need to be completed but the relevant information needs to be documented elsewhere. **Please note that all of Section 3.1.2.11 assumes that the brokerage has opted to use Sections C and D of the Client Information Record.**

Note that if no subsequent transaction occurs with the client within a five year period the “business relationship” expires. Unless the broker assumes that it has a business relationship with all clients (see the tip below as to why you may want to do this), the next time the client conducts a purchase or sale transaction with the brokerage, the agent does not need to complete Section D of the Client Information Record. However, keep in mind, that as soon as the client conducts two purchase or sale transactions within a five year period with the brokerage the “business relationship” will be re-established and Section D of the Client Information Record will need to be completed.

Tip: If this is the third or subsequent time a client has conducted a purchase or sale transaction with the brokerage in the past five years, the broker’s agents need to complete Sections C and D again. Print out blank copies of pages 3 and 4 of the Client Information Record again, complete them, and staple them to the record.

Tip: FINTRAC states that as a best practice, whether a “business relationship” is formed with a client should be determined by the broker (or his/her Compliance Officer) within 30 calendar days *following* the second transaction. As noted in Section 3.1.1 above, one practical effect of a “business relationship” is to require that the broker gather additional information from clients. As the broker’s real estate agents are likely best placed to gather information from clients, brokers may find it simpler to determine whether a “business relationship” is formed during the real estate transaction itself. Moreover, it may also be easier, for the purposes of information gathering, to assume that the broker has a “business relationship” with *all* clients and simply require their real estate agents to gather the information outlined in Section D for every purchase or sale transaction. An alternative approach is to create a system that permits agents, for each purchase or sale transaction, to inquire whether the client has conducted a purchase or sale transaction with the brokerage in the past five years (e.g. the agent could ask the Compliance Officer or broker who would check the relevant records or the agent could have access to a computer program whereby they could check the relevant records themselves).

Completing Purpose Record

The PCMLTF Regime states that when a broker enters into a business relationship with a client the broker has to 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. This obligation can be satisfied by having the broker’s agents check the appropriate box in Section D.1 of the Client Information Record. If the agent 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 broker (or his/her delegate, such as the Compliance Officer) should review what the agent has entered into Section D.1. If the broker feels his/her agents have inadequately described the purpose and intended nature of the business relationship they must alter this portion of the Client Information Record accordingly.

For example, the broker could determine that the client has been repeatedly buying and selling numerous residential properties in a short period of time. Accordingly, the broker could indicate this as the purpose of the business relationship on the Client Information Record. For example, by indicating the purpose of the business relationship is “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 broker could determine the business relationship is still “purchase or sale of residential properties for income purposes”.

Re-assessing Client Risk

The PCMLTF Regime states that when a broker enters into a business relationship with a client the broker has to reassess the level of risk associated with the client’s transactions and activities as part of the broker’s obligation to conduct ongoing monitoring. Brokers are also responsible for determining whether all of 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.

In order to satisfy this obligation, the broker (or his/her delegate, such as the Compliance Officer) must look at every real estate transaction the client has conducted with the brokerage in the past five years and determine if the client’s level of risk is appropriate. While there may be other ways specific to your brokerage to manage this obligation¹⁷, here is a suggested approach using a spreadsheet:

Step 1: Starting February 1, 2014, the broker should keep a spreadsheet of every purchase or sale transaction at his/her brokerage.¹⁸ The spreadsheet will contain the following column headings: “Client Name”; “Client Date of Birth”; “Purpose and Intended Nature of the Relationship”, “Date of

¹⁷ Note that one such alternative is to work with a software provider to implement an automated system. FINTRAC has informed CREA that it recognizes that such software solutions may take some time to develop. Accordingly, FINTRAC will take a reasonable approach in enforcing the new obligations. While this may mean that brokers will not be sanctioned by FINTRAC for breaching this particular obligation in the short term, brokers who wish to be fully compliant with the law may wish to implement a manual solution until the software solution is implemented.

¹⁸ FINTRAC states that a business relationship is also formed if the client conducts two suspicious transactions with the brokerage. Accordingly, attempted suspicious and attempted transactions should be recorded in the spreadsheet. FINTRAC states that business relationships consisting of two or more suspicious transactions should always be treated as high risk.

Transaction”; “Transaction Risk Profile”; “Overall Risk Profile”; and “Other Notes”.

Step 2: Every time a purchase or sale transaction occurs with a client, the broker must ensure that a row containing relevant information pertaining to that client is added to the spreadsheet. The “Transaction Risk Profile” and the “Overall Risk Profile” for the client will initially be identical and indicate the information the agent has stated in Section C of the Client Information Record.¹⁹

For example, John Doe; October 1, 1900; Residential; February 28, 2014; Low, Low.

or

For example, Mary Jane; June 1, 1950; Residential Income; February 28, 2014; Low, Low.

Step 3:

Option 3A, immediate reassessment: After every transaction²⁰, the broker reviews the spreadsheet to determine if the client has conducted two or more transactions within a five year period with the brokerage. If the client has conducted two or more transactions within this period the broker reviews the spreadsheet and determines whether, in light of all the transactions the client has conducted with the brokerage, the risk profile assigned to the client is appropriate. The broker may want to enter any other information they believe is relevant into the “Other Notes” section of the spreadsheet (for example, the date of the re-assessment or the name of the relevant cluster advised by the agent).

For example, upon reviewing the spreadsheet the Broker determines that one client has conducted 99 residential purchase transactions in 99 days. The broker finds this unusual and changes the client’s “overall risk profile” in the spreadsheet from “low” to “high”:

John Doe; October 1, 1900; Residential; February 28, 2014; Low, High; Re-assessed June 1, 2014.

¹⁹ Brokers may also opt to consult other documentation they have on file regarding the client’s level of risk if the brokerage has opted not to use Section C of the Client Information Record. However, if other information is consulted it is prudent to document what process the brokerage has followed in this policies and procedures manual.

²⁰ FINTRAC has confirmed that conducting a re-assessment of client risk once per transaction is acceptable for all client risk levels, including high risk clients.

John Doe; October 1, 1900; Residential; March 1, 2014; Low, High; Re-assessed June 1, 2014

John Doe; October 1, 1900; Residential; March 2, 2014; Low, High; Re-assessed June 1, 2014

Etc.

Option 3B, periodic reassessment: instead of conducting an assessment after every transaction, the broker may periodically review the spreadsheet for all clients who have conducted two or more transactions within a five year period with the brokerage. For example, clients with transactional or overall risk profiles of low may be reviewed every two years; clients with transactional or overall risk profiles of high may be reviewed every one year.

Step 4:

The spreadsheet should be periodically updated by deleting any rows pertaining to transactions conducted more than five years ago.

Update Client Information

The PCMLTF Regime states that when a broker enters into a business relationship with a client the broker has to keep client information up-to-date. This obligation may be satisfied by requiring the broker's agents, as indicated in Section D.2.1 of the Client Information Record, to ask:

- In the case of an individual client, if the client's name, address and principal business or occupation has changed and documenting the client's answers on the Client Information Record if they have changed.
- In the case of a corporate client, if its name and address and name of its directors have changed and documenting the client's answers on the Client Information Record if they have changed.
- In the case of an entity other than a corporation, if its name, address and principal place of business have changed and documenting the client's answers on the Client Information Record if they have changed.

Completing Measures Record

The PCMLTF Regime states that when a broker enters into a business relationship with a client the broker has to keep a record of the measures the broker takes to monitor the business relationship and the information he/she obtains as a result. FINTRAC has advised that this obligation may be satisfied by keeping relevant

correspondence and records with the client on file. The purpose of keeping this information is to help ensure that client's activities match the other information the broker keeps on the client. Accordingly, one way that brokers may wish to satisfy this obligation is to remind their agents to keep all correspondence with the client on file as noted in Section D.2.2 of the Client Information Record. The agent and/or broker may also list any additional steps taken to monitor the business relationship in the blank field provided although this is optional.

Enhanced Measures for Ongoing Monitoring and Keeping Client Information Up To Date

If the client is high risk the PCMLTF Regime requires that enhanced measures be taken with respect to the business relationship. Here is a non-exhaustive list of enhanced measures FINTRAC suggests a broker may take to mitigate the risk in cases of high-risk business relationships:

- Obtaining additional information on the client (e.g. occupation, volume of assets, information available through public databases, Internet, etc.).
- Obtaining information on the source of funds or source of wealth of the client.
- Obtaining information on the reasons for intended or conducted transactions.
- Obtaining the approval of senior management to enter into or maintain the business relationship.
- Identifying patterns of transactions that need further examination.
- Increased monitoring of transactions of higher-risk products, services and channels.
- Establishing more stringent thresholds for ascertaining identification.
- Gathering additional documents, data or information; or taking additional steps to verify the documents obtained.
- Establishing transaction limits.
- Increasing awareness of high-risk activities and transactions.
- Increasing internal controls of high-risk business relationships.
- Obtaining the approval of senior management at the transaction level for products and services that are new for that client.

FINTRAC also states that firms should consider implementing the following measures to monitor high risk situations:

- review transactions based on an approved schedule that involves management sign-off;

- develop reports or perform more frequent review of reports that list high risk transactions. Flag activities or changes in activities from your expectations and elevate concerns as necessary;
- set business limits or parameters regarding transactions that would trigger early warning signals and require mandatory review;
- review transactions more frequently against suspicious transaction indicators relevant to the relationship.

If the agent is dealing with a high risk client the agent should consult with the Brokerage's Compliance Officer to determine which enhanced measures they should apply to the transaction if the agent does not know already. Note that some of the measures noted above may not be applicable to a particular brokerage or may only be applied by the brokerage internally after a transaction is completed. Note that once the enhanced measures are applied to a particular client it is not necessary for the broker to apply them again to that client until the next time a transaction is conducted with that client. The broker may want to have agents document any enhanced measures that are applied for those measures that are applied during the transaction. To facilitate this process, CREA added Section D.2.3 to the Client Information Record, although this is optional. Other processes may also be adopted by the broker.

Template Client Information Records may be inserted at Appendix A and B, are posted on REALTOR Link® and are available in WEBForms®.

Our policy and procedures with respect to updating Client Information Records due to a Business Relationship shall be:

All agents shall: (i) update client information; (ii) complete the Purpose Record; and (iii) keep the Measures Record (*i.e.* correspondence) and document this by completing Section D of the Client Information Record for (check one):

- **Every purchase or sale transaction. []**
- **Only purchase or sale transactions where the transaction is the second or subsequent transaction between the brokerage and the client in the last five years. []**
 - **The brokerage shall implement the procedures identified below to permit agents to know if this is the second or subsequent transaction between the brokerage and the client in the last five years.**

All agents shall apply enhanced measures to high risk clients as specified by this policies and procedures manual.

The broker or the individual identified below shall re-assess client risk (check one):

- ☐ After every transaction []
- ☐ On a periodic basis according to the schedule below []

according to the process described in this policy and procedures manual.

Our additional policies and procedures with respect to updating Client Information Records due to a Business Relationship are as follows:

Brokerage-specific Business Relationship Policies and Procedures

Add Additional Pages If Necessary

Brokerage-specific Business Relationship Policies and Procedures (Cont)

Enhanced Measures Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to updates to Client Information Records due to business relationships!

For more information see FINTRAC's *Guideline 6B: Record Keeping and Client Identification for Real Estate*: <http://www.fintrac.gc.ca/publications/guide/Guide6/6B-eng.asp#s448>.

3.1.3. Receipt of Funds Record

3.1.3.1. Content

Whenever an agent receives funds for a purchase or sale transaction, they are required to complete and maintain a Receipt of Funds Record. Generally, the buyer's agent will complete this form; however, if no buyer's agent is involved, the listing agent is required to complete the Receipt of Funds Record. This record must state:

- Who the funds are received from:
 - In the case of an individual, their name, address, date of birth and principal business or occupation;
 - In the case of an entity, their name, address and nature of principal business;
- If the funds were received in cash, how the funds were received;
- The amount and currency of the funds;
- The date of the transaction; and
- The purpose and details of the transaction, and the number and details of any account affected by the transaction.

Tip: Be as descriptive as possible regarding the business or occupation. See Section 3.1.2.2., above, for examples.

CREA's template Receipt of Funds Record form can be used to record this information. It is inserted at Appendix E, is posted on REALTOR Link® and is available in WEBForms®. However, note that there are no fields in the form specifying from whom the funds are coming from. Instead, the relevant information should be recorded using CREA's Client Information Record and stapled to the Receipt of Funds Record. Note:

- If the individual/entity who is providing the funds is the same as the client, you don't need to complete another Client Information Record. However, you may wish to make a note of that on the Receipt of Funds Record.
- However, if the individual/entity who is providing the funds is not the same as the client, the individual/entity providing the funds will need to be identified. Follow the steps noted in Section 3.1.2, above, for completing the Client Information Record and attach it to the Receipt of Funds Record (to avoid confusion, the agent may mark on the "Client Information Record"

that the record concerns the individual/entity providing the funds and is not the client).

To complete a Receipt of Funds Record, information you have to keep includes, if an account was affected by the transaction, (i) the number and type of any such account; (ii) the full name of the client that holds the account; and (iii) the currency in which the transaction was conducted. This means that in the simplest case where the buyer provides a cheque, the name of the bank account holder, the number of the account, and the financial institution where the account is located must all be recorded.

Where there are two agents involved in a transaction and the funds are deposited in the listing agent's account the buyer's agent is responsible for completing the receipt of funds record. However, the buyer's agent is not required to include the number and type of the listing agent's account or the name of the person or entity that is the holder of that account if, after taking reasonable measures, they are unable to do so. Further, if dealing with trust accounts, although the buyer's agent must indicate that the funds were deposited into the listing agent's trust account, the buyer's agent would not be required to include the number of the trust account or the name or entity that holds the trust account.

Note that if multiple accounts are affected, information on all accounts affected needs to be recorded. For example, assuming the buyer's agent transfers funds from their account into the listing agent's account, both accounts are affected by the transaction and therefore both numbers are to be recorded on the Receipt of Funds Record. However, the features noted in the previous paragraph with respect to the listing agent's accounts still apply.

In situations where there is only one agent involved, the agent involved in the transaction is obligated to record all specified account information including trust account information. As noted above, a Receipt of Funds record needs to be kept on every account that is affected by the transaction.

Tip: If the funds are received in cash and a Large Cash Transaction Record must be created, the agent must complete a copy of that record in lieu of completing a Receipt of Funds Record.

There is no requirement to provide another brokerage with copies of the completed Receipt of Funds Record.

3.1.3.2. Exceptions

Agents do not keep a receipt of funds record where the amount is received from a financial entity (a bank, a credit union, a caisse populaire, a credit union, or a trust and loan company) or a public body (a Canadian provincial or federal department or Crown agency, a municipal body, or a hospital authority).

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

Our policies and procedures with respect to our receipt of fund obligations are as follows:

Brokerage-specific Receipt of Fund Records Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to receipt of funds records!

For more information see FINTRAC's *Guideline 6B: Record Keeping and Client Identification for Real Estate*: <http://www.fintrac.gc.ca/publications/guide/Guide6/6B-eng.asp#s333>.

3.1.4. Large Cash Transaction Record

3.1.4.1. Content

If an agent receives funds totaling \$10,000 or more in cash (*i.e.* coins, notes issued by the Bank of Canada, and coins or bank notes of countries other than Canada), a Large Cash Transaction Record must be created and maintained. 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. This record must contain:

- the amount and currency of the cash received;
- the name, date of birth and address of the individual from whom you received the cash and that individual's principal business or occupation;
- the date of the transaction;
- the purpose, details and type of the transaction;
- how the cash was received; and
- the number and type of any account affected by the transaction, if known, the full name of the client that holds the account, and the currency in which the accounts transactions are conducted.

The agent must also verify the identity of the individual providing the cash and take reasonable measures to determine whether that individual is providing the cash on behalf of third parties.

Tip: Be as descriptive as possible regarding the business or occupation. See Section 3.1.2.2., above, for examples.

All of this information may be documented in the Large Cash Transaction Report form on the FINTRAC website: <http://www.fintrac-canafe.gc.ca/publications/LCTR-2008-eng.pdf>. This form can be printed off and used as a Large Cash Transaction Record.

3.1.4.2. Exceptions

Agents do not keep a large cash transaction record where the amount is received from a financial entity (a bank, a credit union, a caisse populaire, a credit union, or a trust and loan company) or a public body (a Canadian provincial or federal department or Crown agency, a municipal body, or a hospital authority).

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

Our policies and procedures with respect to our large cash transaction record obligations are as follows:

Brokerage-specific Large Cash Transaction Record Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to large cash transaction records!

For more information see FINTRAC's *Guideline 6B: Record Keeping and Client Identification for Real Estate*: <http://www.fintrac.gc.ca/publications/guide/Guide6/6B-eng.asp#s332>.

3.2. Reporting Obligations

For readability the terminology of “agent” and “brokers” has been used throughout Section 3.2 however keep in mind that it could be the Compliance Officer who actually makes the reports in your brokerage.

3.2.1. Types of Reports

Agents and brokers are obligated to file reports with FINTRAC in three different situations: if they are involved in a suspicious transaction or attempted suspicious transaction; if they are involved in a large cash transaction; and if there is property in their possession or control that is owned or controlled by a terrorist or terrorist group. Note that if you are a real estate agent and you are acting on behalf of a broker, you have an independent obligation to report the suspicious transactions and terrorist property reports or report it to your broker/Compliance Officer. You may wish to speak to your brokerage’s Compliance Officer to discuss how to proceed as your brokerage may have given the responsibility to make all reports to the Compliance Officer.

Tip: “Property” in the context of terrorist property reports is explained in Section 3.2.5 below.

3.2.2. FINTRAC Obligations

FINTRAC has obligations when it comes to handling information it receives in reports. These obligations:

- Specify that FINTRAC is independent from law enforcement and other agencies to which FINTRAC is authorized to disclose information;
- Provide for criminal penalties for any unauthorized use or disclosure of the personal information under FINTRAC's control; and
- Specify that the *Privacy Act* applies to FINTRAC.

In sum, FINTRAC is required to ensure that personal information under its control is protected from unauthorized disclosure. Information may only be disclosed to the appropriate law enforcement authorities when it has been determined that there are reasonable grounds to suspect that the information would be relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence.

When FINTRAC has made this determination, it discloses only designated information to law enforcement agencies. Designated information is limited to key identifying information, such as name and address, date of birth and citizenship. It also includes certain information about the transaction itself, such as the name and address of the place of business where it occurred, the date of the transaction, amount and type of currency or value of the funds, account number, etc.

FINTRAC may also, under specified circumstances, disclose designated information to the Canada Revenue Agency, Citizenship and Immigration Canada, or foreign agencies with mandates similar to FINTRAC's.

The general brokerage policy with respect to reporting shall be:

- 1) If an agent believes he/she needs to make a report to FINTRAC he/she shall discuss it with the brokerage's Compliance Officer (see page 8 of this Manual).**
- 2) If the Compliance Officer determines that a report needs to be made, the agent shall provide the relevant details regarding the transaction to the Compliance Officer who shall submit the report and alert the brokerage's broker that a report has been made.**

Our additional policies and procedures with respect to our general reporting obligations are as follows:

Brokerage-specific General Reporting Policies and Procedures
<div data-bbox="1015 1696 1399 1728" data-label="Text"><p>Add Additional Pages If Necessary</p></div>

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to general reporting!

For more information on reporting see <http://www.fintrac.gc.ca/reporting-declaration/1-eng.asp>.

3.2.3. Large Cash Transaction Reports

3.2.3.1. General

Agents must report large cash transactions when receiving \$10,000 CDN or more in cash, or an equivalent amount in a foreign currency, in the course of a real estate 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. 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 days of the transaction. Large Cash Transaction Reports must generally be submitted to FINTRAC electronically by completing and sending the report through FINTRAC's secure website: www.fintrac.gc.ca. 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 formatting of particular information may appear at the bottom of the screen.

Tip: 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 at: <http://www.fintrac-canafe.gc.ca/publications/LCTR-2008-eng.pdf>.

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.

3.2.3.2. Exceptions

The same exceptions that apply to large cash transaction records apply to large cash transaction reports. Agents do not need to submit a large cash transaction report for a transaction where the amount is received from a financial entity (a bank, a credit union, a caisse populaire, a credit union, or a trust and loan company) or a public body (a Canadian provincial or federal department or Crown agency, a municipal body, or a hospital authority).

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

The brokerage policy with respect to reporting large cash transactions is as follows:

- All large cash transactions shall be reported to our Compliance Officer.
- The Compliance Officer shall report all large transactions to FINTRAC within 15 days of the transaction.
- If FINTRAC notifies our brokerage that a Large Cash Transaction Report contains incomplete information our Compliance Officer will notify the employee/agent concerned and obtain the missing information.

Our additional policies and procedures with respect to reporting large cash transactions are described below:

Brokerage-specific Large Cash Reporting Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to reporting large cash transaction reports!

For more information regarding large cash transaction reporting see FINTRAC's *Guideline 7A: Submitting Large Cash Transaction Reports to FINTRAC Electronically*: <http://www.fintrac.gc.ca/publications/guide/Guide7A/lctr-eng.asp> and *Guideline 7B: Submitting Large Cash Transaction Reports to FINTRAC by Paper*: <http://www.fintrac.gc.ca/publications/guide/Guide7B/7b-eng.asp>.

3.2.4. Suspicious Transaction Reports

3.2.4.1. What is a suspicious transaction or attempted suspicious transaction?

A suspicious transaction is any real estate transaction that an agent has reasonable grounds to suspect is related to the commission of a money laundering offence. Suspicious transactions may have been completed or simply attempted by the client. Note, however, 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.

Possible indicators of suspicious transactions:

- A client arrives at a real estate closing with a significant amount of cash. (Remember that any cash amount over \$10,000 MUST be recorded and reported – see Sections 3.1.4, 3.2.3 above.)
- A client purchases property in the name of a nominee such as an associate or a relative other than a spouse.
- A client does not want to put his or her name on any document that would connect him or her with the property or uses different names on Offers to Purchase, closing documents, and deposit receipts.
- A client inadequately explains the last minute substitution of the purchasing party's name.
- A client negotiates a purchase for market value or above asking price, but records a low value on documents, paying the difference "under the table".
- A client sells property below market value with an additional "under the table" payment.
- A client pays initial deposit with a cheque from a third party, other than a spouse or parent.
- A client pays substantial down payment in cash and balance is financed by an unusual source or offshore bank.
- A client purchases personal use property under corporate veil when this type of transaction is inconsistent with the ordinary business practice of the client
- A client purchases property without inspecting it.

- A client purchases multiple properties in a short time period, and seems to have few concerns about the location, condition, and anticipated repair costs of each property.
- A client pays rent or the amount of a lease in advance using a large amount of cash.
- A client is known to have paid large remodeling or home improvement invoices with cash on a property for which property management services are provided.
- A client starts to make an offer on the purchase of a house with a large deposit, but will not finalize the offer once asked to provide identification.

For additional examples, see *FINTRAC's Guideline 2: Suspicious Transactions*: <http://www.fintrac.gc.ca/publications/guide/Guide2/2-eng.asp#s8-9>.

3.2.4.2. Deadline

Any agent who suspects that a transaction, or attempted transaction, may be suspicious is responsible for notifying their Compliance Officer so that a Suspicious Transaction Report can be completed. These reports are to be forwarded to FINTRAC within 30 days of when any employee/agent of the brokerage first detects a fact that constitutes 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.

Any person reporting a suspicious or attempted suspicious transaction must not inform anyone, including the client, about the contents of a Suspicious Transaction Report or even that such a report has been made or is to be made (except for the Compliance Officer who has a duty to ensure secrecy and store such confidential reports). 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.

3.2.4.3. Contents of Suspicious Transaction Report

A Suspicious Transaction Report must include the date of the financial transaction, the amount and type of funds used in the transaction, how and where the funds were deposited, the branch and transit numbers of the financial institution for where the funds were deposited (include copy of cheque if possible), the account number and type of account into which the funds were deposited, the full name of the account holder, and an explanation of what led to the belief something was suspicious about the transaction. The explanation should include as complete and

clear a description as possible of all factors or unusual circumstances that led to the suspicion of money laundering or terrorist financing.

If suspicions about a money laundering offence arise as a result of more than one transaction, all of the transactions that contributed to the suspicions are to be included in the same report and forwarded to the Compliance Officer. All Suspicious Transaction Reports are to be submitted electronically through FINTRAC's secure web site: www.fintrac.gc.ca.

Tip: 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 at: <http://www.fintrac-canafe.gc.ca/publications/STR-2008-eng.pdf>.

Tip: When you have to send a suspicious transaction report to FINTRAC, you have to take reasonable measures, before the transaction is reported, to identify the individual who conducted it. This will not apply in the following circumstances: (i) if you had already identified the individual as required and you have no doubts about that previous identification information; (ii) if you believe that doing so would inform the individual that you are submitting a Suspicious Transaction Report. This information can be recorded in the Suspicious Transaction Report.

FINTRAC's website provides instructions on how to complete a report; drop-down menus appear wherever a specific selection is required. In addition, details concerning formatting of particular information may appear at the bottom of the screen.

Once the report has been filed, FINTRAC will issue 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. Brokerages should keep a copy of the acknowledgement message in their records.

Our brokerage policy with respect to our suspicious transaction obligations is as follows:

- **Any agent or employee who suspects that a suspicious transaction should be reported to FINTRAC must immediately supply the required information to the Compliance Officer.**
- **All Suspicious Transaction Reports will be forwarded to FINTRAC by the Compliance Officer within 30 days of when any employee/agent of the brokerage first detects a fact that constitutes 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.**

- If FINTRAC notifies our brokerage that a Suspicious Transaction Report contains incomplete information, our Compliance Officer will notify the agent/employee concerned and obtain the missing information.

Our additional policies and procedures with respect to our suspicious transaction reporting obligations are as follows:

Brokerage-specific Suspicious Transaction Reporting Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to Suspicious Transaction Reports!

For more information regarding suspicious transaction reporting see FINTRAC's *Guideline 2: Suspicious Transactions* <http://www.fintrac.gc.ca/publications/guide/Guide2/2-eng.asp#s4>, *Guideline 3A: Submitting Suspicious Transaction Reports to FINTRAC Electronically*: <http://www.fintrac.gc.ca/publications/guide/Guide3A/str-eng.asp> and *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*: <http://www.fintrac.gc.ca/publications/guide/Guide3B/3b-eng.asp>.

3.2.5. Terrorist Property Reports

Agents have to send a Terrorist Property Report to FINTRAC in two circumstances related to property in the agent's possession or control, each of which is described below. Note that "property", for the purpose of this reporting obligation, is very broad and means any type of real or personal property including:

- any deed or instrument giving title or right to property, or giving right to money or goods;
- cash, money orders, traveler's cheques, or bank accounts;
- insurance policies;
- securities; and
- real estate.

3.2.5.1. Knowing that property is owned or controlled by or on behalf of a terrorist or terrorist group

Agents have to send a Terrorist Property Report to FINTRAC if they have property in their possession or control that they know is owned or controlled by or on behalf of a terrorist or terrorist group. Such reports must be filed with FINTRAC without delay. This reporting obligation applies to information about any transaction or proposed transaction.

A terrorist or terrorist group includes anyone that has as one of their purposes or activities facilitating or carrying out any terrorist activity. This includes, but is not limited to anyone on the following websites:

- Public Safety Canada: <http://www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx>;
- Office of the Superintendent of Financial Institutions: <http://www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx>.

If an agent knows that a transaction is related to property owned or controlled by or on behalf of a terrorist or a terrorist group, you should not complete it. This is because such property must be frozen under the *Criminal Code*.

3.2.5.2. Believing that property is owned or controlled by or on behalf of a listed person

Agents have to send a Terrorist Property Report to FINTRAC without delay if they have property in their possession or control that they believe is owned or controlled by or on behalf of a “listed person”.

A listed person includes an individual, a corporation, a trust, a partnership or fund or an unincorporated association or organization that is believed to: (i) have carried out, attempted to carry out, participated in or facilitated a terrorist activity; or (ii) be controlled directly or indirectly by, be acting on behalf of, at the direction of, or in association with any individual or entity conducting any of the above activities. The following website should be consulted to determine if a person or entity is a “listed person”:

- Office of the Superintendent of Financial Institutions: <http://www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx>.

If an agent knows that a transaction is related to property owned or controlled by or on behalf of a listed person, they should not complete it. This is because such property must be frozen under the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*.

3.2.5.3. Contents of Terrorist Property Report

A Terrorist Property Report must include: (i) the reason for making the report including how possession or control of the terrorist property was obtained; (ii) how it became known that the property was terrorist property; (iii) the type of property and its actual or approximate value; (iv) the branch and transit numbers of the financial institution where the funds for the completed or proposed transaction were deposited; (v) the account number and type of account to where terrorist funds were deposited; (vi) the amount and type of funds deposited; (vii) the full name of the account holder to where the funds were deposited; (viii) the time and date of the transaction; (ix) the type of funds or other property involved in initiating the transaction; and (x) how the transaction was, or was proposed to be, completed.

Terrorist Property Reports must be submitted on paper to FINTRAC; copies of Terrorist Property Report forms can be printed from FINTRAC’s website: <http://www.fintrac.gc.ca/publications/TPR-2008-eng.pdf>. To ensure that the information provided is legible, FINTRAC asks that the report be typed. However, if the report must be completed by hand, use black ink and print using capital letters.

For detailed instructions on how to complete the report, consult FINTRAC's website.

Reports can be faxed to FINTRAC at 1-866-226-2346 or mailed by registered mail to the following address:

FINTRAC
Section A
234 Laurier Avenue West, 24th Floor
Ottawa, ON, K1P 1H7

3.2.5.4. CSIS and RCMP

In addition to making a Terrorist Property Report to FINTRAC, agents having "property" in their possession or control that they know is owned or controlled by or on behalf of a terrorist or a terrorist group, or having property in their possession or control that they believe is owned or controlled by or on behalf of a listed person, must disclose its existence to the RCMP and to the Canadian Security Intelligence Service (CSIS) without delay. Information should be provided to the RCMP and CSIS at the following fax numbers:

- RCMP, Anti-Terrorist Financing Team: 613-949-3113.
- CSIS Financing Unit: 613-231-0266.

If an agent only *suspects* that a transaction is related to property owned or controlled by or on behalf of a terrorist or terrorist group, or they suspect that their client is a terrorist or listed person but do not know for sure, a Suspicious Transaction Report should be filed with FINTRAC.

Our brokerage policy with respect to our Terrorist Property reporting obligations is as follows:

- **Our Compliance Officer shall keep a full list and description of known terrorists, terrorist groups and listed persons.**
- **The list of known terrorists, 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 or a terrorist group or believed that property is owned or controlled by or on behalf of a listed person:**
 - **A Completed Terrorist Property Reports shall be sent to FINTRAC by the agent/our Compliance Officer.**

- The agent/our 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, terrorist group or listed person:
 - The agent/our Compliance Officer shall file a Suspicious Transaction Report with FINTRAC.
- Retain a copy of the Suspicious Transaction Report acknowledgement message from FINTRAC.

Our additional policies and procedures with respect to our terrorist property reporting obligations are as follows:

Brokerage-specific Terrorist Property Reporting Policies and Procedures

Add Additional Pages If Necessary

Don't forget to mark and sign the checklist on page 9 once you've established policies and procedures with respect to terrorist property reports!

For more information regarding terrorist property reporting see FINTRAC's *Guideline 5: Submitting Terrorist Property Reports to FINTRAC* <http://www.fintrac.gc.ca/publications/guide/Guide5/5-eng.asp#s441>.

4. Risk Assessment and Risk Mitigation

4.1. Risk Mitigation

FINTRAC states that the Brokerage's Compliance Regime must include risk-mitigation measures. It provides examples of such measures in its Guidelines, which can be used by the brokerage as applicable. They have been included here for ease of reference and modified for a real-estate context:

- In all situations, the broker should consider implementing internal controls such as:
 - Having the Compliance Officer focus on the brokerage's operations (products and services, clients and business relationships, geographic locations, and any other relevant factors) that are more vulnerable to abuse by money launderers and criminals;
 - Having agents/the Compliance Officer inform senior management of the brokerage with respect to compliance initiatives, identified compliance deficiencies, corrective action taken, and suspicious transaction reports filed;
 - Provide for program continuity despite changes in management, employees or structure;
 - Having the Compliance Officer focus on meeting all regulatory record keeping and reporting requirements, recommendations for anti-money laundering and anti-terrorist financing compliance and providing for timely updates in response to changes in requirements;
 - Enabling the timely identification of reportable transactions and ensure accurate filing of required reports;
 - Incorporating anti-money laundering and anti-terrorist financing compliance into job descriptions and performance evaluations of appropriate personnel; and
 - Providing for adequate supervision of employees and agents that handle currency transactions, complete reports, monitor for suspicious transactions, or engage in any other activity that forms part of your anti-money laundering and anti-terrorist financing program.
- Here are examples of measures the broker may undertake to mitigate the broker's risk of money laundering:

- increasing the awareness of high risk situations within business lines across the brokerage;
- increasing the frequency of ongoing monitoring of transactions or business relationships;
- increasing the levels of ongoing controls and reviews of relationships with the brokerage;
- reviewing the brokerage's own internal controls, to ensure that it has:
 - personnel that have clear lines of authority, responsibility and accountability;
 - adequate segregation of duties;
 - proper procedures for authorization (for example, an employee processing a transaction for which the amount exceeds a certain threshold has to follow a procedure to get approval for the transaction by someone else in the organization); and
 - internal reviews to validate the risk assessment processes.
- The broker may also consider additional measures such as:
 - seeking additional information beyond the minimum requirements to ascertain the client's identity or the beneficial ownership information of an entity;
 - requesting high-risk clients provide additional, documented information regarding controls they have implemented to safeguard their operations from abuse by money launderers and terrorists;
 - getting independent verification of information (that is, from a credible source other than the client);
 - stopping any transaction with a potential client until identification and account opening information has been obtained;
 - implementing an appropriate process to approve all relationships identified as high-risk as part of the client acceptance process or declining to do business with potential clients because they exceed your risk tolerance level;
 - implementing a process to exit from an existing high-risk relationship which management sees as exceeding your risk tolerance level.

You may wish to incorporate some of the above examples into your brokerage's risk-mitigation policies and procedures. If you wish, you can specify that certain obligations only apply when the risk reaches a certain threshold you have defined (for example, medium, medium-high, high, etc.).

Note that some of the policies and procedures the broker applies to the brokerage may only be relevant in the context of high risk clients in which case you may have already documented the relevant policies and procedures (see Sections 3.1.2.5 and 3.1.2.11 above). You don't need to repeat those policies and procedures here again but you may do so if you wish. If you choose not to repeat information you may wish to specify where in this manual those policies and procedures can be found.

Our brokerage will apply the following risk-mitigation policies and procedures:

Brokerage-specific Risk-Mitigation Policies and Procedures

[Add Additional Pages If Necessary](#)

Brokerage-specific Risk-Mitigation Policies and Procedures (Cont)

Add Additional Pages If Necessary

Don't forget to complete and sign the checklist on page 7 once you've established policies and procedures with respect to risk assessment and mitigation measures (sign after you complete Sections 4.1 and 4.2)!

For more information regarding risk mitigation see FINTRAC's *Guideline 4: Implementation of a Compliance Regime* <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s662>.

4.2. Risk Assessment

The Compliance Regime must also provide for assessing and documenting the brokerage's risk of a money laundering offence or a terrorist activity financing offence. The assessment should take into consideration the clients and business relationships of the person or entity, the products and delivery channels of the person or entity, the geographic location of the activities of the person or entity, and any other relevant factor.

Tip: Use the policies and procedures developed at Section 3.1.2.10 to determine the risk to the brokerage due to the brokerage's clients. For example, if your brokerage has agents complete Section C of the Client Information Record and has high risk transactions reported to the Compliance Officer, these transactions should be considered in your overall brokerage risk analysis.

See the portion of Section 4.1 related to mitigating high-risk situations if the Broker or Compliance Officer determines that the brokerage overall risk level is high.

Our brokerage policy with respect to Risk Assessment is as follows:

- **The Risk Assessment Form (which may be inserted at Appendix F) shall be completed and updated at least once every two years by the broker or Compliance Officer and kept on file for five years.**
- **If the Risk Assessment indicates that the brokerage risk level is high, the Brokerage shall apply policies and procedures identified in Section 4.1 that are applicable to high risk situations.**

Our additional policies and procedures with respect to our risk assessment are as follows:

Brokerage-specific Risk Assessment Policies and Procedures

[Add Additional Pages If Necessary](#)

Brokerage-specific Risk Assessment Policies and Procedures (Cont'd)

Add Additional Pages If Necessary

Don't forget to complete and sign the checklist on page 7 once you've established policies and procedures with respect to risk assessment and mitigation measures! Also don't forget to complete and sign the checklist on page 3, row 6, once you've verified that your brokerage has completed its risk assessment for the current two-year period!

For more information regarding risk assessments see FINTRAC's *Guideline 4: Implementation of a Compliance Regime* <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s66>.

5. Training Program

If a broker has employees, agents or other individuals authorized to act on their behalf, their compliance regime has to include training. If the broker is a sole proprietor (not a corporation) with no employees, agents or other individuals authorized to act on their behalf, they are not required to have a training program in place for themselves.

FINTRAC requires all training programs to meet certain requirements:

- The training program must be in writing.

Tip: You may wish to keep the following documentation on file: course materials; a record of which employees, agents or other individuals are trained and when they are trained (for example, keep schedules of completed and planned training on file).

- The training program must be maintained.
- Individuals with responsibilities under a brokerage's compliance regime should receive training. This includes:
 - Front line and senior staff who have contact with clients, who see client transaction activity, handle cash or funds in any way or who are responsible for implementing or overseeing the compliance regime;
 - IT staff responsible for designing and implementing internal controls;
 - The Compliance Officer; and
 - Internal Auditors.
- New staff should be trained before they deal with clients.
- Those who complete the training should have an understanding of:
 - The reporting, client identification and record keeping requirements as well as penalties for not meeting those requirements.
 - The brokerage's Compliance Regime.
 - Background information on:
 - money laundering so everyone who needs to can understand what money laundering is, why criminals choose to launder money and how the process usually works.
 - terrorist financing and how that process usually works.

Tip: information on money laundering and terrorist financing can be found in FINTRAC's *Guideline 1: Backgrounder* <http://www.fintrac.gc.ca/publications/guide/Guide1/1-eng.asp> as well as the Money Laundering 101 Modules, which are available on REALTOR Link®.

Our brokerage's policies and procedures with respect to ongoing compliance training are as follows:

- **Our brokerage shall maintain a written, ongoing compliance training program for employees, agents etc.**
- **All sales representatives and authorized officials, management, administrative staff, etc. employed by our firm, who are authorized to act on behalf of the firm, and who have contact with clients/customers, see client/customer transaction activity, or who handle cash in any way, must receive compliance training. Others with responsibilities under the Compliance Regime, such as information technology, the appointed Compliance Officer, internal auditors or accountants, and staff responsible for designing and implementing electronic or manual internal controls, must also receive compliance training.**
- **All new agents and staff or other persons authorized to act on the firm's behalf must receive compliance training before they begin to deal with clients/customers. Any person who changes jobs within the brokerage firm must complete compliance training to ensure that they are up-to-date with compliance policies associated with their new responsibilities.**
- **All agents, staff and other persons authorized to act on the firm's behalf will be kept informed of any changes in the PCMLTF Regime and will be informed of current developments and changes in money laundering or terrorist activity financing schemes particular to their jobs by the Compliance Officer.**
- **In order to gain an understanding of the requirements for reporting, client identification, record keeping, and a general understanding of the money laundering process and terrorist financing and their occurrence within the real estate industry, all agents, staff and other persons authorized to act on the firm's behalf must complete the following:**
 - 1) Complete Money Laundering 101: all five modules; provided on the CREA website www.realtorlink.ca.²¹**

²¹ See http://www.realtorlink.ca/portal/server.pt/gateway/PTARGS_0_168892_15682_1119_164367_43/http%3B/wci-publisher%3B7087/publishedcontent/publish/national_shared_resources/compliance_centre/money_laundering.htm.

- 2) Read and understand this Compliance Regime.
- 3) All other training identified by the Compliance Officer and outside in our Brokerage-specific Compliance Training Policies and Procedures below.

The Compliance Officer may disclose these forms to FINTRAC if requested as part of an audit of the brokerage's compliance training. Upon completion of the above training, the relevant student must complete the form provided at Appendix G and forward it to our Compliance Officer. Note that any brokerage-specific additional training courses shall be documented by the Compliance Officer using a copy of the form at Appendix H.

Our additional policies and procedures with respect to compliance training are as follows:

Brokerage-specific Compliance Training Policies and Procedures

[At a minimum you may wish to specify who will be providing the training and the details of your brokerage training program].

Add Additional Pages If Necessary

Additional Training Courses

Add Additional Pages If Necessary

Don't forget to complete and sign the checklist on page 7 once you've developed a training program for your brokerage!

For more information regarding ongoing compliance training see FINTRAC's *Guideline 4: Implementation of a Compliance Regime* <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s77>.

6. Review Process

6.1. What Must be Reviewed

The Compliance Regime must include a review of its policies and procedures to test its effectiveness. This review has to be done every two years. The review must cover the brokerage's:

- Policies and procedures;
- Risk assessment; and
- Training program,

for the purpose of testing their effectiveness.

6.2. Who May Perform the Review

The review may be conducted by an internal or external auditor of the brokerage. If you do not have an internal or external auditor, you can do a "self-review". If feasible, this self-review should be conducted by an individual who is independent of the brokerages' reporting, record keeping and compliance-monitoring functions.

6.3. How to Conduct a Review

A review will vary depending on the circumstances, but could include interviews, tests, and samplings, such as:

- Interviews with those employees handling transactions and with their supervisors to determine their knowledge of the PCMLTF Regime and the brokerage's policies and procedures;
- A review of the criteria and process for identifying and reporting suspicious transactions;
- A sampling of large cash transactions followed by a review of the reporting of such transactions;
- A sampling of high risk clients to review the enhanced measures taken;
- A test of the record keeping system for compliance with the PCMLTF Regime;
- A test of the record keeping system for compliance with the legislation;

- A test of the client identification procedures for compliance with the PCMLTF Regime; and
- A review of the risk assessment.

The scope, detail and results of the review must be documented along with corrective measures and follow-up actions.

Our brokerage's policies and procedures with respect to our review obligations are as follows:

- The following individual/entity shall audit our brokerage every two years:

AUDITOR Appointment

Our Auditor is: _____.

Auditor Contact Details: _____.

_____.

- The auditor shall complete and sign page 3, row 5, of this policies and procedures manual every two years.
- The auditor shall document his/her findings using the template form at Appendix J and report the findings, as well as any updates to this manual during the review period, and the status of implementation of the updates, to senior management at the brokerage within 30 days of the review.

Our additional policies and procedures with respect to effectiveness testing are as follows

Brokerage-specific Review Policies and Procedures

Add Additional Pages If Necessary

Brokerage-specific Review Policies and Procedures (Cont'd)

Add Additional Pages If Necessary

Don't forget to complete and sign the checklist on page 7 once you've developed review procedures (a.k.a. effectiveness testing procedures) for your brokerage!

For more information regarding the review process see FINTRAC's *Guideline 4: Implementation of a Compliance Regime* <http://www.fintrac.gc.ca/publications/guide/Guide4/4-eng.asp#s88>.

Appendices

Please note that the following documents have been prepared by CREA to assist members in complying with requirements of Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*. Brokers are free to develop their own forms as **use of CREA's forms is not required** in order to comply with the PCMLTF Regime.

The Mandatary/Agent Agreement form at Appendix D is likely to be the subject of negotiation between the Broker and individual mandatary or agent.

Appendix A:

Individual Identification Information Record

[insert a copy of the Individual Identification Information Record used in your brokerage here]

Appendix B: Corporation/Entity Identification Information Record

[insert a copy of the Corporation/Entity Identification Information Record used in your brokerage here]

Appendix C: Template Letter to Obtain Corporate Information

[insert date]

VIA [insert means of communication]

[insert address]

Attention: [insert name of lawyer or representative]

Dear Sir or Madam:

Re: Identification Information Record - [insert details of transaction (e.g., address)]

Real estate agents/brokers are subject to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its associated Regulations. As such, we are required to confirm the existence of, and ascertain the name and address of, every corporation or other entity (e.g., partnership) on whose behalf we conduct a transaction, as well as the names of its directors. We are also required to confirm that the person entering into the transaction on behalf of the corporation has the power to bind the corporation regarding the transaction. We therefore request your assistance in completing our Identification Information Record with respect to the above-noted transaction for **[insert name of corporation]**.

We enclose a form which lists the information we are required to include in our records. Please complete the form, attach the requested documents and return the materials to [insert name] at [refer to mailing address or e-mail address]. We also enclose a consent from [name of corporation] to the release of this information.

We are required to confirm the existence of **[name of corporation]** and complete the information record within 30 days of the closing of this transaction or, where the corporation is the buyer, within 30 days of the deposit being made. We would therefore appreciate receiving the documents listed above no later than **[note – insert date]**.

If you have any questions please do not hesitate to contact us.

Yours very truly,

Information Form Respecting Corporations/Other Entities

If you act for a corporation

1. Please provide the following information:

- (a) Name of corporation:
- (b) Corporate address:
- (c) Nature of Principal Business:
- (d) Names of Directors:

2. Please provide the following records:

- (a) Copy of a corporate record showing authority to bind corporation regarding transaction²²
- (b) Copy of record confirming existence of corporation²³:
- (c) If the records are in paper format, please enclose a copy with this form. In the event that you provide an electronic version of a record which is publically accessible, please provide the following information:
 - (i) Registration number of corporation:
 - (ii) Type of verification record²⁴:
 - (iii) Source of verification record²⁵:

If you act for an entity other than a corporation (e.g., partnership)

1. Please provide the following information:

- (a) Name of entity:
- (b) Entity address:
- (c) Nature of Principal Business:

[...2]

²² For example, certificate of incumbency, articles of incorporation or by-laws setting out the officers duly authorized to sign on behalf of corporation.

²³ For example, certificate of corporate status or other record confirming corporation's existence.

²⁴ For example, certificate of corporate status, published annual report, government notice of assessment.

²⁵ For example, Corporations Canada website.

2. Please provide the following records:

(a) Copy of record confirming existence of entity²⁶:

If the record is in paper format, please enclose a copy with this form. In the event that you provide an electronic version of a record which is publically accessible, please provide the following information:

(i) Registration number of entity:

(ii) Type of verification record:

(iii) Source of verification record:

Whether you act for a corporation or an entity other than a corporation

Please indicate whether or not the corporation or entity is acting on behalf of a third party with respect to this real estate transaction.

(a) Is corporation or entity acting on behalf of a third party?

Yes ____ No ____ Reasonable suspicion²⁷ ____

(b) Name of third party:

(c) Address:

(d) Date of Birth:

(e) Nature of Principal Business or Occupation:

(f) Incorporation number and place of issue (if applicable):

(g) Relationship between third party and corporation or entity:

²⁶ For example, partnership agreement, articles of association.

²⁷ Reasonable suspicion would arise when circumstances indicate the possibility of a third party but the entity's representative will not confirm.

Consent

I, **[name of individual]**, as a duly authorized representative of **[name of corporation]**, hereby authorize **[lawyer]** to release and communicate to **[insert name]** the corporation information set out in the attached Information Form Respecting Corporations/Other Entities for the sole purpose of enabling **[insert name]** to comply with his/her obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its associated Regulations.

_____ [Name in print]

_____ [Signature] Date: _____

Appendix D:

Identification Mandatory/Agent Agreement form

[insert a copy of the Identification Mandatory/Agent Agreement used in your brokerage here]

Appendix E:

Receipt of Funds Record

[insert a copy of the receipt of funds record used in your brokerage here]

Appendix F:

Risk Assessment Form

[insert a copy of the risk assessment form used in your brokerage here]

Appendix G: Certification of Completion of Compliance Training

By signing this form, I certify that I have completed the following training:

1. Money Laundering 101: all modules, as provided on the CREA website www.REALTORlink.ca
2. Read Firm's Compliance Policies and Procedures

Name: _____

Date: _____

Signature: _____

Please forward this form to the Compliance Officer.

Appendix H: Completion of Additional Training

Name of session organizer: _____

Date of session: _____

Signature: _____

Type of Training: _____

(Indicate whether training was provided in a Sales meeting, CPD, etc.)

Names of those attending:

Complete as required and sent to the firm's Compliance Officer for record keeping.

Appendix I:

Sample Clusters for Client Risk Assessment

Cluster Name: TEMPLATE

Cluster Features:

1. Insert risk variable feature 1
2. Insert risk variable feature 2
3. [Insert as many cluster features that determine client risk as you see fit]

Weighting: insert [LOW/MEDIUM/HIGH] Risk

Cluster Name: CANADIAN CITIZEN OR RESIDENT - PHYSICALLY PRESENT

Cluster Features:

1. Client consists of one or more Canadian citizens or residents.
2. Client was id'ed by the agent face-to-face.
3. None of the following higher risk factors apply:
 - a. Client property is located in a high crime area.
 - b. Client has dealt with successive transactions of the same property in a short period of time.
 - c. Client's business is cash intensive.
 - d. Client uses intermediate vehicles (such as corporations, trusts, foundations, partnerships) or other structures that do not seem usual for their business or seem very complex and unnecessary.
 - e. Client has engaged in any activity that is consistent with a suspicious transaction.
 - f. Client is an intermediary.
 - g. Client is using unsupervised intermediaries.
 - h. Transaction is an assignment of a legally binding contract.

Weighting: LOW Risk

Cluster Name: CANADIAN CITIZEN OR RESIDENT - NOT PHYSICALLY PRESENT

Cluster Features:

1. Client consists of one or more Canadian citizens or residents.
2. Client was id'ed by the agent using one of the non-face-to-face techniques described in section 3.1.2.4 of this Compliance Regime.
3. None of the following higher risk factors apply:
 - a. Client property is located in a high crime area.
 - b. Client has dealt with successive transactions of the same property in a short period of time.
 - c. Client's business is cash intensive.
 - d. Client uses intermediate vehicles (such as corporations, trusts, foundations, partnerships) or other structures that do not seem usual for their business or seem very complex and unnecessary.
 - e. Client has engaged in any activity that is consistent with a suspicious transaction.
 - f. Client is an intermediary.
 - g. Client is using unsupervised intermediaries.
 - h. Transaction is an assignment of a legally binding contract.

Weighting: LOW Risk

Cluster Name: CANADIAN CITIZEN OR RESIDENT (PHYSICALLY PRESENT OR NOT) – HIGH CRIME AREA – NO OTHER HIGHER RISK FACTORS EVIDENT

Cluster Features:

1. Client consists of one or more Canadian citizens or residents.
2. Client was id'ed by the agent face-to-face or was id'ed using one of the non-face-to-face techniques described in section 3.1.2.4 of this Compliance Regime.
3. Client property is located in a high crime area.
4. None of the following higher risk factors apply:
 - a. Client has dealt with successive transactions of the same property in a short period of time.
 - b. Client's business is cash intensive.
 - c. Client uses intermediate vehicles (such as corporations, trusts, foundations, partnerships) or other structures that do not seem usual for their business or seem very complex and unnecessary.
 - d. Client has engaged in any activity that is consistent with a suspicious transaction.
 - e. Client is an intermediary.
 - f. Client is using unsupervised intermediaries.
 - g. Transaction is an assignment of a legally binding contract.

Weighting: LOW Risk

Cluster Name: FOREIGN CITIZEN OR RESIDENT THAT DOES NOT OPERATE IN A HIGH RISK COUNTRY (PHYSICALLY PRESENT OR NOT)

Cluster Features:

1. Client consists of one or more foreign citizens or residents.
2. Client was id'ed by the agent face-to-face or was id'ed using one of the non-face-to-face techniques described in section 3.1.2.4 of this Compliance Regime.
3. None of the following higher risk factors apply:
 - a. Client property is located in a high crime area.
 - b. Client has dealt with successive transactions of the same property in a short period of time.
 - c. Client's business is cash intensive.
 - d. Client uses intermediate vehicles (such as corporations, trusts, foundations, partnerships) or other structures that do not seem usual for their business or seem very complex and unnecessary.
 - e. Client has engaged in any activity that is consistent with a suspicious transaction.
 - f. Client is an intermediary.
 - g. Client is using unsupervised intermediaries.
 - h. Transaction is an assignment of a legally binding contract.

Weighting: LOW Risk

Cluster Name: FOREIGN CITIZEN OR RESIDENT THAT OPERATES IN A HIGH RISK COUNTRY (PHYSICALLY PRESENT OR NOT)

Cluster Features:

1. Client consists of one or more foreign citizens or residents.
2. Client was id'ed by the agent face-to-face or was id'ed using one of the non-face-to-face techniques described in section 3.1.2.4 of this Compliance Regime.
3. Client operates or undertakes activities in a country:
 - a. Subject to sanctions, embargoes or similar measures²⁸
 - b. Identified as a financial secrecy haven²⁹
 - c. Has been identified by the FATF as not-cooperative in the fight against money laundering³⁰
 - d. Has been identified by credible sources³¹
 - i. As lacking appropriate money laundering laws and regulations
 - ii. As providing funding or support for terrorist activities
 - iii. As having significant levels of corruption, or other criminal activity

Weighting: HIGH Risk

²⁸ Consult: <http://www.un.org/sc/committees/index.shtml>; <http://www.international.gc.ca/trade/sanctions-en.asp>; http://www.un.org/Docs/sc/unscl_resolutions.html.

²⁹ Consult: http://www.oecd.org/document/57/0,3343,en_2649_201185_30578809_1_1_1_1,00.html; <http://www.imolin.org/imolin/finhaeng.html#Map.%20%20Major%20Financial%20Havens>.

³⁰ Consult: <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>.

³¹ Consult: <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>; <http://www.coe.int/t/dghl/monitoring/moneyval/>; <http://www.imf.org/external/country/index.htm>; http://www.imolin.org/imolin/amlid/index.aspx?lf_id=.

Cluster Name: CANADIAN CORPORATION OR ENTITY

Cluster Features:

1. Client is a Canadian corporation or other legal entity.
2. Client was id'ed using one of the techniques described in section 3.1.2.3 of this Compliance Regime.
3. None of the following higher risk factors apply:
 - a. Client property is located in a high crime area.
 - b. Client has dealt with successive transactions of the same property in a short period of time.
 - c. Client's business is cash intensive.
 - d. Client uses intermediate vehicles (such as corporations, trusts, foundations, partnerships) or other structures that do not seem usual for their business or seem very complex and unnecessary.
 - e. Client has engaged in any activity that is consistent with a suspicious transaction.
 - f. Client is an intermediary.
 - g. Client is using unsupervised intermediaries.
 - h. Transaction is an assignment of a legally binding contract.

Weighting: LOW Risk

Cluster Name: FOREIGN CORPORATION OR ENTITY THAT DOES NOT OPERATE IN A HIGH RISK COUNTRY

Cluster Features:

1. Client is a foreign corporation or other legal entity that does not operate or undertake activities in a country:
 - a. Subject to sanctions, embargoes or similar measures³²
 - b. Identified as a financial secrecy haven³³
 - c. Has been identified by the FATF as not-cooperative in the fight against money laundering³⁴
 - d. Has been identified by credible sources³⁵
 - i. As lacking appropriate money laundering laws and regulations
 - ii. As providing funding or support for terrorist activities
 - iii. As having significant levels of corruption, or other criminal activity
2. Client was id'ed using one of the techniques described in section 3.1.2.3 of this Compliance Regime.
3. None of the following higher risk factors apply:
 - a. Client property is located in a high crime area.
 - b. Client has dealt with successive transactions of the same property in a short period of time.
 - c. Client's business is cash intensive.
 - d. Client uses intermediate vehicles (such as corporations, trusts, foundations, partnerships) or other structures that do not seem usual for their business or seem very complex and unnecessary.
 - e. Client has engaged in any activity that is consistent with a suspicious transaction.
 - f. Client is an intermediary.
 - g. Client is using unsupervised intermediaries.
 - h. Transaction is an assignment of a legally binding contract.

Weighting: LOW Risk

³² Consult: <http://www.un.org/sc/committees/index.shtml>; <http://www.international.gc.ca/trade/sanctions-en.asp>; http://www.un.org/Docs/sc/unscl_resolutions.html.

³³ Consult: http://www.oecd.org/document/57/0,3343,en_2649_201185_30578809_1_1_1_1,00.html; <http://www.imolin.org/imolin/finhaeng.html#Map.%20%20Major%20Financial%20Havens>.

³⁴ Consult: <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>.

³⁵ Consult: <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>; <http://www.coe.int/t/dghl/monitoring/moneyval/>; <http://www.imf.org/external/country/index.htm>; http://www.imolin.org/imolin/amlid/index.aspx?lf_id=.

Cluster Name: FOREIGN CORPORATION OR ENTITY THAT OPERATES IN A HIGH RISK COUNTRY

Cluster Features:

1. Client was id'ed using one of the techniques described in section 3.1.2.3 of this Compliance Regime.
2. Client is a foreign corporation or other legal entity that operates or undertakes activities in a country:
 - a. Subject to sanctions, embargoes or similar measures³⁶
 - b. Identified as a financial secrecy haven³⁷
 - c. Has been identified by the FATF as not-cooperative in the fight against money laundering³⁸
 - d. Has been identified by credible sources³⁹
 - i. As lacking appropriate money laundering laws and regulations
 - ii. As providing funding or support for terrorist activities
 - iii. As having significant levels of corruption, or other criminal activity

Weighting: HIGH Risk

³⁶ Consult: <http://www.un.org/sc/committees/index.shtml>; <http://www.international.gc.ca/trade/sanctions-en.asp>; http://www.un.org/Docs/sc/unsc_resolutions.html.

³⁷ Consult: http://www.oecd.org/document/57/0,3343,en_2649_201185_30578809_1_1_1_1,00.html; <http://www.imolin.org/imolin/finhaeng.html#Map.%20%20Major%20Financial%20Havens>.

³⁸ Consult: <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>.

³⁹ Consult: <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>; <http://www.coe.int/t/dghl/monitoring/moneyval/>; <http://www.imf.org/external/country/index.htm>; http://www.imolin.org/imolin/amlid/index.aspx?lf_id=.

Appendix J: Template Auditor Review Form – Page 1 of 2

Name of Auditor: _____

Date of Review: _____

Scope of Review:

<div></div>

Add Additional Pages If Necessary

Results of Review:

<div></div>

Add Additional Pages If Necessary

Template Auditor Review Form – Page 2 of 2

Corrective Measures and Follow-Up Actions:

Add Additional Pages If Necessary

Any questions or comments about the service or products CREA provides?
You can contact us on-line at info@crea.ca.



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