

March 21, 2015

RE: FINTRAC Policy Positions File A-2015-00118

Dear Friends,

We have requested the following information because we believe that this information can of great benefit to all reporting entities.

We encourage you to use, analyze and write about it as you see fit. While we would be grateful if you credit us as the source of information when you do so, we won't hold it against you if you don't.

The only true condition that Outlier would like to place on this information is that you not charge anyone for access to it. We believe that information – and in particular information that benefits us all as a community – should be free.

If you have any questions or concerns about the materials themselves, the best course of action is likely going to be contacting FINTRAC directly (guidelines-lignesdirectrices@fintrac-canafe.gc.ca). If you're not comfortable doing so, or would like to discuss your question before hand, please feel free to reach out to any Outlier staff member (if you don't know any of us personally, my contact information is below).

We hope that it helps you to stay compliant!

Sincerely,



Amber D. Scott, MBA, CIPP/C, CAMS

Founder & Chief AML Ninja

Outlier Solutions Inc.

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Financial Transactions and
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Centre of Canada

Ottawa, Canada K1P 1H7

Centre d'analyse des
opérations et déclarations
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Ottawa, Canada K1P 1H7

PROTECTED A

Our File :
A-2015-00118

Ms. Amber D. Scott
Founder
Outlier Solutions Inc.
163 Viewmount Avenue
North York, ON M6B 1T5

March 9, 2016

Dear Ms. Scott:

This is further to your request for access to information which we received in our office on December 26, 2015 submitted under the *Access to Information Act* (the Act) for:

"[PART 1] In December of 2014, FINTRAC published its policy interpretations on its website (<http://www.fintrac.gc.ca/>). Subsequently, we are requesting the following information:

- Any policy positions removed from FINTRAC's website since the initial publication;*
- The rationale for the removal of any policy positions removed from FINTRAC's website since the initial publication; and*
- Information about whether the public and/or any reporting entities were notified at the time of the change.*

[PART 2] In addition, we would like to request the following information about any existing policy interpretations that have not been published via FINTRAC's website since that date:

- Any policy positions that are considered not to be redundant with content previously published on FINTRAC's website that have not been published;*
- Whether it is FINTRAC's intent to publish these policy positions (and if so, the expected date of publication); and*
- The rationale for the non-publication of each policy position above.*

If you have any questions or concerns, please feel free to contact us."

With respect to the **PART 1**, enclosed pages 1-62 contain a list of thirty-eight policy interpretations that were originally published. Of those, thirty were removed since FINTRAC first published the original list as they were deemed either outdated, not considered policy interpretations or intended for internal use only within FINTRAC. The remaining eight are being edited for re-publishing. Notification of these updates was not issued. Additional details can be found in the afore-mentioned pages under the various row headings including which policy interpretation will be re-published.

With respect to the **PART 2**, enclosed pages 63 to 399 contain policy interpretations that are not deemed to be redundant but will not be published at this time. Note that selected items of information have been exempted from disclosure pursuant to sections 16(1)(c), 16(2)(c), 19(1), 20(1)(b),(c), 21(1)(a),(b) and 26 of the Act. ROC to make sure they have responded to Part 2 of the request above including how many new policy interpretations will be published as per section 26 of the Act....

.../2

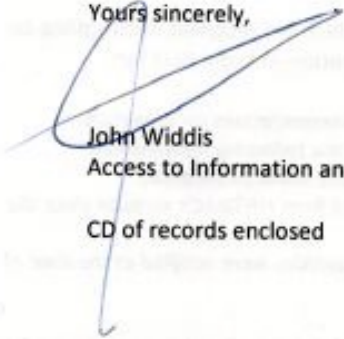
As per section 26 of the Act, FINTRAC intends to publish those interpretations it believes can be edited and re-published (as per **PART 1**), along with the policy interpretations that were not included in the previous publishing of policy interpretations that are not deemed to be redundant.

Please be advised that you are entitled to complain to the Information Commissioner concerning the processing of your request within sixty days of the receipt of this notice. In the event you decide to avail yourself of this right, your notice of complaint should be addressed to:

Office of the Information Commissioner of Canada
30 Victoria Street
Gatineau, Québec K1A 1H3

Should you have any questions, please do not hesitate to contact Mijanoux Beauchamp by telephone at (613) 943-1073, email atip-aiprp@fintrac-canafe.gc.ca, or at the address noted above. When communicating with us, we would appreciate it if you would quote the file number we have assigned to your request.

Yours sincerely,



John Widdis
Access to Information and Privacy Coordinator

CD of records enclosed

Access to Information Act

Law enforcement and investigations

16. (1) The head of a government institution may refuse to disclose any record requested under this Act that contains

- (a) information obtained or prepared by any government institution, or part of any government institution, that is an investigative body specified in the regulations in the course of lawful investigations pertaining to
 - (i) the detection, prevention or suppression of crime,
 - (ii) the enforcement of any law of Canada or a province, or
 - (iii) activities suspected of constituting threats to the security of Canada within the meaning of the *Canadian Security Intelligence Service Act*,

if the record came into existence less than twenty years prior to the request;

- (b) information relating to investigative techniques or plans for specific lawful investigations;
- (c) information the disclosure of which could reasonably be expected to be injurious to the enforcement of any law of Canada or a province or the conduct of lawful investigations, including, without restricting the generality of the foregoing, any such information
 - (i) relating to the existence or nature of a particular investigation,
 - (ii) that would reveal the identity of a confidential source of information, or
 - (iii) that was obtained or prepared in the course of an investigation; or
- (d) information the disclosure of which could reasonably be expected to be injurious to the security of penal institutions.

Security

(2) The head of a government institution may refuse to disclose any record requested under this Act that contains information that could reasonably be expected to facilitate the commission of an offence, including, without restricting the generality of the foregoing, any such information

- (a) on criminal methods or techniques;
 - (b) that is technical information relating to weapons or potential weapons; or
 - (c) on the vulnerability of particular buildings or other structures or systems, including computer or communication systems, or methods employed to protect such buildings or other structures or systems.
-

Personal information

19 (1) Subject to subsection (2), the head of a government institution shall refuse to disclose any record requested under this Act that contains personal information as defined in section 3 of the Privacy Act.

Third party information

20. (1) Subject to this section, the head of a government institution shall refuse to disclose any record requested under this Act that contains

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific or technical information that is confidential information supplied to a government institution by a third party and is treated consistently in a confidential manner by the third party;
- (b.1) information that is supplied in confidence to a government institution by a third party for the preparation, maintenance, testing or implementation by the government institution of emergency management plans within the meaning of section 2 of the *Emergency Management Act* and that concerns the vulnerability of the third party's buildings or other structures, its networks or systems, including its computer or communications networks or systems, or the methods used to protect any of those buildings, structures, networks or systems;

- (c) information the disclosure of which could reasonably be expected to result in material financial loss or gain to, or could reasonably be expected to prejudice the competitive position of, a third party; or
- (d) information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party.

Advice, etc.

21. (1) The head of a government institution may refuse to disclose any record requested under this Act that contains

- (a) advice or recommendations developed by or for a government institution or a minister of the Crown,
- (b) an account of consultations or deliberations in which directors, officers or employees of a government institution, a minister of the Crown or the staff of a minister participate,
- (c) positions or plans developed for the purpose of negotiations carried on or to be carried on by or on behalf of the Government of Canada and considerations relating thereto, or
- (d) plans relating to the management of personnel or the administration of a government institution that have not yet been put into operation,

if the record came into existence less than twenty years prior to the request

Refusal of access where information to be published

26. The head of a government institution may refuse to disclose any record requested under this Act or any part thereof if the head of the institution believes on reasonable grounds that the material in the record or part thereof will be published by a government institution, agent of the Government of Canada or minister of the Crown within ninety days after the request is made or within such further period of time as may be necessary for printing or translating the material for the purpose of printing it.

A-2015-00118

RDIMS 566199

Published?	No
Translated?	Yes
Date Answered	06/05/2009
Updated?	No
Date Last Modified	
Activity Sector	Real estate
Region	HQ
Obligation	Record keeping
Sub-Obligation	General
Topic English	Upgrades and records of funds in real estate sector
Topic French	Améliorations et relevés de fonds dans le secteur immobilier
Question English	
Question French	
Answer English	
Answer French	
Guidelines Reference	6B
Regulations Reference	1(2), 39.7
Act Reference	
Legislative Amendment Required?	No
Number	405
Removal details	wording of question
Update and re-publish?	yes

Published?	No
Translated?	Yes
Date Answered	08/09/2008
Updated?	No
Date Last Modified	
Activity Sector	Unknown
Region	Eastern
Obligation	Record keeping
Sub-Obligation	General
Topic English	Binding Resolutions
Topic French	Résolutions exécutoires
Question English	
Question French	
Answer English	
Answer French	
Guidelines Reference	6
Regulations Reference	14(b), 14.1(b), 15(c), 20, 23(b), 30(b), 33.2(b), 33.4(b), 36(b), 39(c), 39.7(c), 43(b), 49(b)
Act Reference	
Legislative Amendment Required?	No
Number	124
Removal details	Wording of answer
Update and re-publish?	yes

Published?	No
Translated?	Yes
Date Answered	01/10/2008
Updated?	No
Date Last Modified	
Activity Sector	Unknown
Region	Central
Obligation	Reporting
Sub-Obligation	General
Topic English	NOC Codes for Occupation field
Topic French	Codes de la CNP pour le champ « Profession »
Question English	
Question French	
Answer English	
Answer French	
Guidelines Reference	6
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	167
Removal details	Mention of FAD and ROC in answer
Update and re-publish?	yes

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RDIMS 566199

Published?	No
Translated?	Yes
Date Answered	29/10/2008
Updated?	No
Date Last Modified	
Activity Sector	Real estate
Region	HQ
Obligation	Reporting
Sub-Obligation	General
Topic English	Custom built homes and reporting obligations
Topic French	Maisons construites sur mesure et obligations en matière de déclaration
Question English	
Question French	
Answer English	
Answer French	
Guidelines Reference	6B
Regulations Reference	1(2)
Act Reference	
Legislative Amendment Required?	No
Number	192
Removal details	Wording of answer
Update and re-publish?	yes

Published?	No
Translated?	Yes
Date Answered	08/05/2009
Updated?	No
Date Last Modified	
Activity Sector	Life insurance broker or agent
Region	Western
Obligation	Compliance regime Reporting
Sub-Obligation	General STR
Topic English	Relevance of obligations for a life insurance company who doesn't sell life insurance
Topic French	Pertinence des obligations pour une société d'assurance-vie qui ne vend pas de polices d'assurance-vie
Question English	
Question French	
Answer English	
Answer French	
Guidelines Reference	4
Regulations Reference	16
Act Reference	3(i), 5(c)
Legislative Amendment Required?	No
Number	408
Removal details	Reference to risk assessment
Update and re-publish?	yes

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Published?	No
Translated?	Yes
Date Answered	27/05/2009
Updated?	No
Date Last Modified	
Activity Sector	Credit Union
Region	Eastern
Obligation	Reporting
Sub-Obligation	General
Topic English	Reasonable Efforts Fields on Report
Topic French	Champ « Requérant des efforts raisonnables » dans la déclaration
Question English	
Question French	
Answer English	
Answer French	

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RDIMS 566199

Guidelines Reference	
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	431
Removal details	Wording of answer
Update and re-publish?	Yes

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Access to Information s.26
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Published?	No
Translated?	Yes
Date Answered	23/08/2012
Updated?	
Date Last Modified	
Activity Sector	Dealer in precious metals and stones
Region	Western
Obligation	Other
Sub-Obligation	General
Topic English	Costume jewellery
Topic French	Bijoux de fantaisie
Question English	
Question French	
Answer English	

Answer French	

Guidelines Reference	
Regulations Reference	1(2), 39, 1
Act Reference	
Legislative Amendment Required?	
Number	828
Removal details	Wording of question
Update and re-publish?	Yes

Published?	No
Translated?	Yes
Date Answered	18/02/2014
Updated?	
Date Last Modified	
Activity Sector	Money services business
Region	Western
Obligation	Ascertaining Identification
Sub-Obligation	General
Topic English	Ongoing Service Agreement Requirements and LCT via Quick Drop
Topic French	Exigences liées à un accord de relation commerciale suivie et OIE par le biais d'un dépôt express
Question English	
Question French	

Answer English	
Answer French	
Guidelines Reference	9
Regulations Reference	29, 53
Act Reference	
Legislative Amendment Required?	
Number	1098
Removal details	Reference to internal working group
Update and re-publish?	Yes

Published?	No
Translated?	Yes
Date Answered	20/08/2008
Updated?	No
Date Last Modified	
Activity Sector	Securities dealer
Region	Central
Obligation	Record keeping
Sub-Obligation	General
Topic English	Purpose of Account
Topic French	But du compte
Question English	When I was revising ██████████ AML policies and procedures I asked about the new requirement to record purpose of account. You confirmed that the KYC information obtained under IIROC requirements including account objectives would satisfy this requirement.
Question French	Lorsque je révisais les politiques et procédures de lutte contre le blanchiment d'argent de ██████████ je me suis informé de la nouvelle exigence de consigner le but du compte. Vous avez confirmé que les renseignements sur le client obtenus en vertu des exigences de l'OCRCVM, y compris les objectifs du compte, rempliraient cette exigence.
Answer English	While the KYC requirements from securities regulators may meet the intended use obligation, IIROC publishes "minimum standards" and it comes down to a question of fact (i.e., what information the account application actually contains).
Answer French	Même si les exigences sur l'identité des clients qui proviennent des organismes de réglementation des valeurs mobilières peuvent satisfaire l'obligation liée à l'utilisation prévue, l'OCRCVM publie des « normes minimales » et il s'agit alors d'une question de fait (c.-à-d. les renseignements que contient effectivement la demande de compte).
Guidelines Reference	6E
Regulations Reference	23(1)(a.1)
Act Reference	
Legislative Amendment Required?	No
Number	98
Removal details	Not really a PI
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	29/08/2008
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	Eastern
Obligation	MSB registration
Sub-Obligation	General
Topic English	Question about MSB fact sheet
Topic French	Question au sujet de la feuille de renseignements sur les ESM
Question English	Under the ascertaining ID column, the fact sheet states that MSBs must ID any entity with whom they have an on-going business relationship (third bullet). Now s59(2) of the regs state the MSBs must ascertain the existence of any corporation of which they are required to keep a client info record and s59(3) states the same for entities other than corporations. s32 of the Regs state that MSBs must keep a client info record (and thus ascertain the existence of the entity which is the object of the CIR) only for those entities with whom they enter into an on-going service agreement. I do not see anywhere in the Regs whereby an MSB is still obligated to ID entities with whom they have an on-going business relationship. Therefore, if I'm correct, the aforementioned third bullet should not be in the fact sheet. Do you guys agree?
Question French	I checked the GL 6C and no where does it mention that MSBs need to ascertain the ID of entities with whom the MSB has an on-going business relationship. Dans la colonne du contrôle de l'identité, la feuille de renseignements indique que les ESM doivent vérifier l'identité des entités avec lesquelles elles ont une relation d'affaires continue (troisième point). Maintenant, le paragraphe 59(2) du Règlement indique que les ESM doivent vérifier l'existence de toute personne morale à l'égard de laquelle elles doivent tenir un dossier-client et le paragraphe 59(3) indique la même chose pour les entités autres que les personnes morales. L'article 32 du Règlement indique que les ESM doivent tenir un dossier-client (et donc vérifier l'existence de l'entité qui fait l'objet du dossier-client) seulement dans le cas des entités avec lesquelles elles concluent une entente de service continue. Je ne vois rien dans le Règlement qui indique qu'une ESM est toujours obligée de vérifier l'identité des entités avec lesquelles elle a une relation d'affaires continue. Par conséquent, si j'ai raison, le troisième point susmentionné ne devrait pas figurer dans la feuille de renseignements. Êtes-vous d'accord? J'ai vérifié le GL 6C et je n'ai rien trouvé qui mentionne que les ESM doivent vérifier l'identité des entités avec lesquelles elles ont une relation d'affaires continue. No. That is correct. If you look at s. 32 of the regs (I think don't have a copy with me right now). The MSB should in addition to other info about ongoing relationship keep client information record about the entity it is dealing with. Non. Cela est exact. Si vous regardez l'article 32 du Règlement (je crois que je n'en ai pas de copie avec moi à l'heure actuelle). En plus des autres renseignements sur la relation, l'ESM devrait tenir un dossier-client au sujet de l'entité avec laquelle elle fait affaires.
Answer English	
Answer French	
Guidelines Reference	6C
Regulations Reference	32
Act Reference	

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Legislative Amendment Required?	No
Number	119
Removal details	Reference to internal document - incomplete response
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	22/01/2009
Updated?	No
Date Last Modified	
Activity Sector	Securities dealer
Region	Eastern
Obligation	Reporting
Sub-Obligation	General
Topic English	Application of Canadian AML rules to Canadian based FINRA dealers
Topic French	Application des règles canadiennes de lutte contre le blanchiment d'argent aux courtiers membres de la FINRA basés au Canada
Question English	An entity is in discussions with a US based carrying-broker to move our FINRA subsidiary's US accounts to their books (which are resident in the US). We will then set up an omni-bus account to our FINRA dealer, the entity USA corp, which will be fully documented to Canadian AML standards. Once our US accounts are on the US carrying-brokers books, they will only be subject to US AML rules, not Canadian AML rules.
Question French	Can you please confirm this? Une entité est en pourparlers avec un courtier chargé de compte basé aux États-Unis pour déplacer les comptes américains de notre filiale membre de la FINRA à ses livres (qui sont basés aux États-Unis). Nous établirions ensuite un compte omnibus à l'égard de notre courtier membre de la FINRA, la société américaine, qui sera pleinement documenté selon les normes canadiennes de lutte contre le blanchiment d'argent. Une fois que nos comptes américains sont dans les livres des courtiers chargés de compte américains, ils ne seront assujettis qu'aux règles américaines de lutte contre le blanchiment d'argent, et non aux règles canadiennes.
Answer English	Pourriez-vous confirmer cela? The foreign subsidiary requirements in our legislation apply to operations in non-FATF member countries. The United States is a member of the FATF. I'm also assuming your U.S. carrying broker does not meet the definition of "securities dealer" as defined by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, so they would not be subject to the Canadian legislation.
Answer French	If you set up an omnibus account in the name of the U.S. carrying broker on your Canadian securities company, you would be required to comply with Canadian AML legislation with respect to that account. This omnibus account not only must be in the name of the US carrying broker, but that he would be the only person authorized to give instructions in regards to the account (i.e. the U.S. clients cannot give any instructions).
Guidelines Reference	6E
Regulations Reference	1(2)
Act Reference	9.7
Legislative Amendment	No

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POLICY INTERPRETATION CONTAINED IS OUTDATED

RDIMS 566199

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Required?	
Number	281
Removal details	Archived due to reference of amended PCMLTFA (s.9.7)
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	13/08/2008
Updated?	No
Date Last Modified	
Activity Sector	Credit Union Western
Region	Western
Obligation	Ascertaining Identification General
Sub-Obligation	
Topic English	FINTRAC's listing of countries with privacy policy
Topic French	Liste des pays ayant une politique de confidentialité de CANAFE
Question English	Does FINTRAC know or have a listing of countries that would be considered compliant do to the regulations within their own countries? This would reduce the number of traces having to be sent to International Financial Institutions when the reply would be the same as the Swiss Bank.
Question French	Est-ce que CANAFE connaît les pays ou a une liste des pays qui respectent leurs règlements nationaux? Cela réduirait le nombre de messages de suivi devant être envoyés à des institutions financières internationales qui nous donneraient la même réponse que les banques suisses.
Answer English	The Regs for the most part only speaks to FATF and Compliance in other countries for 3rd party obligation (exception under 9(5) regs) and correspondent banking relations (does not apply to most CUS- 15, 1 Regs and 9.7(1) Foreign subsidiary). If the question has been asked once, and we know that this information will systematically be missing every time, it wouldn't be necessary to ask each and every time, as we know that this country has specific secrecy laws in regards to that information request.
Answer French	Finance had indicated at one time, that the reporting entities have no control on this issue, therefore Finance and FINTRAC should not bother with that missing information - however, FINTRAC has not gone that far!
Guidelines Reference	6G
Regulations Reference	9(5), 15, 1
Act Reference	9.7(1)
Legislative Amendment Required?	No
Number	83
Removal details	Archived due to reference of amended PCMLTFA (s.9.7)
Update and re-publish?	no

Published?	No
Translated?	Yes
Date Answered	19/08/2008
Updated?	No
Date Last Modified	
Activity Sector	Securities dealer
Region	Central
Obligation	Ascertaining Identification
Sub-Obligation	General
Topic English	ID obligations for US subsidiaries
Topic French	Obligations relatives à l'identité pour les filiales américaines
Question English	I don't think that the PCMLTFA applies to their US subsidiary as US is a member of FATF. However, according to the RE, [REDACTED] seemed to share a different view.
Question French	Would appreciate your opinion on this. Je ne crois pas que la LRPCFAT s'applique à leur filiale américaine parce que les États-Unis sont un membre du GAFI. Cependant, selon l'ED, [REDACTED] semblait avoir une opinion différente.
Answer English	J'aimerais connaître votre opinion à ce sujet.
Answer French	Need to ID the US subsidiaries
Guidelines Reference	Nécessité d'obtenir l'identité de la filiale américaine
Regulations Reference	6E
Act Reference	9.7(1)
Legislative Amendment Required?	No
Number	96
Removal details	Incomplete question and answer
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	08/10/2008
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	MSB registration
Sub-Obligation	General
Topic English	Process to be followed for MSBs that cease and don't submit a cessation form
Topic French	Processus à suivre pour les ESM qui cessent leurs activités, mais qui ne transmettent pas de formulaire à cet effet
Question English	If a MSB has ceased operations (telephone number disconnected, regional officer has seen that the business is closed down, etc.), however, omits to send the cessation form to FINTRAC - can we imply that the MSB has ceased operations and what date should we indicate? (or should we send a letter, wait for 30 days, then assume they ceased). Or devise of another way to assess that ceased operations?
Question French	Si une ESM cesse ses activités (téléphone débranché, agent régional s'est assuré de tout fermer, etc.) mais omet d'envoyer un formulaire à cet effet à CANAFE, peut-on prendre pour acquis que l'ESM a cessé ses activités et quelle date doit-on indiquer? (ou doit-on envoyer une lettre, attendre 30 jours, et prendre pour acquis que l'ESM n'est plus active). Doit-on plutôt trouver une autre façon d'établir que l'ESM a mis fin à ses activités?
Answer English	
Answer French	
Guidelines Reference	
Regulations Reference	Schedule 1-Part B- section 10
Act Reference	11, 17
Legislative Amendment Required?	No
Number	176
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	09/10/2008
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	MSB registration
Sub-Obligation	General
Topic English	Proposed change in field B10
Topic French	Changement proposé au champ B10
Question English	<p>I would like to propose a change to the MSB application user guide pertaining to field B10. The user guide currently talks about Annual revenues for field B10.</p> <p>Extract from the user guide.</p> <p>Field B10 Annual revenues of applicant</p> <p>Indicate in field B10 the approximate annual value in Canadian dollars of all your activities described in field A15 of Part A. Enter, if any, the value of foreign exchange dealing in field B10A, the remittance or transmission of funds in field B10B and the issuance or redemption of money orders, traveller's cheques, or similar negotiable instruments in field B10C. Include the amounts in dollars only, do not include cents.</p> <p>These amounts can be based on your last fiscal year or the previous calendar year. If you are a new money service business, enter your estimated annual revenues.</p> <p>Complete this field only at the time of registration application and renewals. There is no need to submit a change or newly obtained information about this.</p> <p>Question: What is meant by the "annual value" in field B10 of the MSB Registration form?</p> <p>Answer: The annual value is the gross total sales of products and services provided in the context of MSB activities.</p> <p>For foreign exchange, the annual value is the gross total sales plus the gross total purchases of currency before deductions in a calendar year.</p> <p>For issuance and redemption of negotiable instruments, the annual value is the gross total sales plus the gross total redemptions before deduction in a calendar year.</p> <p>For the transmission and remittance of funds, the total value is the gross amount of funds remitted, transmitted or received before deductions in a calendar year.</p> <p>I would like to modify the User Guide to reflect the details of the field plus add some text surrounding our latest interpretation of multiple fields being possibly affected by same transaction.</p> <p>I find that the user guide does not explain this field properly and I am a bit lost on how to explain this field in an easy way to avoid both confusion from a user perspective and data quality on our side.</p> <p>J'aimerais proposer une modification à apporter au champ B10 du formulaire d'inscription des ESM. Le guide traite actuellement de revenus annuels au champ B10.</p>
Question French	<p>Extrait du guide de l'utilisateur. Champ B10 revenus annuels de demandeur.</p> <p>Indiquer dans le champ B10 la valeur approximative, en dollars canadiens, de toutes vos activités décrites au champ A15 de la partie A. Inscrire, le cas échéant, la valeur des opérations de change dans le champ B10A, l'émission ou la transmission de fonds dans le champ B10B et l'émission ou la remise de mandats, de chèques de voyage ou d'instruments de même nature dans le champ B10C. Ajouter les montants en dollars uniquement, ne pas inclure les cents.</p> <p>Ces montants peuvent être tirés de votre dernier exercice ou de l'année civile précédente. Si vous êtes une nouvelle entreprise de services monétaires, inscrivez vos revenus annuels prévus.</p>

	<p>Ne remplir ce champ qu'au moment de l'inscription ou du renouvellement. De l'information modifiée ou nouvelle n'a pas à être signalée.</p> <p>Question : Que signifie « valeur annuelle » au champ B10 du formulaire d'inscription des ESM?</p> <p>Réponse : La valeur annuelle est le montant brut de la vente des produits et services offerts dans le cadre des activités de l'ESM.</p> <p>Pour les opérations de change, la valeur annuelle est le montant brut des ventes, plus le montant brut des achats avant déduction au cours de l'année civile. Pour l'émission et l'échange d'instruments négociables, la valeur annuelle le montant brut total des ventes plus le montant brut total des échanges avant déduction au cours de l'année civile.</p> <p>Pour la transmission et la réception de fonds, la valeur annuelle du montant brut des fonds remis, transmis ou reçus avant déduction au cours de l'année civile.</p>
Answer English	<p>Je ne crois pas que le guide explique ce champ correctement, et je ne savais pas vraiment comment éviter la confusion du point de vue de l'utilisateur et en ce qui a trait à la qualité de nos données.</p> <p>I reviewed the proposed change and it looks fine to me. However, I just wanted to point out that although the FX and the EFT are two separate transactions per se, we can administratively decide to combine that information and add both in one field to reflect just the total volume of the MSB activities.</p>
Answer French	<p>The regulations in Schedule 1 - Part B- section 15 indicate the approximate annual value in Cdn dollars of all fx dealing and all other activities (as per 5(h)) - and does not separate into two distinctive values.</p> <p>J'ai étudié la proposition de changement et elle me semble très bien. Toutefois, je désire signaler que les opérations de change et les téléversements soient deux opérations différentes en soit, nous pouvons décider, de façon administrative, de combiner cette information et de la verser dans un seul champ pour tenir compte du nombre total d'activités de l'ESM.</p>
Guidelines Reference	L'annexe 1, partie B, section 15 du Règlement indique la valeur annuelle approximative, en \$CA, de toutes les opérations de change et de toutes les autres activités (en vertu de 5(h)) et ne les sépare pas en deux valeurs distinctes.
Regulations Reference	Schedule 1 - Part B- section 15
Act Reference	5(h)
Legislative Amendment Required?	No
Number	181
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	07/11/2008
Updated?	No
Date Last Modified	
Activity Sector	Bank Life insurance company Trust and/or loan company
Region	HQ
Obligation	Ascertaining Identification
Sub-Obligation	General
Topic English	Identification des exigences en matière de vérification de l'identité dans les pays ne faisant pas partie du GAFI
Topic French	Application des exigences en matière de vérification de l'identité dans les pays ne faisant pas partie du GAFI
Question English	One of our FRFIs has operations in a non-FATF member country, but client identification is performed by distributors (in this case banks and broker dealers) who are located in FATF member countries would it be acceptable to not require practices consistent with our legislation based on the argument that the identification is being performed in an FATF member country?
Question French	Une de nos institutions financières sous réglementation fédérale exerce des activités dans un pays qui n'est pas membre du GAFI, mais la vérification de l'identité des clients est effectuée par des distributeurs (dans ce cas les banques et les courtiers) qui sont situés dans les pays membres du GAFI. Serait-il acceptable de ne pas exiger des pratiques conformes à notre législation étant donné le fait que la vérification de l'identité est effectuée dans un pays membre du GAFI?
Answer English	First, we assume that we are talking about a branch or a subsidiary of the FRFI that is located in a non-FATF country (as opposed to the statement that the FRFI has "operations" in a non-FATF member) - as sections 9.7 and 9.8 refer to wholly owned subsidiaries and branches (respectively). Secondly, what is of the essence of both sections 9.7 and 9.8 is that the sub or branch, that is located in a country that is not a member of the FATF, have standards similar to Canada.
Answer French	Conséquemment, basé sur la notion que there must be standards in place put in place by the FRFI to ensure that their branch develop and apply policies and procedures that are similar to our requirements in Canada, then no, it would not be acceptable to not require practices consistent with our legislation... the standards similar to Canada would include a compliance regime, record keeping obligations and client identification requirements. In other words, the FRFI would have to ensure that its sub or branch itself (in the non-FATF country) develop and apply policies and procedures consistent with our Canadian legislative requirements (including the client identification requirements). Premièrement, nous présumons qu'il s'agit ici d'une succursale ou d'une filiale de l'institution financière sous réglementation fédérale qui est située dans un pays qui n'est pas membre du GAFI (et non que l'institution exerce des activités dans un pays qui n'est pas membre du GAFI, comme le stipule l'énoncé), vu le fait que les articles 9.7 et 9.8 font référence à des filiales à part entière et à des succursales (respectivement). Deuxièmement, l'essence des articles 9.7 et 9.8 est que la filiale ou succursale qui est située dans un pays ne faisant pas partie du GAFI doit posséder des normes semblables à celles du Canada. Par conséquent, comme il doit y avoir des normes mises en place par l'institution financière sous réglementation fédérale pour assurer que sa filiale élabore et mette en application des politiques et des procédures qui sont semblables à nos exigences au Canada, donc non, il ne serait pas acceptable d'exiger des pratiques

POLICY INTERPRETATION CONTAINED IS OUTDATED

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	conformes à notre législation... les normes semblables à celles du Canada devraient comprendre un programme de conformité, des obligations en matière de tenue de documents et des exigences en matière de vérification de l'identité des clients.
	Autrement dit, l'institution financière sous réglementation fédérale devrait s'assurer que sa filiale ou succursale située dans le pays ne faisant pas partie du GAFI, élabore et applique elle-même des procédures et des politiques qui s'apparentent à nos exigences législatives (y compris nos exigences en matière de vérification des clients).
Guidelines Reference	6A, 6G
Regulations Reference	
Act Reference	9.7, 9.8
Legislative Amendment Required?	No
Number	205
Removal details	Archived due to reference of amended PCMLTFA (s.9.7)
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	14/11/2008
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	MSB registration
Sub-Obligation	General
Topic English	Inactive RES Issue
Topic French	Entités déclarantes inactives
Question English	
Question French	
Answer English	The understanding is that it is the RE's responsibility. I think that contacting the service provider depends on whether the RE has authorized FINTRAC to discuss questions with its service provider.
Answer French	Il est entendu qu'il s'agit de la responsabilité de l'entité déclarante. Pour ce qui est de s'il y a lieu de communiquer avec le fournisseur de services, cela dépend de si l'entité déclarante a autorisé CANAFE à discuter de cette question avec son fournisseur de services.
Guidelines Reference	6C
Regulations Reference	6(2)
Act Reference	5(h)
Legislative Amendment Required?	No
Number	209
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	01/12/2008
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	Reporting
Sub-Obligation	General
Topic English	Armoured cars
Topic French	Véhicules blindés
Question English	
Question French	
Answer English	<p>Based on section 5(h) of our Act, and following our FIN 1 defining the criteria of being engaged in the money services business - we are of the opinion that the armoured vehicle industry does not engage in the money services business within our Act and regulations. The armoured vehicle industry transports cash and valuables from point A to point B... it is only a service of transport that is offered to clients. To cover that industry, the regulations would need to be amended to include that sector.</p> <p>However, if in addition to the usual range of services offered by the armoured vehicle industry, the entity would also offer money services business, such as for example foreign exchange and or electronic transfer of funds, then the entity would be considered as engaging in the money services business and would be covered as such under our Act and regulations. Please note that it would be a question of fact to determine if both businesses are two completely separate businesses - armoured transport not covered and MSB covered, or if they are just one business under one roof - MSB with all activities covered (MSB and transport).</p> <p>En vertu du paragraphe 5(h) de la Loi, et suite à la définition des critères pour l'exploitation d'une entreprise de services monétaires dans notre bulletin d'interprétation n° 1, nous sommes d'avis que les entreprises du secteur des véhicules blindés n'exploitent pas des entreprises de services monétaires aux termes de la Loi et de la réglementation connexe. Le secteur des véhicules blindés transporte de l'argent et des biens de valeur du point A au point B et offre seulement un service de transport à ses clients. Pour que ce secteur soit couvert, il faudrait apporter des modifications aux dispositions réglementaires.</p> <p>Cela dit, si en plus des services habituels offerts par le secteur des véhicules blindés, l'entité offre également des services monétaires, comme des services de change de devises ou de télévirement, elle serait considérée comme une entreprise de services monétaires et serait donc visée par la Loi et les dispositions réglementaires applicables. Veuillez noter qu'il s'agit d'une question de fait de déterminer si les deux entreprises sont complètement séparées – transport en véhicule blindé non visé et ESM visée – ou s'il s'agit en fait d'une seule grosse entreprise sous un même toit – ESM avec toutes les activités assurées (ESM et transport).</p>
Answer French	
Guidelines Reference	FIN-1
Regulations Reference	
Act Reference	5(h)

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Legislative Amendment Required?	No
Number	233
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	19/12/2008
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	Other
Sub-Obligation	General
Topic English	MAR requesting access to MSB registration data and maybe more: CQ, EXAM
Topic French	MAR demande l'accès aux données d'inscription du ESM et peut-être à d'autres données: QC, examens
Question English	MAR is requesting a repository of all MSB names and addresses registered with FINTRAC (Excel, Access). Any additional meta data would be great (i.e. MSB compliance questionnaire data, MSB exam data, ...). From a legal perspective would we be able to share that information
Question French	MAR demande un répertoire de tous les noms et les adresses des ESM inscrits auprès de CANAFE (Excel, Access). Toute autre métadonnée serait appréciée (p. ex., données sur le questionnaire sur la conformité des ESM, les données sur les examens des ESM...). D'un point de vue juridique, sommes-nous en mesure de transmettre ces données.
Answer English	Definitely can share the names and addresses of MSBs registered with FINTRAC as that is public. More details are needed on MAR's project on MSBs before we can answer. More specifically what do they want to do with the information, will it go public or stay in-house etc.. If the project goes public, then there might be some privacy issues.
Answer French	Nous pouvons sans aucun doute transmettre le nom et les adresses des ESM inscrits auprès de CANAFE, puisqu'il s'agit de renseignements publics. Il nous faut plus de détails sur le projet de MAR sur les ESM avant de répondre. Plus particulièrement, à quoi serviront ces renseignements – est-ce qu'ils seront publiés ou gardés à l'interne, etc. Si le projet devient public, alors cela pourrait entraîner des enjeux liés à la protection des renseignements personnels.
Guidelines Reference	
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	251
Removal details	Removal requested because this is not a PI.
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	15/01/2009
Updated?	No
Date Last Modified	
Activity Sector	Life insurance broker or agent
Region	HQ
Obligation	Reporting
Sub-Obligation	General
Topic English	Life insurance brokers, agents and MGAs
Topic French	Courtiers, agents et AGG d'assurance-vie
Question English	Clarification is being requested about the role of reporting obligations of the independent life agents and MGAs.
Question French	On demande des précisions au sujet du rôle des obligations de déclaration des agents indépendants et AGG d'assurance-vie.
Answer English	Here is the fact information sheet that was distributed to the LI sector re: June 23 rd amendments. It pretty much sums it up, and includes the reporting obligations for that sector.
Answer French	Voici la feuille de renseignements qui a été distribuée au secteur de l'assurance-vie au sujet des modifications du 23 juin. Le document résume la question, y compris les obligations de déclaration pour ce secteur.
Guidelines Reference	6A
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	274
Removal details	Removal requested because this is not a PI.
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	29/01/2009
Updated?	No
Date Last Modified	
Activity Sector	Securities dealer
Region	Central
Obligation	Reporting
Sub-Obligation	General
Topic English	Prescribed Stock Exchanges Outside Canada
Topic French	Bourses de valeurs visées hors Canada
Question English	An interesting issue has come up with respect to the "large corporation" exemption. Section 3.1 of Guideline 6E provides the following guidance: "For information about which stock exchanges outside Canada on which the stock of a very large corporation could be traded, refer to subsection 3201 of the Income Tax Regulations. You can access these Regulations at the Department of Justice Canada laws Web site." However, when you go to the website and look at subsection 3201 it has been repealed.
Question French	Une question intéressante a été soulevée en ce qui concerne l'exemption des « grandes sociétés ». La section 3.1 de la Ligne directrice 6E indique que pour obtenir des renseignements sur les bourses de valeurs hors Canada sur lesquelles les actions d'une très grande société pourraient être échangées, il faut se reporter à l'article 3201 du Règlement de l'impôt sur le revenu. On peut consulter ce Règlement sur le site Web des lois du ministère de la Justice du Canada.
Answer English	Cependant, lorsque vous allez au site Web et que vous regardez l'article 3201, il est indiqué qu'il a été abrogé. You are absolutely right. However, we are finalizing Guidelines 6 as we speak with Communications. I still have 6E and 6H to review and then it will be sent back to Communications and ROC for final approval. Here is the new wording proposed for 6E:
Answer French	Also in this context, a very large corporation is one that has minimum net assets of \$75 million on its last audited balance sheet. The corporation's shares have to be traded on a Canadian stock exchange or on a stock exchange outside Canada that is designated by the Minister of Finance. The corporation also has to operate in a country that is a member of the Financial Action Task Force (FATF). For more information about stock exchanges outside Canada that are designated by the Minister of Finance, refer to the Backgrounder issued with a July 2, 2008 news release available in the Media Room's news releases on the Department of Finance's Web site. Vous avez tout à fait raison. Cependant, nous sommes à mettre au point la Ligne directrice 6 alors que nous discutons avec les Communications. Il me reste encore les lignes directrices 6E et 6H à revoir et ensuite elles seront renvoyées aux Communications et à ORC pour approbation finale. Voici le nouveau libellé proposé pour la Ligne directrice 6E :
Guidelines Reference	Dans ce contexte également, une personne morale dont l'actif est considéré comme très important est une personne morale qui a un actif net d'au moins 75 millions de dollars d'après son dernier bilan vérifié et dont les actions sont cotées dans une bourse de valeurs au Canada ou dans une bourse de valeurs hors du Canada désignée par le ministre des Finances. La personne morale doit également effectuer des opérations dans un pays membre du Groupe d'action financière (GAFI). Pour en savoir plus au sujet des bourses de valeurs hors du Canada désignées par le ministre des Finances, veuillez consulter le document d'information accompagnant le communiqué du 2 juillet 2008, qui se trouve dans le site Web du ministère des Finances. 6E

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Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	295
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	05/03/2009
Updated?	No
Date Last Modified	
Activity Sector	Not applicable
Region	HQ
Obligation	Record keeping Ascertaining Identification
Sub-Obligation	General
Topic English	Citing two deficiencies
Topic French	Sanction de deux déficiences
Question English	Pursuant to section 67 of the Regs, every person or entity that is required to ascertain the identity of a person shall keep a record of the information. If an entity has not ascertained the identification, it is evident that they have not kept a record that includes the type of ID, reference number, province of issuance etc.
Question French	FYI, in our non-compliance disclosure, whenever an RE has not ascertained identification, we include both offences (failure to ascertain ID and failure to keep a record with all of the required info). En application de l'art. 67 du Règlement, toute personne ou entité qui est tenue de vérifier l'identité d'une personne doit tenir un document de l'information. Si une entité n'a pas vérifié l'identité, il est évident qu'elle n'a pas tenu un document qui renferme le type de pièce d'identité, le numéro de référence, la province de délivrance, etc.
Answer English	À titre d'information, dans nos communications de cas de non-conformité, lorsqu'une entité déclarante n'a pas vérifié l'identité, nous inscrivons les deux infractions (le défaut de vérifier l'identité et le défaut de tenir un document renfermant tous les renseignements requis).
Answer French	
Guidelines Reference	6
Regulations Reference	67
Act Reference	
Legislative Amendment Required?	No
Number	327
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	20/03/2009
Updated?	No
Date Last Modified	
Activity Sector	Caisse populaire
Region	Eastern
Obligation	Reporting
Sub-Obligation	LCTR
Topic English	Unreportable transactions- 12(1)(a) - Priority
Topic French	Opérations non déclarables - 12(1)a) – priorité
Question English	In the past two CPs exams, given that I am using a new methodology for analyzing LCTRs, I discovered in these CPs, they submitted several LCTRs that were unreportable. They were not cash transactions. There are enough of them to warrant concern as well as, in my view, to warrant being cited. I brought attention and I have briefly spoken to the [reporting entity] about this issue. More discussions are planned. I believe the issue is widespread, however, I cannot confirm that for sure until I conduct more exams. I believe, that with the guidance provided by ROC Ott (on how to cite deficiencies) that I could cite them on 12(1)(a) for "content" (QTV), in that they reported it as cash when it was not. Does PI agree?
Question French	Au cours des deux dernières inspections de caisses populaires (CP), étant donné que j'utilise une nouvelle méthodologie pour analyser les DOIE, j'ai constaté que ces CP ont soumis plusieurs DOIE pour des opérations qu'elles ne devaient pas déclarer. Il ne s'agissait pas d'opérations en espèces. Leur nombre est suffisant pour s'en préoccuper et, à mon avis, pour les sanctionner. J'ai abordé cette question et j'en ai parlé brièvement à l'[entité déclarante]. D'autres discussions sont prévues. Je crois que le problème est répandu, mais je ne peux pas le confirmer avec certitude avant de faire d'autres inspections. D'après les directives données par ROC Ott (sur la façon de sanctionner les déficiences), je crois que je pourrais les sanctionner en invoquant l'al. 12(1)a) à l'égard du « contenu » (QOO), en ce sens que les CP ont déclaré des opérations en espèces alors que ce n'en était pas. Le Groupe de l'IP est-il d'accord? In terms of a policy interpretation of subsection 12(1)(a) - we unfortunately do not agree with the below noted statement. Our regulations do not prohibit over-reporting per se. Therefore, it is our view that should the reporting entity report a transaction that they shouldn't have, then they should be advised or the report should be sent back by our system. Our suggestion is that we may want to consider having a mechanism in our system that bounces back those reports? We feel that citing them for that would prove difficult to justify (especially in light of amps) - again, because the regulations do not make it a prohibition to over report. The same argument applies when reporting entities report LCTs although the cash was received from a financial entity or a public body. Yes they benefit from an exemption, however, the regulations do not say you shall not report these transactions...
Answer English	

	An alternative may be to review their policies and procedures, as they may be deficient in some way, i.e. that there isn't a proper process put in place by the RE when it comes to LCTRs?
Answer French	<p>As for disclosures - only information we are allowed to receive (in this case it is not a large cash so technically we are not allowed to receive it), we can disclose. En ce qui concerne l'interprétation de l'al. 12(1)a) de la politique, nous ne sommes pas d'accord. Notre Règlement n'interdit pas la surdéclaration comme telle. Par conséquent, nous sommes d'avis que si l'entité déclarante déclare une opération qu'elle n'aurait pas dû déclarer, il faudrait l'en informer ou notre système devrait renvoyer la déclaration. Nous suggérons d'envisager de mettre en place un mécanisme dans notre système pour renvoyer ces déclarations?</p> <p>Nous estimons qu'il pourrait être difficile de justifier de les sanctionner (surtout à la lumière des pénalités administratives pécuniaires), au risque de nous répéter, parce que le Règlement n'interdit pas la surdéclaration.</p> <p>Le même argument vaut lorsque les entités déclarantes produisent des DOIE même si elles ont reçu les espèces d'une entité financière ou d'un organisme public. Oui, elles bénéficieraient d'une exemption, mais le Règlement ne dit pas que vous ne devez pas déclarer ces opérations...</p> <p>Une solution de rechange pourrait consister à revoir leurs politiques et procédures, qui peuvent être déficientes d'une quelconque façon, c'est-à-dire que l'entité déclarante n'a pas mis en place un mécanisme efficace en ce qui concerne les DOIE?</p> <p>Quant aux divulgations, nous ne pouvons divulguer que les renseignements que nous sommes autorisés à recevoir (en l'occurrence, il ne s'agit pas d'une opération importante en espèces et par conséquent, techniquement, nous ne sommes pas autorisés à recevoir ces renseignements).</p>
Guidelines Reference	7
Regulations Reference	12(1)(a)
Act Reference	No
Legislative Amendment Required?	No
Number	345
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	10/06/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	MSB registration
Sub-Obligation	General
Topic English	Never in business MSB-revoke, cancel, cessation
Topic French	ESM jamais exploitée – révocation, annulation, cessation
Question English	There are 2 data things here - the registration form and the registration itself. There is a status on each one of these. There are multiple forms per registration - any iteration of a form (either the initial or a change) can be cancelled/withdrawn from a data perspective. From a business perspective this allows you to cancel/withdraw a form without affecting the status of the registration (e.g. let's say they initiated a change but then determined that they did not want us to process it this could be cancelled/withdrawn and their current registration information would remain intact). The same would hold true if they were attempting to register and then wanted to withdraw their initial application before it was approved.
Question French	From a data perspective having a date of when a business ceased operation does not give when the business was never in operation. This seems to be the case here because we have a cessation form where we are need a cessation date and because they were never in business we would need to force one. If an MSB was never really operating it doesn't really make sense that they ceased operations. Would it be too radical to just revoke their MSB registration? For MSB Phase IV we could look at adding another status to the MSB registration - cancelled - which is really what this is.
Answer English	Here is a few bullets summarizing the conclusion of the meeting. All Registered MSB will have only the 3 status provided by the regulations: Registered (displayed as "expiry date"), Ceased, Revoked The date of cessation will be the date the business decided not to be in business of MSB. Cannot be more than 30 days prior to receive cessation as they have the

	obligation to update their information within 30 days. Date of cessation cannot equal the date of registration ROC will be responsible to send CR if no date present on cessation form. Failure to respond to a CR on Cessation form could lead to correctives measures including AMPS. Discussion to be conducted in a short future pertaining to adding a "CANCEL" button that would only be available before an Organisation is Registered allowing thus for an organisation to cancel their registration process prior to registration Toutes les ESM inscrites peuvent seulement avoir trois états aux termes du <i>Règlement</i> : inscription (la date d'expiration est affichée), cessation ou révocation
Answer French	La date de la cessation correspondra à la date à laquelle l'entreprse a décidé de ne pas exploiter une ESM. Elle ne peut pas être précéder de plus de 30 jours le statut de cessation, car l'entreprse a l'obligation de mettre à jour les renseignements la concernant dans les 30 jours. La date de cessation ne peut pas correspondre à la date d'inscription. ORC sera responsable d'envoyer une DP si aucune date ne figure sur le formulaire de cessation. L'omission de répondre à une DP relative au formulaire de cessation pourrait entraîner la prise de mesures correctives, dont une SPA. On discutera sous peu de l'ajout d'un bouton « ANNULER » qui serait seulement disponible avant l'inscription d'une organisation, ce qui permettrait à une organisation d'annuler le processus d'inscription avant son inscription.
Guidelines Reference	
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	440
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	16/06/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	Beneficial ownership
Sub-Obligation	General
Topic English	Deficiencies document suggestion
Topic French	Proposition relative au document sur les lacunes
Question English	I am utilizing the MSB deficiencies document and I noticed the deficiency for Beneficial Owners is actually worded as "Beneficiaries," which I can see is quoted from section 11.1 of the Regs. I would like to make the suggestion that for the purposes of the deficiency letter we use the term Beneficial Ownership, as the term beneficiary for the MSB world (and probably for banks and credit unions) normally means the beneficiary of a EFT or wire, not the owners of the company. As well, in our guidelines (for example Guideline 6C Part 5) we use the term Beneficial Ownership, so if we then turn around and use the term Beneficiary in the deficiency letter the RE may not make the connection.
Question French	J'utilise le document sur les lacunes des ESM, et je me suis aperçu que, lorsqu'il est question du bénéficiaire effectif, on parle en fait du bénéficiaire, ce qui, à ce que je peux voir, est tiré de l'article 11.1 du Règlement. J'aimerais proposer que, dans la lettre sur les lacunes, nous utilisions le terme « bénéficiaire effectif », car, pour le milieu des ESM (et probablement pour les banques et les coopératives de crédit), le terme « bénéficiaire » désigne normalement le bénéficiaire d'un télévirement ou d'un virement et non pas le propriétaire d'une société. En outre, dans nos lignes directrices (par exemple à la partie 5 de la Ligne directrice 6C), nous utilisons le terme « bénéficiaire effectif », alors, si, par ailleurs, nous utilisons le terme « bénéficiaire » dans la lettre sur les lacunes, l'entité déclarante ne fera peut-être pas le lien.
Answer English	The terminology relating to section 11.1 of the Regs should be "beneficial ownership", not "beneficiaries", and that ROC's deficiency document should be corrected.
Answer French	The title "Beneficiaries" in the Regs applies to section 11, not section 11.1. Section 11.1 is not about beneficiaries, but about controlling interests of an entity. We used the term "beneficial ownership" in the guidelines to reflect the requirements about obtaining information about controlling interests of entities when an RE must confirm the entity's existence. La terminologie liée à l'article 11.1 du Règlement devrait être « bénéficiaire effectif », et non pas « bénéficiaire », et le document d'ORC sur les lacunes devrait être corrigé à l'avenant.
Guidelines Reference	6C
Regulations Reference	11, 11.1
Act Reference	
Legislative Amendment Required?	No
Number	451
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	06/07/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	MSB registration
Sub-Obligation	General
Topic English	Inputting information in SMRS regarding other MSBs that the entity uses
Topic French	Saisie de données dans le SMRS concernant les autres ESM utilisées par l'entité
Question English	I follow your suggested change till "advise FINTRAC by providing the MSB information" - don't they already provide some information on the MSB they do business with already when they register? or do you mean that they should advise FINTRAC subsequently of the MSB number once they come upon it via the MSB-ESM@fintac-canada.gc.ca?
Question French	Je suis d'accord avec le changement que vous proposez, sauf pour ce qui est de fournir à CANAFE l'information relative aux ESM - les ESM ne fournissent-elles pas déjà de l'information au sujet des autres ESM avec lesquelles elles font affaire au moment de l'inscription? À moins que vous ne vouliez dire qu'elles devraient informer par la suite CANAFE du numéro de l'ESM lorsqu'elles le trouvent par le truchement de MSB-ESM@fintac-canada.gc.ca?
Answer English	We shouldn't or cannot stop an MSB from registering if the Canadian MSB they deal with is not registered. The MSB that is registering cannot be held responsible for his counterparts not being registered.
	The current guide is asking the MSB to "Advise FINTRAC" but doesn't give MSB any details on how they should actually contact us. We are also asking for the MSB to search and see if the other Canadian MSB is registered without guiding them to see where they can find this information.
Answer French	In summary: Yes they should provide all information they can get about the MSB they deal with. Upon receiving that other MSB registration number once this MSB is registered (after their own registration) they should update their own registration form by submitting a change. Nous ne devrions pas ni ne pouvons empêcher une ESM de s'inscrire si l'ESM canadienne avec laquelle elle fait affaire ne l'a pas fait. L'ESM qui s'inscrit ne peut être tenue responsable du fait que ses contreparties ne sont pas inscrites. Par ailleurs, nous avons cessé de demander des précisions à cet égard, car il est gênant d'expliquer pourquoi nous n'entrons pas ces renseignements nous-mêmes, compte tenu du fait qu'ils sont consignés dans nos systèmes. Selon la version actuelle du guide, il faut demander à l'ESM d'informer CANAFE, mais aucune précision n'est donnée à celle-ci concernant la façon de communiquer avec nous. Nous demandons aussi à l'ESM d'effectuer des recherches et de voir si l'autre ESM canadienne est inscrite sans toutefois l'aiguiller vers l'endroit où trouver ces renseignements. En somme, oui, elles devraient fournir toute l'information possible concernant l'ESM avec laquelle elles font affaire. Des qu'elles reçoivent les numéros d'inscription de l'autre ESM (après leur propre inscription), elles devraient mettre à jour leur propre formulaire d'inscription.

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Guidelines Reference	
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	473
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	15/07/2009
Updated?	No
Date Last Modified	
Activity Sector	Securities dealer
Region	Central
Obligation	Reporting
Sub-Obligation	General
Topic English	Foreign Branches and obligations
Topic French	Succursales étrangères et obligations
Question English	s.9.7 of the PCMLTFA requires securities dealers with wholly-owned foreign subsidiaries in non-FATF countries to have the subsidiary comply with the PCMLTFA where permitted by local law. For example, let's say a Canadian securities dealer (ABC CANADA INC.) owns 100% of a U.S. securities dealer (ABC USA INC.). Because the United States is a FATF-member country the provisions of s.9.7 don't apply. But what if ABC USA INC., which has no physical presence in Canada, was also registered with the Ontario Securities Commission? They would then meet the definition of "securities dealer" under the PCMLTFA and would thus be subject to all the applicable provisions. En application de l'article 9.7 de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes, les courtiers en valeurs mobilières sont tenus de veiller à ce que leurs filiales à cent pour cent qui sont situées dans un pays ne faisant pas partie du GAFI se conforment à la Loi, lorsque les lois de ce pays le permettent. Disons, par exemple, qu'un courtier en valeurs mobilières canadien (ABC CANADA INC.) possède 100 % d'une maison de courtage de valeurs américaine (ABC USA INC.). Comme les États-Unis font partie du GAFI, les dispositions de l'article 9.7 ne sont pas applicables. Mais, qu'en serait-il si ABC USA INC., qui n'a aucune présence physique au Canada, était aussi inscrite auprès de la Commission des valeurs mobilières de l'Ontario? Il s'agirait donc d'une entité autorisée à se livrer au commerce des valeurs mobilières aux termes de la Loi, et, par conséquent, elle serait assujettie à toutes les dispositions applicables. A securities dealer (i.e. who meets the test of being a "securities dealer" under the Regs) that has no physical presence in Canada, but only has offices in the US would not fall within the scope of 9.7 of the Act (i.e. those US offices would be "foreign branches" for the purposes of the PCMLTFA, and not "a wholly owned subsidiary" of that securities dealer). I would think that 9.8 would apply those securities dealer's US branches (all its US operations) in so much that the requirements of 9.8 are consistent with US law. In respect of that securities dealer's obligation to have a compliance program, that program should reflect its obligations under 9.8 as well as its obligations to report STRs in respect of transactions that is carries out in Canada. Just what criteria would apply to determining what transactions are carried out in Canada would need to be clarified, but I would argue that any purchase or sale that the dealer carries out through an agent in Canada would be subject to STR reporting. So with respect to the example below, if ABC INC. is a "securities dealer" within the meaning of the Regs, it would have to apply 9.8 to its US operations (i.e. foreign branches) and have a compliance program that reflect those obligations. Un courtier en valeurs mobilières (à savoir une entité autorisée à se livrer au commerce des valeurs mobilières aux termes du Règlement) qui n'a aucune présence physique au Canada et qui compte des bureaux seulement aux États-Unis ne serait pas visée à l'article 9.7 de la Loi (c.-à-d. que, aux fins de la Loi, ces bureaux aux États-Unis seraient des « succursales étrangères » et non des « filiales à cent pour cent » de ce courtier en valeurs mobilières).
Answer English	
Answer French	

POLICY INTERPRETATION CONTAINED IS OUTDATED

	<p>J'ai tendance à croire que l'article 9.8 s'appliquerait aux succursales américaines (toutes les opérations américaines) de ce courtier en valeurs mobilières en cela que les obligations énoncées à cet article sont conformes à la législation américaine. En ce qui concerne l'obligation des courtiers en valeurs mobilières de mettre en œuvre un programme de conformité, ce programme devrait refléter leurs obligations en application de l'article 9.8 en plus de celles relatives au signalement des opérations douteuses effectuées au Canada. Il faudrait préciser les critères à utiliser pour déterminer quelles transactions sont effectuées au Canada, mais je dirais que toute vente ou tout achat effectués par le courtier par l'intermédiaire d'un mandataire au Canada seraient sujets à une DOD.</p> <p>Donc, pour ce qui est de l'exemple mentionné, si ABC INC. est un « courtier en valeurs mobilières » au sens du <i>Règlement</i>, il devrait appliquer l'article 9.8 à ses opérations aux États-Unis (succursales à l'étranger) et mettre en œuvre un programme de conformité qui refléterait ces obligations.</p>
Guidelines Reference	
Regulations Reference	9.7, 9.8
Act Reference	
Legislative Amendment Required?	No
Number	479
Removal details	Archived due to reference of amended PCMLTFA (s.9.7)
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	05/08/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	Eastern
Obligation	Compliance regime
Sub-Obligation	Risk assessment
Topic English	RBA obligations and activities covered.
Topic French	Obligations concernant l'ARA et activités visées
Question English	In a recent policy interpretation we were told that MSB only have obligations for activities covered for activities in 5(h), with the exclusion of STRs. What obligations regarding RBA? Does a company's RBA only cover 5(h) activities, or does it also cover a company's other activities?
Question French	Selon une interprétation récente de la politique, les ESM ont seulement des obligations concernant les activités visées à l'alinéa 5(h), hormis les opérations douteuses. Quelles sont les obligations relatives à l'ARA? Est-ce que l'ARA d'une entreprise concerne seulement les activités visées par l'alinéa 5(h) ou est-ce qu'elle touche aussi les autres activités de l'entreprise?
Answer English	This question must be deferred to ROC Management for further guidance and policy. At this time, all activities (5(h) and other non related) for MSBs are covered for STRs. In regards to RBA, we would have to solicit a ROC Management guidance.
Answer French	Cette question doit être adressée à ORC afin que ce secteur élabore des lignes directrices et une politique. À l'heure actuelle, toutes les activités (qu'elles soient visées à l'alinéa 5(h) ou non) des ESM sont susceptibles de faire l'objet de DOD. En ce qui concerne l'ARA, il faudrait demander des directives à ORC.
Guidelines Reference	4
Regulations Reference	71.1)(c)(ii)
Act Reference	5(h)
Legislative Amendment Required?	No
Number	492
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	14/09/2009
Updated?	No
Date Last Modified	
Activity Sector	Not applicable
Region	HQ
Obligation	Other
Sub-Obligation	General
Topic English	Information sharing
Topic French	Partage d'information
Question English	Would I like to enlist our assistance in developing sectors' and entities' profiles which are considered to be high risk for ML activities. In turn, would then use this information to feed its own Risk Based Assessment.
Question French	Can FINTRAC (ROC) share this type of information with [redacted] aimerait que nous l'aidions à dresser des profils de secteurs et d'entités qui sont jugés poser des risques élevés de blanchiment d'argent. En retour, [redacted] utiliserait cette information pour alimenter sa propre évaluation axée sur les risques.
Answer English	CANAFE (ORC) peut-il communiquer ce type d'information à [redacted] As a general rule, if we came upon or gathered the requested information as a result of using our compliance powers, we wouldn't be able to disclose or share that information - the only exception is in the case where the Centre would disclose to law enforcement and within the very narrow scope of our MOUs.
Answer French	We reviewed both documents that were attached, and in the case of the [redacted] sector, the information included does not seem to have been gathered as a result of our compliance powers. However, in the case of the [redacted] profile, we identify [redacted] by name, and if not by name, we can infer from the text which businesses we are referring to indirectly. As well, a lot of the information is specific enough that it indicates that the information was obtained as a result of conducting compliance examinations or a consequence of our examinations. We could share general information (such as the [redacted] profile for example) as per our mandate which includes raising the awareness of Reporting Entities in regards to the risks of money laundering. However, this may be falling more within the Macro Analysis and Research's area of responsibility. Règle générale, si nous trouvons ou recueillons l'information demandée par l'entremise de nos pouvoirs en matière de conformité, nous ne sommes pas en mesure de la communiquer ou de la communiquer. La seule exception est lorsque le Centre communique cette information à un organisme d'application de la loi et à l'intérieur de la portée limitée d'un PE. Nous avons étudié les deux documents joints et, en ce qui a trait au secteur des [redacted] l'information comprise ne semble pas avoir été recueillie dans le cadre de nos pouvoirs en matière de conformité. Toutefois, en ce qui a trait au profil des [redacted] nous identifions celles-ci par leur nom ou nous pouvons établir, à partir du texte, les entreprises auxquelles nous faisons référence indirectement. Également, beaucoup d'information est suffisamment précise pour indiquer qu'elle a été obtenue suite à un examen de la conformité ou d'un de nos propres examens.

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Guidelines Reference	Nous pouvons communiquer de l'information générale (comme le profil d'un [redacted] en vertu de notre mandat qui comprend la sensibilisation des ED aux risques de blanchiment d'argent. Toutefois, cette responsabilité relève plutôt de Macro-analyse et recherche.
Regulations Reference	
Act Reference	
Legislative Amendment Required?	
Number	546
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	16/10/2009
Updated?	No
Date Last Modified	
Activity Sector	Credit Union
Region	Western
Obligation	Compliance regime
Sub-Obligation	General
Topic English	Subsidiary Obligations
Topic French	Obligations des Filiales
Question English	Q.1 A Credit Union is not responsible for its subsidiaries record keeping and reporting obligations (ie. Property for Casually company - separate legal entity). The subsidiary is not a Reporting Entity. Could you please confirm?
Question French	Q.2 Even if the subsidiary is a Reporting Entity, under the PC(ML)TFA, the Financial Entity is not responsible (eg. ABC Bank versus ABC dominion securities), is it correct? Q.1 Une coopérative de crédit n'est pas responsable de l'obligation en matière de tenue de documents et de déclaration de ses filiales (c'est-à-dire une société d'assurances multirisques – personne morale distincte). La filiale n'est pas une entité déclarante. Pourriez-vous confirmer?
Answer English	Q.2 Même si la filiale est une entité déclarante, aux termes de la Loi, l'entité financière n'est pas responsable (p. ex., la Banque ABC et la ABC Dominion Valeurs mobilières). Est-ce exact? A1. If the subsidiary is a foreign subsidiary (wholly owned), 9.7 of the Act might impose obligations to ensure that the subsidiaries have policies and procedures. A2. The answer is yes, but the subsidiary could still be a Reporting Entity on its own (that would be a question of fact). The assumption in the Compliance Officer's statement that "the subsidiary is not a Reporting Entity" might not be accurate in all cases.
Answer French	ABC Bank is not responsible under the PC(ML)TFA for ABC Securities or ABC insurance. The same logic applies for a Credit Union that has subsidiaries that conduct activities under Section 5 of the Act. They are not responsible from a PC(ML)TFA standpoint. R1. Si la filiale est une filiale étrangère (détenue en propriété exclusive), conformément à l'article 9.7 de la Loi, elle pourrait être tenue de s'assurer que les filiales ont des politiques et des procédures. R2. Oui, mais la filiale pourrait quand même être une entité déclarante distincte (ce serait une question de fait). L'hypothèse de l'agent de conformité voulant que « la filiale n'est pas une entité déclarante » pourrait ne pas être juste dans tous les cas.
Guidelines Reference	Conformément à la Loi, la Banque ABC n'est pas responsable de la ABC Dominion Valeurs mobilières ou de la ABC Assurance. Le même raisonnement s'applique aux coopératives de crédit ayant des filiales qui exercent des activités aux termes de l'article 5 de la Loi. Elles ne sont pas responsables du point de vue de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes. 4

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Regulations Reference	9.7
Act Reference	
Legislative Amendment Required?	
Number	575
Removal details	Archived due to reference of amended PCMLTFA (s.9.7)
Update and re-publish?	no

Published?	No
Translated?	Yes
Date Answered	10/12/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	HQ
Obligation	Record keeping
Sub-Obligation	General
Topic English	Determination if a deficiency exists
Topic French	Détermination d'un manquement
Question English	<p>I recently conducted an examination on a MSB. When reviewing the records we found two transfers of over \$1,000 where the client was a company. The MSB does not have an ongoing service agreement with these companies (clients). The MSB correctly identified the person conducting the transaction as required by section 30(e)(i), but did not confirm the existence of the company (the client). In this situation is not confirming the existence of the company (client) a deficiency?</p> <p>From a legislative point of view:</p> <ul style="list-style-type: none"> - Section 30(e)(ii) - explains what needs to be obtained from the conductor if the client is an entity. - Section 59(2) states "confirm the existence of every corporation in respect of which they are required to keep a client information record" - Section 65(2)(c) states "within 30 days after the client information record is created." <p>This all indicates that only when the MSB has a client information record are they required to confirm the existence of the entity. The MSB is only required to have a client information record when they enter into an ongoing service agreement.</p>
Question French	<p>Deficiency: Ascertaining Identity - Confirming existence of a corporation, Regulations 65(1)</p> <p>Your organization has the obligation to confirm the existence of a corporation, its name and address and the names of its directors by referring to appropriate corporate records, as required by subsection 65(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations.</p> <p>J'ai effectué récemment l'examen d'une ESM. En examinant, nous avons découvert deux transferts de plus de 1 000 \$ dont le client était une entreprise. L'ESM n'a pas d'entente de service suivie avec ces entreprises (clients). L'ESM a identifié correctement la personne effectuant l'opération comme l'exige l'alinéa 30(e)ii), mais n'a pas confirmé l'existence de l'entreprise (le client). Dans le présent cas, est-ce que le fait de ne pas avoir confirmé l'existence de l'entreprise (du client) constitue un manquement?</p> <p>Du point de vue de la loi :</p> <ul style="list-style-type: none"> - alinéa 30(e)ii) - explique ce qui doit être obtenu de la personne qui effectue l'opération si le client est une entité; - paragraphe 59(2) - « vérifier l'existence de toute personne morale à l'égard de laquelle elle doit tenir un dossier-client »; - alinéa 65(2)c) - « dans les trente jours suivant la constitution du dossier-client ». <p>Dans l'ensemble, cela indique que les ESM sont tenues de confirmer l'existence de l'entité seulement quand elle possède un dossier-client. L'ESM est seulement tenue d'avoir un dossier-client quand elle signe une entente de service suivie.</p> <p>Manquement : vérification de l'identité - confirmer l'existence d'une société, paragraphe 65(1) du Règlement.</p> <p>Voire organisation a l'obligation de confirmer l'existence d'une société, son nom et son adresse ainsi que le nom de ses directeurs en consultant les dossiers de l'entreprise pertinents, comme l'exige le paragraphe 65(1) du Règlement.</p> <p>An MSB is only required to keep a client information record when the MSB enters into an ongoing service agreement under Subsection 32 of the Regulations.</p>
Answer English	

	Furthermore, because the MSB is required to confirm the existence of an entity when it has the obligation to keep client information record, as a result - the MSB is only required to confirm the existence of an entity when the MSB has an ongoing agreement.
	Thus, the deficiency of Confirming the existence of a corporation can only be used when the MSB has an ongoing service agreement and must create a client information record (by ricochet must also confirm the existence of the corporation). Furthermore, under subsection 10 - the MSB would also have to make a 3rd party determination because it is required to keep a client information record.
Answer French	In any other case, the MSB only identifies the individual in the case of \$1000 + wires, no client information record, no 3rd party. Une ESM est seulement tenue de conserver un dossier-client quand elle signe une entente de service suivie conforme au paragraphe 32 du Règlement. Par ailleurs, étant donné que l'ESM est tenue de confirmer l'existence d'une entité alors qu'elle a l'obligation de conserver le dossier-client, l'ESM est ainsi seulement tenue de confirmer l'existence d'une entité quand l'ESM a une entente suivie. Par conséquent, le manquement à l'obligation de confirmer l'existence d'une société ne peut être invoqué que lorsque l'ESM a une entente de service suivie et doit créer un dossier-client (par ricochet, elle doit aussi confirmer l'existence de la société). De plus, selon l'article 10, l'ESM doit effectuer la détermination de la tierce partie, car elle est tenue de conserver un dossier-client.
Guidelines Reference	Dans tout autre cas, l'ESM identifie seulement l'individu pour les virements de plus de 1 000 \$; pas de dossier-client; pas de détermination de la tierce partie.
Regulations Reference	6C
	10, 32, 65(1), 65(2)(c), 59(2)
Act Reference	
Legislative Amendment Required?	No
Number	633
Removal details	Internal question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	22/12/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	Eastern
Obligation	MSB registration
Sub-Obligation	General
Topic English	Covered or not covered?
Topic French	Couverture
Question English	In the case of this particular MSB, the two parties to the forward contract may be third parties altogether who are not necessarily MSBs as prescribed under 5h or FIN 1. (with the MSB acting only as a go-between between the parties)
Question French	Since neither party are MSBs, do they have any obligations under the Act? Dans le cas de cette ESM, les deux parties au contrat à terme peuvent être toutes deux des tiers qui ne sont pas nécessairement des ESM au sens de 5h ou FIN 1 (alors que l'ESM agit uniquement comme intermédiaire entre les parties).
Answer English	Puisqu'aucune des parties n'est une ESM, les parties ont-elles des obligations en vertu de la Loi? The scenario needs more information in regards to the fact that the forward contract may be 3rd parties - are they just intermediaries or are they MSBs or just clients of the MSB that will actually perform the fx transaction? Who is contracting and who has the obligation...
Answer French	Il faut obtenir davantage d'information par rapport au fait que le contrat à terme peut lier des tiers. S'agit-il seulement d'intermédiaires, d'ESM ou simplement de clients de l'ESM qui effectueront en fait l'opération de change? Qui passe le contrat et qui a l'obligation? Mettra fin à la déclaration des TEF pour le compte de ses membres.
Guidelines Reference	
Regulations Reference	
Act Reference	5(h)
Legislative Amendment Required?	No
Number	636
Removal details	Incomplete question
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	29/12/2009
Updated?	No
Date Last Modified	
Activity Sector	Money services business
Region	Eastern
Obligation	AMPS
Sub-Obligation	General
Topic English	Foreign exchange transactions and contracts in scope of exams
Topic French	Portée des examens couvrant les opérations de change et les contrats
Question English	<p>Background definitions</p> <p>Forward Contracts</p> <p>Allow you to buy or sell currencies at a fixed exchange rate for settlement beyond the spot date. Forward contracts are used to protect against rate fluctuations that could impact the value of foreign currency payables and receivables.</p> <p>Outright</p> <p>A fixed delivery date in the future.</p> <p>Option with Variable</p> <p>Delivery A fixed delivery period (e.g. a 30-day window) to exercise an option forward. Settlement can be at any time within a predetermined window of time, rather than a specific date in the future. Variable delivery contracts are helpful tools in managing the risk associated with letter-of-credit payments or other foreign currency payments when it is difficult to determine the exact payment date.</p> <p>Foreign Exchange Swaps</p> <p>These are simultaneous agreements to purchase currency for one value date and sell it back for another. Swaps are used to extend the maturity of an existing contract or protect an investor against rate fluctuations between the time an investment is made and when it matures.</p> <p>Multi-Currency Drafts</p> <p>A multi-currency draft is drawn on a foreign denominated bank account. This form of payment is sometimes preferred in countries whose bank systems tend to prioritize wire transfers by transaction size. In other instances, multi-currency drafts are also preferable to the recipient, since beneficiary banks' incoming wire charges are substantially higher versus a simple draft deposit.</p> <p>A partir du moment où l'un de ces contrats a été exécuté, durant la période examinée, peut-on considérer l'exécution du contrat comme une opération de change?</p> <p>Background definitions</p> <p>Forward Contracts</p> <p>Allow you to buy or sell currencies at a fixed exchange rate for settlement beyond the spot date. Forward contracts are used to protect against rate fluctuations that could impact the value of foreign currency payables and receivables.</p> <p>Outright</p> <p>A fixed delivery date in the future.</p> <p>Option with Variable Delivery</p> <p>A fixed delivery period (e.g. a 30-day window) to exercise an option forward. Settlement can be at any time within a predetermined window of time, rather than a specific date in the future. Variable delivery contracts are helpful tools in managing the risk associated with letter-of-credit payments or other foreign currency payments when it is difficult to determine the exact payment date.</p> <p>Foreign Exchange Swaps</p> <p>These are simultaneous agreements to purchase currency for one value date and sell it back for another. Swaps are used to extend the maturity of an existing contract or protect an investor against rate fluctuations between the time an investment is made and when it matures.</p>
Question French	

	<p>Multi-Currency Drafts</p> <p>A multi-currency draft is drawn on a foreign denominated bank account. This form of payment is sometimes preferred in countries whose bank systems tend to prioritize wire transfers by transaction size. In other instances, multi-currency drafts are also preferable to the recipient, since beneficiary banks' incoming wire charges are substantially higher versus a simple draft deposit.</p> <p>Planification d'examens de MSBs.</p> <p>Le focus se fera sur les produits (contrats) suivants qui, dans les fait, consistent en des opérations de change à terme. (pas de transaction FX tant que le contrat n'est pas exécuté)</p>
Answer English	In this particular scenario, there is an actual foreign currency exchange taking place for the client by the MSB (not just speculation on currency which would be done through a securities dealer) and as such, it would fall within the scope of Your examination.
Answer French	Dans ce cas en particulier, l'ESM effectue une véritable opération de change de devises pour le compte du client (il ne s'agit donc pas seulement d'une opération spéculative sur les devises qui se ferait par l'intermédiaire d'un courtier en valeurs mobilières); ainsi, cela cadrerait avec la portée de votre examen.
Guidelines Reference	
Regulations Reference	
Act Reference	
Legislative Amendment Required?	No
Number	642
Removal details	Info missing from question
Update and re-publish?	No

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Published?	No
Translated?	Yes
Date Answered	01/04/2010
Updated?	No
Date Last Modified	
Activity Sector	Casino
Region	Central
Obligation	Reporting
Sub-Obligation	General
Topic English	Video Lottery Terminals Covered?
Topic French	Les terminaux de loterie vidéo sont-ils couverts?
Question English	
Question French	

Answer English	
Answer French	
Guidelines Reference	
Regulations Reference	1(1)
Act Reference	
Legislative Amendment Required?	Yes
Number	721
Removal details	Discussion re: Regs Amendments - not a PI
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	28/04/2010
Updated?	No
Date Last Modified	
Activity Sector	Centrais/Coops Credit Union
Region	Eastern
Obligation	Compliance regime
Sub-Obligation	Training program
Topic English	Staff training
Topic French	Formation du personnel
Question English	Are all staff required to complete PCML TFA training, even those staff that have no access or dealings with financial transactions?
Question French	Est-ce que tous les employés doivent recevoir la formation sur la Loi, même ceux qui n'ont pas accès aux opérations financières ou qui ne les traitent pas?
Answer English	
Answer French	
Guidelines Reference	4
Regulations Reference	71(1)
Act Reference	
Legislative Amendment Required?	
Number	735
Removal details	Position has changed
Update and re-publish?	No

POLICY INTERPRETATION CONTAINED IS OUTDATED

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Published?	No
Translated?	Yes
Date Answered	23/11/2012
Updated?	
Date Last Modified	
Activity Sector	Bank Caisse populaire Centrals/Coops Co-op credit society Credit Union Trust and/or loan company
Region	Central
Obligation	Compliance regime PEFPS
Sub-Obligation	Policies and procedures General
Topic English	Canadian Banks in foreign countries
Topic French	Banques canadiennes exploitées dans des pays étrangers
Question English	What obligations apply to the Canadian Banks in foreign countries?
Question French	Quelles sont les obligations des banques canadiennes exploitées dans les pays étrangers?
Answer English	If a Canadian bank carries on business in a foreign country through foreign subsidiaries or branches, they have to ensure that those foreign subsidiaries or branches develop and apply policies and procedures consistent with record keeping, client identification and compliance regime requirements here in Canada, if the following conditions are met: <ul style="list-style-type: none"> • The subsidiary is wholly owned by the reporting entity. • The subsidiary or branch carries out financial entity activities. • The subsidiary or branch is located in a country that is not a member of the Financial Action Task Force (FATF). • The laws of the country in which the subsidiary or branch operates permit compliance with these requirements. The requirements concerning politically exposed foreign person determination and related records do not apply to the foreign subsidiary or branch. If the laws of the country in which the subsidiary or branch operates prohibit compliance with these Canadian requirements, the reporting entity has to keep a record to that effect.
Answer French	Si une banque canadienne exerce ses activités dans un pays étranger par l'entremise de filiales ou de succursales étrangères, elle doit s'assurer que ces filiales ou succursales étrangères élaborent et appliquent des politiques et des procédures qui sont conformes aux exigences en matière de tenue de dossier et d'identification des clients ainsi qu'aux exigences du programme de conformité du Canada, si les conditions suivantes sont satisfaites : <ul style="list-style-type: none"> • La filiale appartient exclusivement à l'entité déclarante. • La filiale ou la succursale exerce des activités en tant qu'entité financière. • La filiale ou la succursale est située dans un pays qui n'est pas un membre du Groupe d'action financière (GAFI). • Les lois du pays dans lequel la filiale ou la succursale est exploitée permettent la conformité à ces exigences. Les exigences relatives à la détermination des étrangers politiquement vulnérables et aux dossiers connexes ne s'appliquent pas à la filiale ou à la succursale étrangère. Si les lois du pays dans lequel la filiale ou la succursale est exploitée ne permettent pas la conformité à ces exigences canadiennes, l'entité déclarante doit tenir un dossier à cet égard.
Guidelines Reference	6G

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Regulations Reference	9.7
Act Reference	
Legislative Amendment Required?	
Number	856
Removal details	Archived due to reference of amended PCMLTFA (s.9.7)
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	02/01/2014
Updated?	
Date Last Modified	
Activity Sector	Money services business
Region	HO
Obligation	MSB
Sub-Obligation	Registration
Topic English	Recourse when an MSB is bankrupt but operating
Topic French	Recourse quand une ESM est en faillite, mais fait encore des affaires
Question English	We have received information about an MSB that would be in a possible bankruptcy situation. Although I was not able to confirm if the MSB was in fact bankrupt I still have some questions about that status of the MSB.
Question French	If the MSB is indeed bankrupt but still active on the MSB registry, what are our options if this is the case? Could we force the MSB to close, cease or could we even revoke the MSB? Could we send this to CEU for possible exam in a near future? If the MSB is bankrupt but still operates, the MSB would now be doing illegal activities since a bankrupt corporation is no longer deemed viable or legally exist. Nous avons reçu de l'information au sujet d'une ESM qui est peut-être en faillite, ce que je n'ai pas été en mesure de confirmer. J'ai quand même certaines questions à ce propos.
Answer English	Si l'ESM est bel et bien en faillite, mais est toujours active dans le registre des ESM, quelles sont nos options si tel est le cas? Pourrions-nous obliger l'ESM à fermer ses portes, à cesser ses activités ou même révoquer son inscription? Pourrions-nous envoyer cette information à l'Unité de mise en application de la conformité pour un éventuel examen dans un avenir rapproché? Si l'ESM est en faillite, mais exerce encore des activités, elle serait dans l'illégalité, étant donné qu'une entreprise en faillite n'est plus considérée comme viable et n'existe plus sur le plan juridique. FINTRAC operates within the ambit of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), so any action we carry out in relation to MSBs can only be carried out in accordance with the PCMLTFA and its associated Regulations.
Answer French	Subsection 11.17 (2) of the PCMLTFA states that FINTRAC may revoke the registration of a registered MSB if the entity does not provide the Centre with a requested clarification within 30 days, while subsection 11.11(2) requires that FINTRAC revoke a registration should the Centre become aware that a person or entity not eligible for registration is registered. Comme CANAFE mène ses activités en vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes (LRPCFAT), nous pouvons uniquement prendre des mesures à l'égard des ESM en application des dispositions de la LRPCFAT et de ses règlements connexes. Le paragraphe 11.17 (2) de la LRPCFAT stipule que CANAFE peut révoquer l'inscription d'une ESM inscrite si celle-ci ne lui fournit pas les précisions demandées dans un délai de 30 jours, alors que le paragraphe 11.11(2) de la LRPCFAT exige que CANAFE révoque une inscription s'il prend connaissance du fait qu'une personne ou entité inadmissible est inscrite.

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Guidelines Reference	
Regulations Reference	
Act Reference	11.11(2), 11.17(2)
Legislative Amendment Required?	
Number	1075
Removal details	Removal requested due to lack of guidance provided.
Update and re-publish?	No

Published?	No
Translated?	Yes
Date Answered	07/01/2014
Updated?	
Date Last Modified	
Activity Sector	Bank Caisse populaire Centrais/Coops Co-op credit society Credit Union Trust and/or loan company
Region	HQ
Obligation	Reporting
Sub-Obligation	EFTs
Topic English	SWIFT Tags 50 and 59
Topic French	Etiquettes 50 et 59 du message SWIFT
Question English	<p><u>Background</u></p> <p>SWIFT Tag 50 represents the ordering client and Tag 59 represents the beneficiary. As per the Regulations, reporting entities are required to provide the full name and full address of each. In addition, the client's account number is required, if applicable.</p> <p>Example from Regulations for SWIFT Outgoing:</p> <p>PART B — Information on Client Ordering Payment of Electronic Funds Transfer</p> <ul style="list-style-type: none"> • Client's full name • Client's full address • Client's account number, if applicable <p>PART K — Information on Client to Whose Benefit Payment is Made</p> <ul style="list-style-type: none"> • Client's full name • Client's full address • Client's account number, if applicable <p>There are different options available to SWIFT users for both of these Tags when transmitting an MT103.</p> <p>For Tag 50, there is option A, and option K. (I will omit option F for the purposes of this discussion)</p> <p>Option A consists of Account # and BEI (Business Entity Identifier)</p> <p>Option K consists of Account # and name and address</p> <p>For Tag 59, there option A, and the no letter option.</p> <p>Option A consists of Account # and BEI (Business Entity Identifier)</p> <p>No letter option consists of Account # and name and address</p> <p>As per the Tag 50 SWIFT Batch specifications, it indicates that only option K provides the information that is mandatory for the report to FINTRAC.</p> <p>As per the Tag 59 SWIFT Batch specifications, it indicates that only the no letter option provides the information that is mandatory for the report to FINTRAC.</p>

	<p>A BEI is similar to a BIC. BICs are used to identify financial institutions. BEI are used to identify non-financial institutions.</p> <p>By looking up the BIC and BEI, you can obtain the financial or non-financial entities name and address.</p> <p>Issue</p>
<p>Question French</p>	<p>Contexte</p> <p>L'étiquette 50 du message SWIFT représente le client qui fait la demande, et l'étiquette 59, le bénéficiaire. Conformément au Règlement, les entités déclarantes doivent fournir le nom au complet et l'adresse au complet de chacun d'entre eux. En outre, le numéro de compte du client est requis, le cas échéant.</p> <p>Exemple du Règlement relatif aux déclarations de transmissions de téléversements SWIFT :</p> <p>PARTIE B — Renseignements sur le client qui demande le téléversement</p> <ul style="list-style-type: none"> • Nom complet du client • Adresse complète du client • Numéro de compte du client, le cas échéant <p>PARTIE K — Renseignements sur le client bénéficiaire</p> <ul style="list-style-type: none"> • Nom complet du client • Adresse complète du client • Numéro de compte du client, le cas échéant <p>Différentes options s'offrent aux utilisateurs de SWIFT concernant ces deux étiquettes lors de la transmission d'un message SWIFT MT103.</p> <p>Pour l'étiquette 50, il y a les options A et K. (Je ne parlerai pas de l'option F aux fins de la présente discussion)</p> <p>L'option A consiste en un n° de compte et un BEI (identificateur de l'entité d'affaires)</p> <p>L'option K consiste en un n° de compte, un nom et une adresse</p> <p>Pour l'étiquette 59, il y a l'option A et l'option sans lettre.</p> <p>L'option A consiste en un n° de compte et un BEI (identificateur de l'entité d'affaires)</p> <p>L'option sans lettre consiste en un n° de compte, un nom et une adresse</p> <p>Conformément aux spécifications de l'étiquette 50 pour la transmission par lots relative aux téléversements selon le format SWIFT, seule l'option K met à disposition l'information obligatoire pour la présentation de rapports à CANAFE.</p> <p>Conformément aux spécifications de l'étiquette 59 pour la transmission par lots relative aux téléversements selon le format SWIFT, seule l'option sans lettre met à disposition l'information obligatoire pour la présentation de rapports à CANAFE.</p> <p>Un BEI est semblable à un code indicateur de banque (BIC). On utilise les BIC pour identifier les institutions financières. On utilise les BEI pour identifier les institutions non financières.</p>

	<p>Il suffit de consulter le BIC et le BEI pour obtenir les nom et adresse des entités financières ou non financières.</p>
Enieu	
Answer English	<p>Reporting entities are required to report the following transactions and information to the Centre:</p> <ul style="list-style-type: none"> the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with information referred to in Schedule 2 or 5, as the case may be; and the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be. <p>I understand that the banks have approached FINTRAC and indicated that they would like the ability to use the Business Entity Identifier (BEI) rather than provide the name and address, as referred to in Schedule 2 and 3. I also understand that some units within the Centre would see a benefit to allowing reporting entities to use the BEI when reporting these transactions to the Centre as it would provide the required information in a structured format.</p> <p>As it currently stands, the PCML TFR requires the full name and address or the Bank Identification Code (BIC) in certain parts of the Schedules. The BIC cannot be used in Part B and Part K of the Schedules. The Schedules do not allow the reporting entities to include the BEI. In order for FINTRAC to allow SWIFT users to provide the BEI, the Schedules would need to be amended.</p>
Answer French	<p>Les entités déclarantes sont tenues de :</p> <ul style="list-style-type: none"> déclarer au Centre le télévirement à l'étranger, à la demande d'un client, de 10 000 \$ ou plus au cours d'une seule opération et joindre à la déclaration les renseignements prévus aux annexes 2 ou 5, selon le cas; déclarer au Centre le télévirement de l'étranger, à la demande d'un client, de 10 000 \$ ou plus au cours d'une seule opération et joindre à la déclaration les renseignements prévus aux annexes 3 ou 6, selon le cas. <p>Je suis conscient du fait que les banques ont communiqué avec CANAFE et qu'elles ont indiqué qu'elles aimeraient être habilitées à se servir de l'identificateur de l'entité d'affaires (BEI) au lieu d'avoir à fournir les noms et adresses, comme il est précisé aux annexes 2 et 3. Je suis également conscient du fait que certaines unités du Centre verrait un avantage que les entités déclarantes puissent se servir du BEI lorsqu'elles déclarent ces transactions au Centre, car cela leur permettrait de se procurer l'information requise dans un format structuré.</p> <p>Selon la façon de faire actuelle, le RRPFCFAT exige le nom complet et l'adresse complète ou le code indicateur de banque (BIC) dans certaines parties des annexes. Il n'est pas permis de se servir du BIC dans la Partie B et la Partie K des annexes. Et selon les règlements figurant dans les annexes, les entités déclarantes n'ont</p>

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	pas le droit d'insérer le BEI. Pour que CANAFE puisse permettre aux utilisateurs de SWIFT de transmettre le BEI, il faudrait que les annexes fassent l'objet de modifications.
Guidelines Reference	8B
Regulations Reference	
Act Reference	
Legislative Amendment Required?	
Number	1076
Removal details	Internal question
Update and re-publish?	No

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: January-19-15 9:35 AM
To: Martineau, Nathalie
Subject: [REDACTED] - confirmation of EFTOs

Hi Nathalie,

I am responding to the policy interpretation request you sent on behalf of [REDACTED] on December 18, 2014, where it appears as though [REDACTED] is seeking guidance as to whether the 3 scenarios provided constitute reportable outgoing electronic funds transfers (EFTOs) and if so, how they should be reported, as well as information regarding how "at the request of a client" should be interpreted.

As you know, pursuant to subsection 28(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), every money services business shall, subject to subsection 52(1), report to FINTRAC:

- the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be; and
- the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.

Subsection 1(2) of the PCMLTFR defines electronic funds transfer as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada."

We have indicated in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- must be the transmission of instruction to transfer funds across our border.

As such, scenarios (1) and (2), described below, involve client-initiated instructions given to an entity in the United States (US) to transfer funds from the US to a beneficiary in Germany. While the payment for these transactions is conducted through Canada, no reportable EFT has occurred. Similarly, scenario (3) involves client-initiated instructions given to an entity in the US to exchange Canadian funds into US funds. Again, while the payment for this transaction is ultimately settled through Canada, no reportable EFT has occurred. The settlement between an MSB and its agent(s), in this case [REDACTED] is not what triggers the reporting obligation for an EFT. It is instead the client initiated instructions.

The term "at the request of a client" should be interpreted to mean the client who initiates the transaction.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

Compliance Officer | Agente de conformité
Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada
Government of Canada | Gouvernement du Canada
234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7

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s.20(1)(c)

The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

From: [REDACTED]
Sent: December-15-14 4:01 PM
To: Martineau, Nathalie
Subject: RE: Soft Copy of Deficiency Data for [REDACTED]

Hi Nathalie,

A bit of background before I get the scenarios. The FINTRAC Reporting Entity is [REDACTED] which is an Ontario registered corporation with its head office located in Toronto. [REDACTED] is the parent company for a number of worldwide subsidiaries, namely, [REDACTED] and acts as the group's global headquarters. For the most part, operational/processing functions are completed by [REDACTED] on behalf of its subsidiaries. The client's physical location drives which [REDACTED] entity contracts with the client, which entity to allocate the revenue and to and which internal sales group receives any commissions. For example, if a client physically located in Canada, [REDACTED] is the contracting entity, revenue is allocated to [REDACTED] and the assigned [REDACTED] sales group earns any commissions.

Here are the three EFTO scenarios:

- (1) ABC Co. is a client of [REDACTED] and has a physical address in the United States and has an account with [REDACTED] pursuant to the terms and conditions of the attached account documentation. ABC Co. has a bank account with [REDACTED] located in Canada. ABC Co.'s CFO, Mr. Smith, is authorized to enter into transactions with [REDACTED] on behalf of ABC Co. Mr. Smith either calls a [REDACTED] salesperson to initiates an online order to buy EUROS and sell CAD. Mr. Smith instructs [REDACTED] (either verbally to a [REDACTED] sales person or online) to send an electronic funds transfer of 10,000 EUROS to its beneficiary in Germany. In order to settle the deal one of two things happen: (a) Mr. Smith is given wiring instructions for ABC Co. to wire the agreed upon CAD funds from its [REDACTED] account to a Canadian domiciled bank account (held in [REDACTED] name); or (b) if a Debit Authorization agreement is on file (sample attached), [REDACTED] initiates a debit entry (note that employees of [REDACTED] conduct the accounting entry on behalf of [REDACTED]). Once the funds are received (either by wire or debit entry) and applied to [REDACTED] books, the funds are released from a EURO currency account located outside of Canada held in [REDACTED] name. Commissions are then calculated to be paid to the [REDACTED] sales person.
- (2) ABC Co. is a client of [REDACTED] and has a physical address in the United States and has an account with [REDACTED] pursuant to the terms and conditions of the attached account documentation. ABC Co. has a bank account with [REDACTED] located in Canada. ABC Co.'s CFO, Mr. Smith, is authorized to enter into transactions with [REDACTED] on behalf of ABC Co. Mr. Smith either calls a [REDACTED] salesperson to initiates an online order to buy EUROS and sell CAD. Mr. Smith instructs [REDACTED] (either verbally to a [REDACTED] sales person or online) to send an electronic funds transfer of 10,000 EUROS to its beneficiary in Germany. In order to settle the deal Mr. Smith writes a cheque, payable to [REDACTED] and may be given [REDACTED] or [REDACTED] address for Mr. Smith to mail the cheque. Once the cheque is received, deposited into a Canadian domiciled bank account in the name of [REDACTED] and then applied to [REDACTED] books, the funds are released from a EURO currency account located outside of Canada held [REDACTED] name. Commissions are then calculated to be paid to the [REDACTED] sales person.
- (3) XYZ Credit Union is a client of [REDACTED] and has a physical address in the United States. XYZ Credit Union does not have the facility to process CAD denominated cheques and through its representatives enters into a Master

Services Agreement with [REDACTED] for this service. Mrs. Jones, who is a client of XYZ Credit Union, has a CAD cheque, presents it to XYZ Credit Union who convert the funds in to USD and pays Mrs. Jones. XYZ Credit Union sends the CAD denominated cheque presented by Mrs. Jones to the global headquarters. The cheque is deposited into a Canadian-domiciled bank account in the name of [REDACTED]. Pursuant to the Master Services Agreement, USD funds are either credited to XYZ Credit Union's US domiciled bank account by ACH or via a wire from a bank account domiciled outside of Canada in the name of [REDACTED].

I am requesting clarification as to whether these would all qualify as reportable EFTOs and if yes, what information would go in which of the A,B,C,D, E and F fields in the EFTO report. I also would like to clarification on how to interpret 'at the request of a client'.

Please note that [REDACTED] is currently reporting all the above scenarios.

Thank you very much for your assistance,
[REDACTED]

s.19(1)

s.20(1)(c)

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: February-03-15 2:07 PM
To: Boskovic, Asya
Subject: FW: 106503 - FE - [REDACTED] LCTR
Attachments: Remote Cash Capture Agreement - Final.pdf

Hi Asya,

Please see below for the PI Reply that was prepared by Sylvie prior to her return to SPPA. As Sylvie mentions, we apologize for the delay in our response. All of the information was discussed with PIWG as well as Legal Services.

Please let me know if you have any additional questions.

Thank you,

Stephanie

Hi Asya

I apologize for the delay in getting this reply back to you.

We wanted to make sure we understood all of the implications of the process, and provide you with a complete answer.

Question 1:

In FINTRAC's opinion, for the purpose of LCTR reporting purposes, when should [REDACTED] consider the cash as having been received?

- a. Does the cash have to be physically received at a [REDACTED] location (including [REDACTED] currency centres)?
- b. Or can it be considered "received" when it is deposited by the client, in light of the fact that the cash is counted and verified electronically, and the client has no direct access to the cash?

Answer 1:

When the client of the [REDACTED] deposits cash into the [REDACTED] and gets this cash credited to him on a daily basis, then a transaction, where cash is received by the [REDACTED] happens **when the daily report is sent by the [REDACTED]** and the client's account is credited. At that point, the client can access his account balance and withdraw the funds, and ownership and accountability for the cash has passed to [REDACTED]

The time where the actual money is transported to the Bank's physical location (i.e. the weekly removal of cash cassettes) is not relevant to the transaction between [REDACTED] and its client.

Question 2:

Assume a situation where the client's individual daily deposits are not reportable since they individually do not meet the \$10,000 reporting threshold. When the cash is physically received at the [REDACTED] centre, if the total amount of the cash is \$10,000 or more, would the transaction now be reportable, in light of the answers to Q1 above?

Answer 2:

As mentioned above, we consider the transaction to be completed daily, when the daily report is sent by the [REDACTED] and is received by [REDACTED] and the client's account is credited. **Consequently, the transaction is a LCT and is reportable only when the daily account credit to the client's account is for \$10,000 dollars or more** – which could also include “single transactions, as defined in Subsection 3(1) of the PCMLTF Regulations,

“two or more cash transactions or electronic funds transfers of less than \$10,000 each that are made within 24 consecutive hours and that total \$10,000 or more are considered to be a single transaction of \$10,000 or more if

- (b) where an entity is required to keep a large cash transaction record or to report an electronic funds transfer in accordance with these Regulations, an employee or a senior officer of the entity knows that the transactions or transfers are conducted by, or on behalf of, the same person or entity.

It should also be noted that, as you may know, there could be situations where LCTRs are not reportable under Subsection 50(1) of the Regulations.

Because the transactions are completed daily with this technology, the time where the actual money cassettes are transported to the Bank's physical location (or [REDACTED] is not relevant in this specific scenario because the transaction has already happened. There would therefore be no LCTRs generated from the aggregation of the weekly deposits.

Notes regarding reporting of LCTRs :

- 1) As you know, LCTR reporting requires the RE to include a location for each transaction. In this case, it would be expected that the location reflects the individual location of each safe and not a centralized reporting facility (similar to, for example, a location for individual ATMs).
- 2) As well, because there is an obligation to identify the conductor of a large cash transaction, there would be an expectation that the PIN provided to persons authorized to deposit cash into [REDACTED] would be provided to individuals and allow for the identification of each conductor.

I trust this will be of assistance.

Sylvie

From: Boskovic, Asya

Sent: January-05-15 9:06 AM

To: Frigon, Sylvie

Cc: Gonzales, Charles; Boudreault, Alain; Zielinski, Lisa; Stoddart, Stephanie; Wilson, Yuklin

Subject: RE: [REDACTED] Policy Interpretation Request- LCTR/Receipt of Cash & [REDACTED]

Hello Sylvie and Team:

We have reached out to [REDACTED] and they have provided the following information including the attachment. Please review as soon as possible and advise us of outcome.

Regards Asya.

Answers are as follows:

- Does every employee of the client – the employees who deposit cash in the safe – have a specific sign-in, password or identifier?

[REDACTED] Response] Yes. All clients set up passwords to track deposits into the [REDACTED]. A password is required for each entry.

- Do we know who is responsible for the cash counted once it is in the safe? For example, if there's a fire and the safe is destroyed, or if the armoured car is held up – is the loss the client's or the bank's?

[REDACTED] Response] Once [REDACTED] reports the balance of the safe to [REDACTED] the cash is [REDACTED] property and [REDACTED] is wholly liable. [REDACTED] only has responsibility for the cash after it arrives at our processing centres.

- The [REDACTED] says that the client's account is credited as soon as the cash is inserted in the safe and counted.

[REDACTED] Response] To clarify, the [REDACTED] account is credited when [REDACTED] sends [REDACTED] the electronic file that summarizes the total cash deposits made into the safe that day. Currently this done once a day at approximately [REDACTED].

Cash deposited into the safes after that file has been sent not been reported to [REDACTED] until the following day, and the client does not receive credit for those funds until the next day's report is sent.

But what happens if for example there are counterfeit bills in the deposit? Is the transaction reversed, is there a different procedure when the client uses a [REDACTED] versus where the deposit is made at a quick drop or an ABM?

[REDACTED] Response] The machines are equipped with counterfeit detectors that will reject any counterfeit or unfit bills. If a counterfeit bill was to make it through the counterfeit detector, which it should not, [REDACTED] will investigate with [REDACTED] is wholly liable to [REDACTED] for all funds and is responsible to ensure that all bills are valid. We will not reverse the transaction to the client. The process is slightly different for counterfeits we detect through ABMs. With ABMs, the dollar value of the counterfeit notes are reversed (debited) from the client's account.

- Could you also provide the agreement that exists between [REDACTED] and its client would be very helpful in understanding these aspects of the transaction.

[REDACTED] Response] Please see attached.

Asya Boskovic (CAMS)

Compliance Officer, Central Region | Agent de conformité, Région du Centre

Asya.Boskovic@fintrac-canafe.gc.ca

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From: Frigon, Sylvie

Sent: December-09-14 10:15 AM

To: Vaisman, Asya
Cc: Gonzales, Charles; Boudreault, Alain; Zielinski, Lisa; Stoddart, Stephanie; Wilson, Yuklin
Subject: RE: [REDACTED] Policy Interpretation Request- LCTR/Receipt of Cash & [REDACTED]

Good morning Asya

We discussed this at a PI working group meeting that was held yesterday afternoon.

There are a few outstanding questions that came from the participants, where additional input from the RE would be helpful to clarify the situation before we provide a final answer to the questions. Those questions were centered around the actual agreement that exists between the [REDACTED] and their customers where [REDACTED] are installed.

More specifically, PIWG was asking:

- Does every employee of the client – the employees who deposit cash in the safe – have a specific sign-in, password or identifier?
- Do we know who is responsible for the cash counted once it is in the safe? For example, if there's a fire and the safe is destroyed, or if the armoured car is held up – is the loss the client's or the bank's?
- The [REDACTED] says that the client's account is credited as soon as the cash is inserted in the safe and counted. But what happens if for example there are counterfeit bills in the deposit? Is the transaction reversed, is there a different procedure when the client uses a [REDACTED] versus where the deposit is made at a quick drop or an ABM?

In other words, PIWG thought that having access to the agreement that exists between the [REDACTED] and its client would be very helpful in understanding these aspects of the transaction.

Can you get back to me with that information?

Thanks!

Sylvie

From: Vaisman, Asya
Sent: December-09-14 8:47 AM
To: Policy-Interpretation
Cc: Gonzales, Charles; Boudreault, Alain; Frigon, Sylvie; Zielinski, Lisa; Stoddart, Stephanie; Wilson, Yuklin
Subject: RE: [REDACTED] Policy Interpretation Request- LCTR/Receipt of Cash & [REDACTED]

Hi everyone: could you please provide us a status update, the RE is enquiring if there is any progress on the below request.

Thank you kindly.

Asya Vaisman (CAMS)

Compliance Officer, Central Region | Agent de conformité, Région du Centre

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From: Vaisman, Asya
Sent: November-20-14 10:27 AM
To: Policy-Interpretation
Cc: Gonzales, Charles; Boudreault, Alain; Frigon, Sylvie; Zielinski, Lisa; Stoddart, Stephanie
Subject: [REDACTED] Policy Interpretation Request- LCTR/Receipt of Cash & [REDACTED]

Hi everyone: I have just sent a PI request via [REDACTED] over to your team, I am forwarding this email to you as well since Charles asked me to write my interpretation of the ask.

Please let me know if you require any further questions/assistance.

Thanks.

Asya Vaisman (CAMS)

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From: Gonzales, Charles
Sent: November-19-14 4:15 PM
To: Vaisman, Asya
Subject: RE: Policy Interpretation Request- LCTR/Receipt of Cash & [REDACTED]

This looks better – please submit and cc me.

Gonzo

From: Vaisman, Asya
Sent: November-19-14 4:10 PM
To: Gonzales, Charles
Subject: RE: Policy Interpretation Request- LCTR/Receipt of Cash & [REDACTED]

Hi Charles: amendments have been made, please review and advise if ok to submit. Thank you

Asya

Policy Interpretation Request relating to "receipt from a client of an amount in cash" in reference to reporting Large Cash Transaction Reports ("LCTRs") as required under section 12(1)(a) of the PCMLTFR.

Our Interpretation:

[REDACTED]

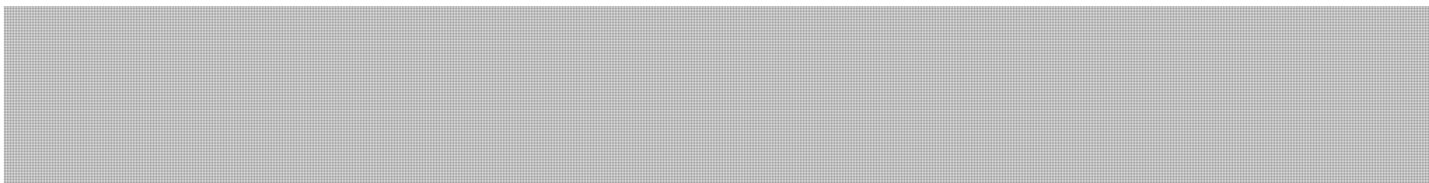
The question being presented relates to LCTR submission and receipt of cash. There is no PI guidance specifically relating to this new technology, however based on prior correspondence relating to [REDACTED] service and receipt of funds, we would state that since the new [REDACTED] are doing the actual verification counting, receipt of funds & LCTR should be considered immediately, rather than waiting 1 week for [REDACTED] to receive the funds. Please review and advise if you agree with our interpretation.

Request from Re is as follows:

Background:

██████ receives cash from clients through non-branch channels, such as ABMs and through armoured car pickup arrangements. The cash received through those channels is delivered to our ██████ currency centres for processing. The deposit bag / envelope contents are verified, and the cash component is counted and entered by the ██████ operator into a system that in turn sends the data to ██████ unit for population into LCTRs that are filed with FINTRAC. In these cases, the client's account may be credited based on the stated value of the deposit, however the LCTR is generated only after the cash is physically received into ██████ premises, counted, and verified.

Recent technology innovations now allow us to count and verify the cash component of deposits made through ██████ which are housed at client locations. Using technology created by ██████ service functions as follows:



Questions:

1. In FINTRAC's opinion, for the purpose of LCTR reporting purposes, when should ██████ consider the cash as having been received?
 - a. Does the cash have to be physically received at a ██████ location (including ██████ currency centres)?
 - b. Or can it be considered "received" when it is deposited by the client, in light of the fact that the cash is counted and verified electronically, and the client has no direct access to the cash?

2. Assume a situation where the client's individual daily deposits are not reportable since they individually do not meet the \$10,000 reporting threshold. When the cash is physically received at the ██████ centre, if the total amount of the cash is \$10,000 or more, would the transaction now be reportable, in light of the answers to Q1 above?

Thank you in advance,

Asya Vaisman (CAMS)

Compliance Officer, Central Region | Agent de conformité, Région du Centre

asya.vaisman@fintrac-canafe.gc.ca

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**Pages 72 to / à 217
are withheld pursuant to section
sont retenues en vertu de l'article**

20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: February-09-15 8:42 AM
To: Abramowski, Kamil
Subject: Policy Interpretation - Real estate - citations per client or transaction?

Hi Kamil,

I'm writing further to the policy interpretation request you submitted on January 12, 2015, where it appears you are seeking clarification regarding [REDACTED]

Pursuant to section 37 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), "every real estate broker or sales representative is subject to Part 1 of the Act when they act as an agent in respect of the purchase or sale of real estate."

As you have indicated, paragraph 39(1)(b) of the PCMLTFR provides that a client information record must be kept "in respect of every purchase or sale of real estate," subsection 10(1) of the PCMLTFR requires that reasonable measures be taken to determine whether the client is acting on behalf of a third party when a client information record is created, and paragraph 59.2(1)(a) of the PCMLTFR requires every real estate broker to "ascertain the identity of every person who conducts the transaction."

Based on the terminology used in the PCMLTFR, it appears as though [REDACTED]

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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.....

Task Details:

[REDACTED]



Supporting documents:

Proof of real estate transactions:

- Purchase - RDIMS #444201

- Sale - RDIMS #444202

Findings Letter - Attached to this Contact Event

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: February-26-15 7:57 AM
To: Lee, Rhoda
Subject: RE: PI - [REDACTED] - Beneficial Ownership - Children and Grandchildren as Trustees

Document divulgué en vertu de la
Loi sur l'accès à l'information

Dear Rhoda,

I'm writing further to the follow-up PI request you submitted on January 20, 2015, on behalf of the [REDACTED] regarding beneficial ownership. More specifically, a detailed ownership scenario with additional questions has been provided. Please see below for the answers in **red**.

Kind regards,

Stephanie Stoddart

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From: [REDACTED]
Sent: January-19-15 5:10 PM
To: Lee, Rhoda
Subject: RE: PI - [REDACTED] - Beneficial Ownership - Children and Grandchildren as Trustees
Importance: High

Dear Rhoda,

Thank you very much,
Kindly nota that I still have some questions to clear the confusion I have.

Please see example chart below.

Q 1. For Person A : would it be covered under the legislation?

- I thought that Person A will have a diluted interest/power of 4.17% (= 25% X 33.33% X 50%) so it won't be considered a beneficial owner covered under the AMLTF Legislations from FINTRAC

A1 – Person A would not be considered a beneficial owner as they do not own or control 25% or more. However, please note that if an individual is the partial owner of several corporations and is found to accumulatively own 25% or more, then they would be considered a beneficial owner.

Q2. For Company I: would it be covered under the legislation?

- I thought that Company I has a diluted interest/power of 8.33% (= 25% X 33.33%) so it won't be considered a beneficial owner covered under the AMLTF Legislations from FINTRAC

A2 – As mentioned in the previous PI response, a corporation cannot be considered a beneficial owner. Only individuals who own or control, directly or indirectly, 25% or more can be considered beneficial owners.

Q3. For the Trust,

- is it because the 11. 1(1) b) doesn't particularly say about any percentage that automatically we need to assess and investigate them?

A3 – That's correct, paragraph 11.1(1)(b) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) specifies that the names of all trustees, known beneficiaries, and settlors of a Trust must be obtained.

Q4. How about company H and J?

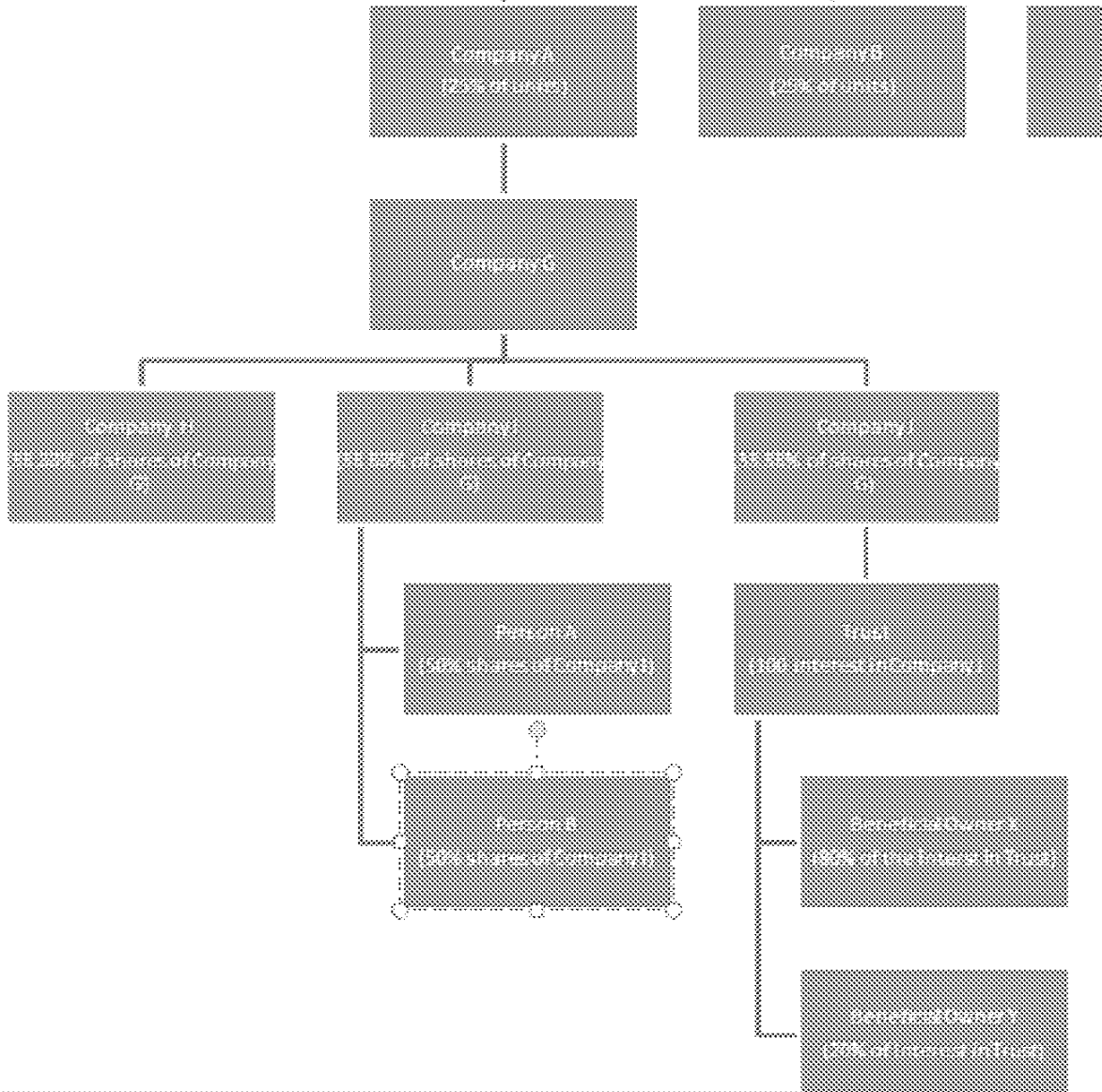
- Are they also covered under AMLFT Legislations from FINTRACT with the diluted interest/power of 8.33% ?

A4 – Similar to Q2 – A corporation cannot be considered a beneficial owner. Companies H and J would have to be assessed for beneficial owners. In the case of company J, you have specified that it is wholly owned by a Trust, therefore paragraph 11.1(1)(b) applies and the names of all trustees, known beneficiaries, and settlors of the Trust must be obtained.

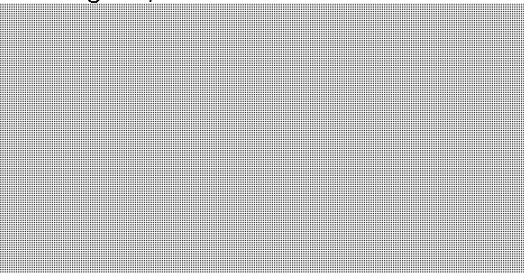
Q5. for Company G,

- I understood that it shall be covered since it has an accumulated interest/power of 25% (=25% X 100%).

A5 – Similar to Q2 and Q4, a corporation cannot be considered a beneficial owner.



Kind regards,



From: Lee, Rhoda [mailto:Rhoda.Lee@fintrac-canafe.gc.ca]

Sent: January-19-15 4:29 PM

To: [REDACTED]

Subject: PI - [REDACTED] - Beneficial Ownership - Children and Grandchildren as Trustees

Hi [REDACTED]

Please be advised that the following response was received from the Policy Interpretations team, in response to the policy interpretation request you submitted on behalf of the [REDACTED] on December 11, 2014, where you were seeking information regarding the beneficial ownership requirements for life insurance companies. Specifically, you have asked whether life insurance companies are required to fulfil the client identification requirements for children and grandchildren who are beneficial owners of a Trust, as per the situation described:

“- A partnership is owned by 4 partners, each owning 25% equally of the units.
- Then one of the partner is owned 100% by a shareholder which is Company A.
- This Company A is owned by 3 different shareholders equally divided (33.333%): Company B, Company C and Company D.
- Company B is owned 100% by a Trust D and there are several beneficial owners such as children, grandchildren and etc.”

Pursuant to subsection 11.1(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), every life insurance company, broker, or agent that is required to confirm the existence of an entity in accordance with these Regulations, shall, at the time the existence of the entity is confirmed, obtain the following information:

- a) in the case of a corporation, the names of all directors of the corporation and the names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the shares of the corporation;
- b) in the case of a trust, the names and addresses of all trustees and all known beneficiaries and settlors of the trust;
- c) in the case of an entity other than a corporation or trust, the names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the entity; and
- d) in all cases, information establishing the ownership, control and structure of the entity.

Furthermore, in accordance with subsections 11.1(2) and 11.1(3) of the PCMLTFR, respectively, a reporting entity must take reasonable measures to confirm the accuracy of the information obtained under subsection 11.1(1), and keep a record that sets out the information obtained and the measures taken to confirm the accuracy of that information. Section 6 of *Guideline 6A: Record Keeping and Client Identification for Life Insurance Companies, Brokers and Agents* states that “beneficial ownership refers to the identity of the individuals who ultimately control the corporation or entity, and cannot be another corporation or another entity. You must search through as many levels of information as necessary in order to determine beneficial ownership.”

For situations as described, where the client is an entity owned partially by a corporation, further research must be conducted until the individual(s) owning 25% or more can be found. As a result, the client identification requirements provided at section 11.1 of the PCMLTFR are applicable to the children and grandchildren, as they are owners of the Trust.

For additional information, please see Section 6 of Guideline 6A found here <http://www.fintrac-canafe.gc.ca/publications/guide/Guide6/6G-eng.asp#s6>.

Thank you,
Rhoda Lee
Senior Compliance Officer | Agente de conformité
rhoda.lee@fintrac-canafe.gc.ca
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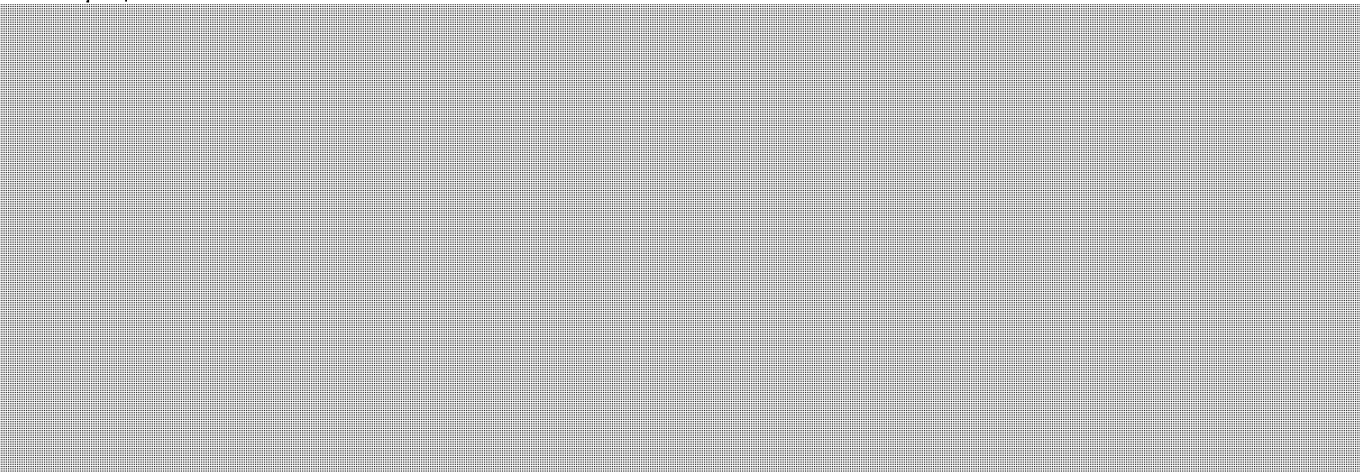
From: [REDACTED]
Sent: Tuesday, November 18, 2014 10:11:05 AM
To: guidelines-lignesdirectrices
Subject: Question
Auto forwarded by a Rule

Hi,

- A partnership is owned by 4 partners, each owning 25% equality of the units.
- Then one of the partner is owned 100% by a shareholder which is Company A.
- This Company A is owned by 3 different shareholders equally divided (33.333%): Company B, Company C and Company D.
- Company B is owned 100% by a Trust D and there are several beneficial owners such as children, grandchildren and etc.

Per section 11. 1 (1) (c) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (SOR/2002-184), are the children, grandchildren considered indirect beneficial owners owning more than 25% of the Partnership?

Thank you,



Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: May-08-15 12:50 PM
To: Leclerc, Julie
Subject: RE: [REDACTED] Mesure de confirmation de la compensation d'un chèque
Attachments: Questions_CANAFE_Chèque compensé_V2.doc;
Demande_de_PI_[REDACTED].Chèque_compensé.doc

Document divulgué en vertu de la
Loi sur l'accès à l'information

Bonjour Julie,

Je vous écris en réponse à votre demande pour une confirmation de notre interprétation de politique, initialement envoyée le 28 avril 2015 à la [REDACTED]

Comme précédemment indiqué, en vertu du *Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes* (RRPCFAT), la partie A de l'annexe 7 stipule que la méthode de vérification de l'identité d'une personne par un chèque compensé « prévoit la confirmation qu'un chèque tiré par la personne sur un compte de dépôt auprès d'une entité financière, autre qu'un compte visé à l'article 62 du présent règlement, a été compensé ».

Comme mesures légitimes de confirmation, CANAFE a indiqué antérieurement qu'une entité déclarante peut considérer le chèque comme étant compensé au moment où l'argent a été déposé au sein du compte (par l'entremise du système de compensation et de paiements de l'Association canadienne des paiements), en appelant l'entité financière, ou lorsqu'une confirmation ou une image estampillée et numérisée du chèque compensé est fournie par l'entité financière.

Considérer qu'un chèque a été compensé si aucun retour n'est survenu après 2-3 jours suivant son dépôt ne remplit pas la condition de confirmation prévue à la méthode du chèque compensé. En d'autres mots, simplement attendre que le chèque soit retourné ou non ne constitue pas une confirmation qu'il a été compensé. En conséquence, il ne semble pas que [REDACTED] rencontre entièrement les exigences de la méthode de vérification de l'identité d'une personne par un chèque compensé.

J'ose espérer que cette information vous sera utile.

Cordialement,
Camille Lafontaine

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From: Policy-Interpretation
Sent: April-28-15 10:46 AM
To: Leclerc, Julie
Subject: Re: [REDACTED] Mesure de confirmation de la compensation d'un chèque

Bonjour Julie,

Je vous écris en réponse à votre demande pour une interprétation de politique, initialement envoyée le 26 mars 2015 au nom de [REDACTED] où il semble qu'elle cherche à obtenir une confirmation de CANAFE à savoir si un chèque peut être considéré compensé, si aucun retour n'est survenu après 2-3 jours suivant son dépôt.

En vertu du *Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes* (RRPCFAT), le sous-alinéa 64(1)(b)(ii) stipule que, « si la personne est absente à l'ouverture du compte, de la demande de carte de crédit, de la constitution de la fiducie, de la constitution du dossier-client ou de l'exécution de l'opération », la vérification de l'identité de celle-ci peut être effectuée au moyen de la combinaison de méthodes acceptables figurant à la partie A de l'annexe 7. À cet égard, au sein de leur lettre, [REDACTED] a spécifié utiliser la combinaison (E), soit la combinaison de la méthode du chèque compensé et du dossier de crédit pour les ouvertures de compte en ligne sans déplacement. D'une part, la méthode du chèque compensé consiste en « la confirmation qu'un chèque tiré par la personne sur un compte de dépôt auprès d'une entité financière, autre qu'un compte visé à l'article 62 du présent règlement, a été compensé ». De plus, si l'identité a été vérifiée par la confirmation qu'un chèque a été compensé, le paragraphe 67(b) du RRPCFAT requiert l'indication du nom de la personne, le nom de l'entité financière où le chèque a été compensé et le numéro du compte duquel le chèque a été tiré. Quant à elle, la méthode liée au dossier de crédit « prévoit, après avoir obtenu l'autorisation de la personne pour ce faire, la confirmation des nom, adresse et date de naissance de la personne d'après le dossier de crédit de cette dernière au Canada, ce dossier devant exister depuis au moins six mois ». Selon le paragraphe 67(f) du RRPCFAT, si l'identité est vérifiée par la consultation du dossier de crédit de la personne tenu par une entité, le nom de la personne, le nom de l'entité qui tient le dossier de crédit, ainsi que la date de la consultation doivent être indiqués.

Basé sur les informations fournies au sein de la lettre du 26 mars 2015 envoyée par [REDACTED] à savoir que « le dossier client [contient] la photocopie du chèque envoyé par le client (payable à son nom) pour le dépôt initial, [que] ce chèque contient le nom de l'entité financière et le numéro de compte du client », il semble que [REDACTED] remplit ses obligations de tenue de document. Concernant la question spécifique de [REDACTED] au sujet des mesures légitimes de confirmation de la compensation d'un chèque, CANAFE a indiqué antérieurement qu'une entité déclarante peut considérer le chèque comme étant compensé au moment où l'argent a été déposé au sein du compte (par l'entremise du système de compensation et de paiements de l'Association canadienne des paiements), en appelant l'entité financière, ou lorsque qu'une confirmation ou une image estampillée et numérisée du chèque compensé est fournie par l'entité financière.

De plus, à titre d'information, vous trouverez ci-après un lien à la ligne directrice 6G de CANAFE, <http://www.canafe-fintrac.gc.ca/publications/guide/Guide6/6G-fra.asp>, laquelle vise à fournir des précisions quant à la tenue de documents et la vérification de l'identité des clients.

J'ose espérer que cette information vous sera utile.

Cordialement,

Camille Lafontaine

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada

Government of Canada | Gouvernement du Canada

234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7

Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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Page 228

**is withheld pursuant to section
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20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Page 229

**is withheld pursuant to section
est retenue en vertu de l'article**

20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Orchowski, Julia (FINTRAC/CANAFE)

From: Boudreault, Alain
Sent: May-26-15 2:28 PM
To: Harrison, William
Subject: RE: STRs with multiple transactions
Attachments: #535447-Guidance_-_STR_with_multiple_transactions.DOCX.DRF

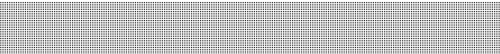
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Hi Bill,

This is risky to try to interpret a policy interpretation.

Only the transaction(s) related to the commission or the attempted commission of a money laundering offence or of a terrorist activity financing offence can be reported to FINTRAC. So, yes, "Where a series of transactions contributes to the suspicion of money laundering or terrorist financing, there is a requirement to include each and every suspicious transaction when filing a suspicious transaction report (STR)." Transactions related to the suspicion and transactions related the threshold are one of the same. They cannot be dissociated from each other. That means, they are all transactions related to the commission or the attempted commission of a money laundering offence or of a terrorist activity financing offence. The reporting entity must reported them all.

If some transactions were not needed to reach the threshold of suspicion or couldn't feed the suspicion, that means they were not related to the commission or the attempted commission of a money laundering offence or of a terrorist activity financing offence. Therefore, they cannot be reported to FINTRAC.



I hope this makes sense.

Thanks,

A

From: Harrison, William
Sent: May-26-15 2:03 PM
To: Boudreault, Alain
Subject: STRs with multiple transactions

Hi Alain, we are providing guidance to the major reporters concerning the process on reporting multiple transactions within an STR.

As part of the guidance, I have used terminology from the PI that you provided to  on this topic last year. Frank has taken a look at the guidance and has made the following comment....

It says, "Where a series of transactions contributes to the suspicion of money laundering or terrorist financing, there is a requirement to include each and every suspicious transaction when filing a suspicious transaction report (STR)." I would read this to mean that if five transactions led me to suspicion then I would be required to report all five, **but any transactions beyond these five I would not be required to report because were not (technically) needed to get me to the threshold of suspicion.** My sense, however, is that the law requires that all transactions related to the suspicion be reported, not just those that got to me to threshold. If my sense is

correct,

Access to Information Act

Could you please review the guidance to ensure I have accurately represented the policy interpretation, as well as address Frank's comment.

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I appreciate your assistance

Bill

Bill Harrison

Team Leader - Major Reporters Team

Regional Operations and Compliance

Financial Transactions and Reports Analysis Centre of Canada

21st Floor, 234 Laurier Street West

Ottawa, ON, K1P 1H7

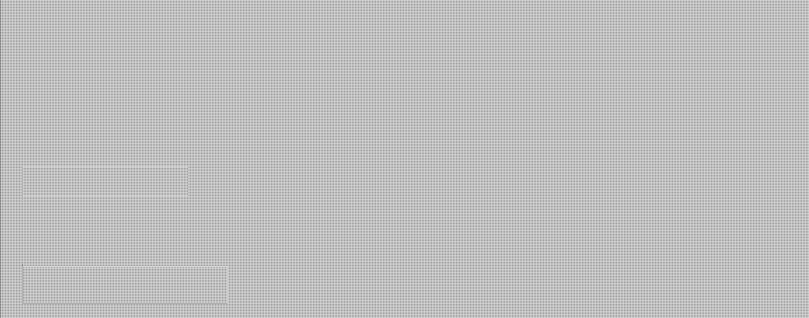
william.harrison@fintrac-canafe.gc.ca

Telephone | 613-947-2794



Financial Transactions and Reports Analysis Centre of Canada
Centre d'analyse des opérations et déclarations financières du Canada



TO	DATE OF ISSUE
	2015-07-16
RE: GUIDANCE	SECTOR
Reporting STRs with multiple transactions	All

Original Question/Enquiry

Clarify the correct method in which to complete an STR when there are multiple suspicious transactions.

Application of Legislation

Section 7 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act) stipulates that, "Subject to section 10.1, every person or entity referred to in section 5 shall report to the Centre, in the prescribed form and manner, every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that

- (a) the transaction is related to the commission or the attempted commission of a money laundering offence; or
- (b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence."

Guidance Response

For the purpose of this guidance, a "transaction" refers to either completed or attempted transactions.

Where a series of transactions contributes to the suspicion of money laundering or terrorist financing, there is a requirement to include each and every suspicious transaction when filing a suspicious transaction report (STR). There is no scope to provide a partial list of transactions or a sampled list of transactions, as this would render the report non-compliant. In a case where there is more than a single suspicious transaction, the following applies:

Reporting through Batch

Each transaction must be identified in Part B of the STR and Parts C through H must be completed, if applicable. If there are more than 99 transactions, submit the remaining transactions on a separate STR.

Reporting through F2R

1. If there are 99 or fewer transactions, each transaction must be identified in Part B of the STR and Parts C through H must be completed, if applicable.



2. If there are more than 99 transactions, the first 99 transactions must be identified in Part B of the STR and Parts C through H must be completed, if applicable. The additional transactions may be included in a structured transaction table format in Part G of the STR.
 - Each transaction included in Part G must include, at a minimum, all information that would otherwise be required if the transaction had been entered into the fillable Parts of the report.
 - The transaction table included in Part G must be structured in a comma delimited text format (refer to **Appendix A** for further instructions).

To ensure optimal performance of F2R while entering reports, it is recommended that users access through either Mozilla Firefox or Google Chrome web browsers.

Exceptions

It is important to remember that transactions occurring in different locations may not be reported in the same STR. In addition, completed transactions and attempted transactions may not be reported in the same STR.

We trust this information is of assistance.

Frank Lofranco

Deputy Chief Compliance Officer and Regional Director (Central Region)
| Sous-dirigeante principale de la conformité et Directeur régional (Bureau régional central)
200 King Street West, Suite 1906, Toronto, Ontario M5H 3T4
Telephone | Téléphone 416-952-0116
frank.lofranco@fintrac-canafe.gc.ca

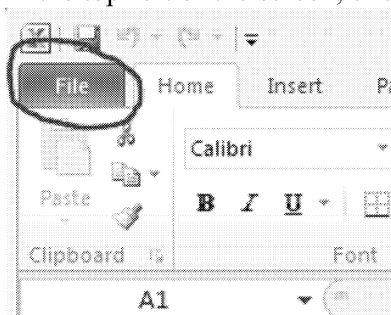
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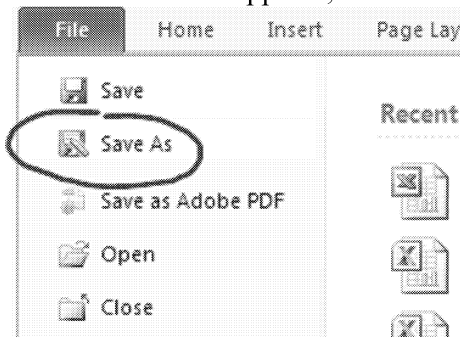


APPENDIX A

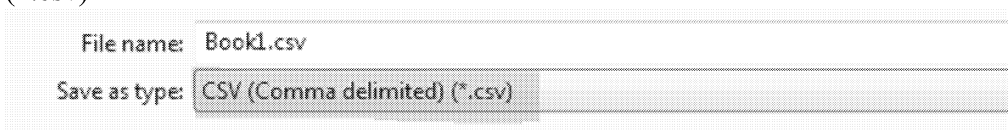
1. Open the spreadsheet containing the transaction table. The spreadsheet should not include complex formatting such as merged cells, graphs, or illustrations.
2. In the top-left of the screen, click the “File” menu item.



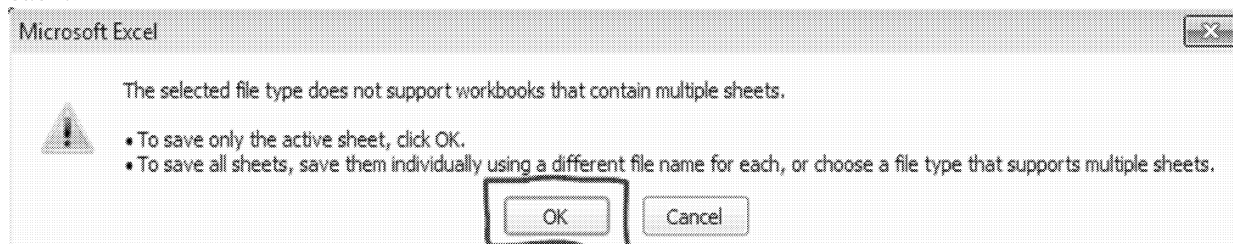
3. On the screen that appears, click the “Save As” button in the upper-left.

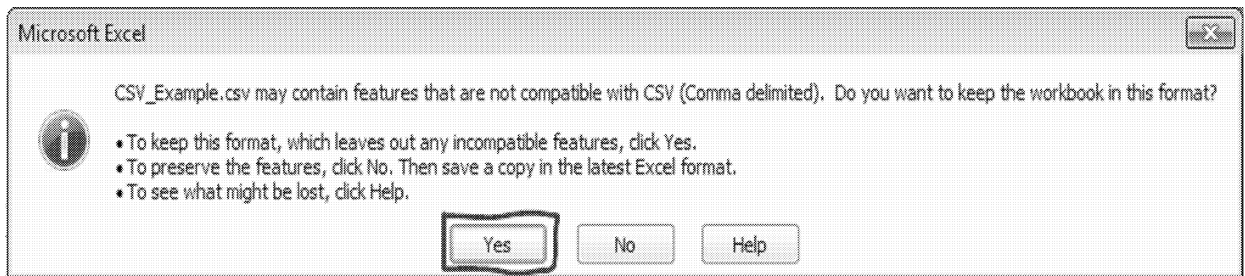


4. This will bring up a dialog box asking you where you want to save the file. In this dialog, locate the “save as type” dropdown. Change this value to read “CSV (Comma Delimited) (*.csv)”

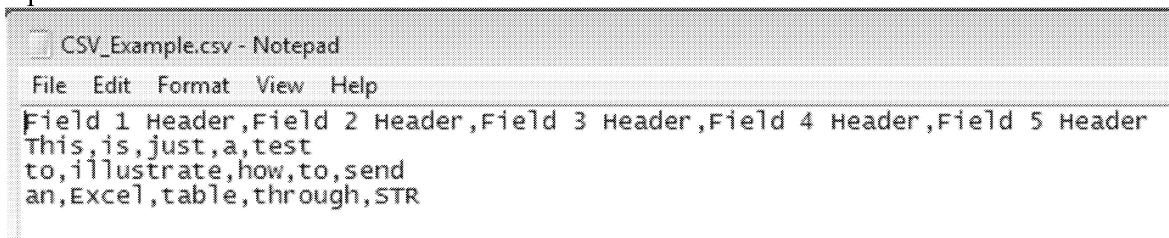


5. Save the file. You MAY see the following message boxes appear. Just click “Yes/Ok” for each.





6. Open the saved file in a text editor.



7. Press CTRL-A to select all the text in the file, then CTRL-C to copy it to the clipboard.
8. In the F2R online submission form, paste that information into the bottom of Part G of the STR below the detailed description of the suspicion.
9. Complete submission of the STR.

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: June-05-15 2:57 PM
To: Borneo, Reginald
Cc: Martineau, Nathalie
Subject: [REDACTED] EFT reporting

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Hi Reginald,

I am writing further to the policy interpretation request you submitted on behalf of [REDACTED] a registered money services business (MSB), on December 30, 2014. I apologize for the delay in our response. While the reporting entity (RE) appears to simply be seeking information about the reporting time frames and the record-keeping requirements associated with electronic funds transfers (EFTs), we have chosen to first address whether each of the scenarios provided actually constitute reportable EFTs.

Do the provided scenarios constitute reportable EFTs?:

Before addressing the scenarios, it is necessary to first mention that pursuant to subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), an EFT is defined as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada.”

Additionally, subsection 28(1) of the PCMLTFR, states that every MSB shall, subject to subsection 52(1), report to FINTRAC:

- the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be; and
- the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.

As a result, we have said in the past that to be reportable an electronic funds transfer must be

- client initiated, and
- must be the transmission, across our border, of instructions to transfer funds (except where the client's instructions deal with transferring funds from one place in Canada to another place in Canada).

Therefore, it will always be a question of fact to determine if an EFT has occurred.

Scenario 1 a) and b) –

Based on our understanding of the information provided, it appears that in both of these scenarios, the instructions provided by Client A/B are for the transfer of funds from one location outside of Canada to another location outside of Canada. Client A/B never provide instructions for the transfer of funds across the Canadian border. [REDACTED] appear to be operating as extensions of the MSB (as agents in foreign locations) and conduct the transaction through Canada only because this is how they conduct their business. Therefore, because there are no client initiated instructions transmitted across the Canadian border, it would appear that Scenario 1 a) and b) do not constitute reportable incoming EFTs (EFTIs) for the MSB.

Additionally, based on our understanding of the information provided, it appears that, to complete this transaction, the MSB instructs a Canadian bank to send funds to a beneficiary outside of Canada and the funds are ultimately transferred from Canada via “SWIFT using a Canadian bank” to the beneficiary in a location outside of Canada. As a result, it would appear that an outgoing EFT (EFTO) must be reported by the Canadian bank for each scenario.

For the purposes of the EFTO report, the MSB would be considered as the client because it initiates the transaction and provides the instructions for the transfer of funds outside of Canada.

Scenario 2 a) and b) –

For Scenario 2 a) and b) we have assumed the transactions are conducted in the same way as Scenario 1, that is, Client A/B provides instructions to the ██████████ for the transfer of funds to a beneficiary in Canada, and the ██████████ transmits the instructions through the MSB to a Canadian bank who ultimately provides the funds to the beneficiary in Canada.

Given that in each scenario the instructions provided by Client A/B are for the transfer of funds in an amount of \$3,500, these would not constitute reportable EFTs as the \$10,000 threshold is not met. However, if the amount was increased to \$10,000 or more, then based on our assumption of how the transactions are conducted, Scenario 2 a) and b) would appear to constitute reportable EFTs for the MSB. For the purposes of this transaction, it does not matter whether the ██████████ is operating in the capacity of an agent for the MSB as Client A/B uses it as an entity to transmit the instructions from a location outside Canada to a Reporting Entity in Canada for the payment of funds to a beneficiary in Canada.

Scenario 2 c) –

In Scenario 2 c), the client’s instructions are to transfer funds from one foreign location to another and the client never ordered the instructions to cross the Canadian border. Therefore, similar to scenario 1 a) and b), there is no EFT that occurs.

Reporting time frames:

Regarding the time frame for incoming EFT (EFTI) reporting, subsection 5(1) of the PCMLTFR states that “a report that is required to be made under these Regulations in respect of an electronic funds transfer shall be sent to the Centre not later than five working days after the day of the transfer.” Section 3.7 of Guideline 8A: *Submitting Non-SWIFT Electronic Funds Transfer Reports to FINTRAC Electronically*, found here: <http://www.fintrac-canafe.gc.ca/publications/guide/Guide8A/nseft-eng.asp#s3-7>, states that for an EFTI, the day of the transfer is “the day the instructions were transmitted to you.” Therefore, a reporting entity must submit an EFTI report no later than five working days after the day it received the instructions for the transfer.

Scenario 1 a) and b) –

As explained above, based on our understanding of Scenario 1 a) and b), it would appear there are no reportable EFTs for the MSB. As such, the MSB is not subject to the reporting time frames.

Record-keeping requirements:

Pursuant to paragraph 30(e) of the PCMLTFR, every money services business is required to keep a record when an amount of \$1000 or more is remitted or transmitted. The record must contain:

“(i) if the client is a person, their name, address, date of birth and telephone number and the nature of their principal business or their occupation, as applicable,

- (ii) if the client is an entity, the name, address, date of birth and telephone number of the person initiating the transaction on behalf of the entity and the nature of that person's principal business or their occupation, as applicable,
- (iii) the reference number and date of the transaction,
- (iv) the name of the person or entity to whom the amount is remitted or transmitted, and
- (v) the amount and currency of the transaction;"

In addition, section 9.5 of the PCMLTFA requires persons or entities referred to in section 5 to include certain information with prescribed electronic funds transfers when they occur in the course of their financial activities. Subsection 66.1(2) of the PCMLTFR goes on to specify that the prescribed electronic funds transfers to which section 9.5 of the Act applies are those as defined in subsection 1(2), but include transfers within Canada that are SWIFT MT 103 messages. As such, the only domestic EFTs to which the obligations set out in section 9.5 of the Act applies are SWIFT MT 103 messages.

Furthermore, subsection 59(5) of the PCMLTFR requires that all MSBs take reasonable measures to determine whether the person who initiates or is the beneficiary of an EFT of \$100,000 or more is a politically exposed foreign person (PEFP).

Scenario 2 a) and b) –

Given that in Scenario 2 a) and b) an amount of \$1000 or more is transmitted from the [REDACTED] to the MSB who then transmits it to the Canadian bank, the MSB would be required to keep the appropriate record identified in paragraph 30(e) of the PCMLTFR.

If the amounts increased to \$100,000 or more, the MSB would also be required to conduct a PEFP determination and if the client or beneficiary is determined to be a PEFP, a record must be kept containing the office or position of the individual, the source of the funds (if known), the date the individual is determined to be a PEFP, the name of the member of senior management who reviewed the transaction, and the date the transaction was reviewed (section 31 of the PCMLTFR).

Scenario 2 c) –

Given that in scenario 2 c), the client's instructions are to transfer funds from one location outside of Canada to another location outside of Canada, and the client never ordered the instructions to cross the Canadian border, it would appear there is no EFT that occurs and therefore no record keeping obligations associated with this scenario.

Please note that while we have addressed the questions of the MSB concerning the record keeping requirements for EFTs, it may still have other record keeping requirements associated with the various other obligations it is subject to, such as ascertaining identity and confirming beneficial ownership information in the case of entities as clients. For more information please refer to Guideline 6C, *Record Keeping and Client Identification for MSBs* found at the following link <http://www.fintrac-canafe.gc.ca/publications/guide/Guide6/6C-eng.asp>.

In regards to your question about the cheat sheet for EFTs (RDIMS 406721), I cannot really provide comment on whether it still applies, however I encourage you to refer to the EFT scenarios document (RDIMS 517128).

I hope you find this information helpful. Please feel free to contact me if you have any questions.

Best regards,

Stephanie Stoddart

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Task Description:

CO at [REDACTED] had the following questions. For EFTReporting we have been using a cheatsheet RDIMS#406721 - does this still apply?

1. Incoming EFT Reporting: Here are scenarios

a) ClientA given instruction to our "Liaison Office" in Pakistan to transfer USD12,000 to China. Instruction received by our liaison office on August 01, 2014 along with equivalent PKR in form of cheque. After clearing of funds in Pakistan instruction transferred to our (Canada office) on Aug 04, 2014 to take necessary action on this request and transfer USD12,000 to China. Canada office sent wire to China on Aug 06, 2014 via a SWIFT using Canadian bank.

b) ClientB given instruction to our [REDACTED] in UAE to transfer funds to China. [REDACTED] received instruction from client on Aug 01, 2014 along with AED. After clearing of funds in UAE instruction transferred to our (Canada office) on Aug 04, 2014 to take necessary action on this request and transfer USD12,000 to China. Canada office sent wire to China on Aug 06, 2014 via a SWIFT using Canadian bank.

As per my understanding two reports need to be filed EFTI and EFTO. Now question I have is regarding EFTI time frame in above scenarios, what time frame should I have to consider? Is it 5 business days from Aug 01, 2014 when actual instruction received by liaison office or exchange company from customer or 5 business days from August 04, 2014 when actual instruction received by Canada office to execute the transaction.

I know for EFTO have 5 business days from Aug 06, 2014.

2. Recordkeeping requirements: Here are scenarios

a) ClientA given instruction to our [REDACTED] in Pakistan to transfer CAD3,500 in Canada beneficiary bank account. He provides his information (i.e. Name, Address, Telephone no., DOB, National ID No.) and beneficiary information (i.e. Name, Address, Bank Name, Account No., Branch Address). Instruction received by us as follows (Sender Name, Sender Address, Sender Telephone No., Beneficiary Name, Beneficiary Address, Bank Name, Account No. Branch Address).

b) ClientB given instruction to our [REDACTED] in UAE to transfer CAD3,500 in Canada beneficiary's bank account. He provides his information (i.e. Name, Address, Telephone no., DOB, National ID No.) and beneficiary information (i.e. Name, Address, Bank Name, Account No., Branch Address). Instruction received by us as follows (Sender Name, Sender Address, Sender Telephone No., Beneficiary Name, Beneficiary Address, Bank Name, Account No. Branch Address).

c) CompanyA given a instruction to our [REDACTED] in Pakistan to transfer USD12,000 to China. He provides his information (i.e. Company Name, Name, Address, Telephone no., DOB, National ID No.) and beneficiary information (i.e. Name, Address, Bank Name, Account No., Branch Address). Instruction received by us as follows (Sender Company Name, Sender Name, Sender Address, Sender Telephone No., Beneficiary Name, Beneficiary Address, Bank Name, Account No. Branch Address).

My question is in above scenarios a) and b) what information we should need to fulfill recordkeeping requirement. Are above information is sufficient or do we need more information of sender or beneficiary. Is information requirement change if amount increase to \$10,000 and above.

In scenario c) do we need more information about sender's company beside his own information, as company and individual are not Canadian citizen or resident.

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: June-05-15 4:06 PM
To: Harrison, William
Cc: Martineau, Nathalie
Subject: RE: Scenario 1 - Trade Transactions - [REDACTED]
Attachments: COMPLIANCE-#452749-v1-PI_Q_-_FE_[REDACTED].SCENARIO_1
_-_sample.....docx; COMPLIANCE-#452490-v1-over-reporting_scenario_
126022015160054_.pdf

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Hi Bill,

I am writing further to the policy interpretation request you submitted on February 27, 2015, on behalf of [REDACTED]. In your request you outline a scenario where [REDACTED] receives a SWIFT MT 700 from a Nigerian bank with instructions to transfer funds to a beneficiary in Canada. [REDACTED] then issues payment (in USD) via a SWIFT MT 103 to the Canadian financial institution that holds the beneficiary's account. As a result, you have asked whether [REDACTED] is required to submit an incoming electronic funds transfer report (EFTI) and whether an electronic funds transfer (EFT) report is required for the payment of funds from [REDACTED] to the Canadian financial institution that holds the beneficiary's account.

As you know, subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) defines electronic funds transfer as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Subsection 12(1) of the PCMLTFR further specifies that every financial entity must report the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be, as well as the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

Given that the Nigerian financial institution issues a SWIFT MT 700 series letter of credit message to [REDACTED] and the definition of an EFT as indicated in the PCMLTFR only includes SWIFT MT 103 messages, transactions processed in this manner are not reportable. [REDACTED] would therefore not be required to report an EFTI.

Regarding the SWIFT MT 103 message issued as a result of the transfer of USD from [REDACTED] to the beneficiary's Canadian financial institution, this would also not constitute a reportable EFT. The instructions provided are for the transfer of funds from one location within Canada to another location within Canada and as indicated in the definition of an EFT, domestic transfers are excluded.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: Harrison, William
Sent: February-27-15 2:46 PM
To: Boudreault, Alain
Subject: Scenario 1 - Trade Transactions

Hi Alain, further to our discussion on Monday, [REDACTED] would like a policy interpretation of their EFT reporting requirements where a letter of credit results in an international funds transfer. Thanks a lot, Bill

Background

FINTRAC identified outgoing SWIFT reports that appeared to be domestic EFTs routed through the US as in USD. These were provided to [REDACTED] prior to the examination. [REDACTED] reviewed the reports and categorized specific scenarios. The first scenario was in regard to trade transactions where letters of credit were issued from a foreign financial institution requesting that [REDACTED] make a payment to a Canadian exporter. [REDACTED] provided examples of the flow of funds related to three outgoing SWIFT reports (refer to Word attachment).

[REDACTED] did not submit an incoming EFT report in regard to the letter of credit instructions. [REDACTED] explained that they were filing an outgoing SWIFT report to reflect the MT103 instructions for the payment they were making to the Canadian exporter based on the letter of credit. After further discussion, it was found that this report was actually submitted because the funds were in USD and [REDACTED] reporting system will always submit a report for any MT103 message being sent outside Canada.

[REDACTED] still believes that this outgoing transaction should be reported to reflect the overall instructions of funds from outside Canada. FINTRAC agreed to review the scenario and provide a policy interpretation related to letters of credit. [REDACTED] also provided copies of the SWIFT instructions from the Nigerian bank (refer to pdf attachment).

Policy Interpretation request

A Canadian exporter has provided goods to a business located in Nigeria. The Nigerian company approached a Nigerian bank to issue a letter of credit to pay for the goods. The issuing Nigerian bank requires an advising bank in Canada to pay the funds to the Canadian exporter. The issuing Nigerian bank notifies the advising Canadian bank of the payment request through a SWIFT MT 700 series letter of credit message. The Canadian bank makes a payment to the Canadian exporter's Canadian financial institution through a SWIFT MT103 message.

Questions:

Is an incoming EFT report required based on the instructions contained in a SWIFT MT700 series of messages?

Is an EFT report required based on an MT103 to transfer funds from the advising Canadian bank to the exporter's Canadian financial institution?

**Pages 243 to / à 248
are withheld pursuant to sections
sont retenues en vertu des articles**

16(1)(c), 20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Page 249

**is withheld pursuant to sections
est retenue en vertu des articles**

16(1)(c), 19(1), 20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: June-19-15 2:43 PM
To: Martineau, Nathalie
Cc: Douglas, Lisa; Wilson, Yuklin
Subject: EFT Scenarios for [REDACTED]

Hi Nathalie,

I am writing further to the policy interpretation request you submitted on January 22, 2015, regarding 4 different EFT scenarios for [REDACTED], which fall outside their typical incoming and outgoing transactions. We have reviewed all scenarios and here are our comments.

As you know, subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) defines an electronic funds transfer as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada”.

To be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

As per subsection 28(1) of the PCMLTFR, money services businesses (MSBs) have the obligations to “report the following transactions and information to the Centre: [...]

(b) the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be; and

(c) the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.”

TYPICAL OUTGOING TRANSACTION

Based on the information you have provided, that “A client in Canada approaches [REDACTED] or one of their agents, and provides them with instructions to remit \$10,000 CAD equivalent or more to Afghanistan. [REDACTED] provides their client with a reference number for the transaction, and their client contacts the beneficiary in Afghanistan (or elsewhere) to provide them with the reference number. [REDACTED] e-mails the agent in Afghanistan with the name of the client, the reference number, and the amount. The agent in Afghanistan pays out the beneficiary in Afghanistan, or arranges for payout if the beneficiary is in another country,” an EFTO must be reported.

We agree that the EFTO must include the following information:

- Part B – Client in Canada
- Part C – [REDACTED] main location
- Part D – *if applicable*
- Part E – Agent in Afghanistan
- Part F – Beneficiary in Afghanistan
- Part G – *if applicable*

Note: See Scenario 1, RDIMS #517128

TYPICAL INCOMING TRANSACTION

Based on the information you have provided, that “A client in Afghanistan approaches the agent in Afghanistan and provides him with instructions to remit \$10,000 CAD equivalent or more from Afghanistan (or some other country), to Canada. The agent or [REDACTED] provides the client with a reference number for the transaction, and the client contacts the beneficiary in Canada to provide them with the reference number. The agent e-mails [REDACTED] with the name of the client, the reference number, and the amount. [REDACTED] pays out the beneficiary in Canada,” an EFTI must be reported.

We agree that the EFTI must include the following information:

- Part B – Client in Afghanistan
- Part C – Agent in Afghanistan
- Part D – *if applicable*
- Part E – [REDACTED] location (branch or main)
- Part F – Beneficiary in Canada
- Part G – *if applicable*

Note: See Scenario 2, RDIMS #517128

4 SCENARIOS THAT FALL OUTSIDE OF THE ABOVE

Scenario #1:

Your original request included the following details:

“Because [REDACTED] is remitting to beneficiaries in Afghanistan through their agent in Afghanistan using a Hawala system, they need to find a way to settle with their agent (whereby [REDACTED] always owes a sum of money to the agent in Afghanistan). The agent in Afghanistan has a client who is a corporation – importer/exporter and wholesaler of small kitchen appliances, etc... The corporation’s supplier is located in China. Instead of sending the funds directly to the agent in Afghanistan, the agent in Afghanistan instructs [REDACTED] to remit the funds to their client’s supplier in China. [REDACTED] receives the full information on the agent, their client, the supplier (beneficiary), as well as the supplier’s bank (including bank account). [REDACTED] approaches one of 3 MSBs in Canada, and provides them with instructions to send money to a beneficiary in China. They do not tell any of the 3 MSBs that these wires are being requested on behalf of any third party. The 3 MSBs believe that [REDACTED] is requesting these wires on their own behalf.”

We asked you to clarify whether you knew what, if any, were the instructions initiated by the client Corporation. In response, you stated “There is nothing in my examination notes that confirms that the corporation is aware or instructs that the funds be sent from Canada to China. The only confirmation I received is that the corporation imports pressure cookers and these kinds of things; that he pays [REDACTED] agent in Afghanistan money, and he imports products from China. When [REDACTED] is sending money through larger MSBs in Canada to China, they are paying ‘the client who is a corporation’s’ suppliers.” We also asked you to confirm whether it was the agent in Afghanistan, and not the client corporation, that instructed [REDACTED] to remit the funds to their client’s supplier in China. You said “Yes, it was confirmed during the examination that the agent in Afghanistan instructs [REDACTED] to pay ‘the client who is a corporation’s’ supplier.” Finally, we asked you to clarify whether the client that is a Corporation ever instructed that funds be sent from Canada to China. You replied “There is nothing in my examination notes that confirms that the suppliers in China are specifying that the money be sent from Canada to China, and therefore requesting that of ‘the client who is a corporation’.”

Based on the information provided, it appears the instructions for the transfer of funds from Canada to China are provided to [REDACTED] by its Agent in Afghanistan. It does not appear that they are from the client Corporation, it is simply the way the Agent in Afghanistan and [REDACTED] in Canada conduct business. Additionally, we have examined the facts to determine whether the Agent in Afghanistan can be the client initiating the transfer of funds and we are of the opinion that since the Agent in Afghanistan does not transmit the instructions through another entity before [REDACTED] they cannot be considered the client initiating the transfer of funds. As a result, [REDACTED] does not receive the transmission of client initiated instructions for the transfer of funds. Furthermore, [REDACTED] completes the transaction through an MSB in Canada and does not provide any client information. Therefore, because there are no client initiated instructions for the transfer of funds transmitted across the Canadian border to [REDACTED] it would appear there is no reportable EFTI or EFTO for [REDACTED] in Scenario 1.

Scenario #2:

Your original request included the following details:

"Same as above, except the agent's client (the importer/exporter/wholesaler) is requesting that the agent send money to an individual beneficiary in Canada. The Agent provides [REDACTED] with those instructions, and [REDACTED] pays out the beneficiary in Canada."

We asked you to clarify what you meant by "same as above", to which you replied "Everything is the same as above (same scenario as #1), except the final beneficiary is not in China, but in Canada. So, the 'client who is a corporation' is specifying to send money to a specific beneficiary in Canada."

Based on the information provided, it appears that, at the request of the client who is a Corporation in Afghanistan, client initiated instructions for the transfer of funds from Afghanistan to Canada are transmitted to [REDACTED] through the Agent in Afghanistan. Therefore, an EFTI must be reported by [REDACTED]

The EFTI must include the following information:

- Part B – Agent's client in Afghanistan (the employee of the Corporation)
- Part C – Agent in Afghanistan
- Part D – Agent's client in Afghanistan (the Corporation)
- Part E – [REDACTED] main location
- Part F – Beneficiary in Canada
- Part G – *if applicable*

Scenario #3:

Your original request included the following details:

"The agent in Afghanistan has an agent in London. A client in London will approach the agent in London providing him with instructions to send funds to Canada. The agent in London will e-mail the agent in Afghanistan with these instructions, and the agent in Afghanistan will e-mail the instructions (amount, currency, name of client, etc...) to [REDACTED] (Keep in mind they are serving the Afghani Diaspora)"

Based on the information provided, it appears [REDACTED] received client initiated instructions, from the client in London, for the transfer of funds to a beneficiary in Canada. As such, [REDACTED] must report an EFTI.

The EFTI must include the following information:

- Part B – Agent in London, UK
- Part C – Agent in Afghanistan
- Part D – Client in London, UK
- Part E – [REDACTED] main location
- Part F – Beneficiary in Canada

- Part G – *if applicable*

Note: See Scenario 11, RDIMS #517128

Scenario #4:

Your original request included the following details:

“A client in Australia calls [REDACTED] tells the client to call his family in Afghanistan, and they bring cash to the agent in Afghanistan, and the agent e-mails [REDACTED] with the amount and currency. (Keep in mind they are serving the Afghani Diaspora)”

We asked you to clarify where the funds were coming from and going to. You provided “Flow of instructions and funds: Ordering client is in Australia and wants to send money to Canada. Ordering client calls [REDACTED] and asks them how they can move money into Canada. [REDACTED] instructs ordering client to have funds delivered to agent in Afghanistan because it has to go through Afghanistan. Ordering client in Australia calls his family in Afghanistan and asks them to bring money to [REDACTED] agent in Afghanistan. Ordering client’s family in Afghanistan brings money to agent in Afghanistan. Agent in Afghanistan e-mails [REDACTED] the amount and currency.”

Based on the information provided, our understanding is that the family in Afghanistan provided instructions for the transfer of funds to a beneficiary in Canada, on behalf of a client in Australia, to the agent in Afghanistan. Therefore, it appears that [REDACTED] received client initiated instructions, from the family in Afghanistan on behalf of the client in Australia, for the transfer of funds to a beneficiary in Canada. As such, [REDACTED] must report an EFTI.

The EFTI must include the following information:

- Part B – Family of Australian Client in Afghanistan
- Part C – Agent in Afghanistan
- Part D – Client in Australia
- Part E – [REDACTED] main location
- Part F – Beneficiary in Canada
- Part G – *if applicable*

I hope this information will be helpful. Feel free to give me a call to discuss if you have any questions.

Thanks,

Stephanie Stoddart

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The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

From: Martineau, Nathalie
Sent: June-17-15 11:38 AM
To: Stoddart, Stephanie
Cc: Douglas, Lisa
Subject: RE: Question about [REDACTED]

Hi Stephanie,

I looked up my interview notes for [REDACTED] regarding the question that you had that relates to scenario 4.

This is what I have captured:

[REDACTED]

Now, I looked through my notes to see if there was more information on how instructions are transmitted between the agent in Afghanistan and the principal in Canada. In my EFTO notes, I found the following where we were discussing the 24 hour rule and his agents in Canada:

[REDACTED]

I took a look at the single report affected by this scenario (External Report Reference Number [REDACTED]), and in field B13 – Client's account number, there are two reference numbers: [REDACTED]

This could confirm that they did issue a reference number, but does not confirm who the reference number was issued too, or if two reference numbers were issued – one to the client and one to his family.

Please advise of next steps, and thanks again for your work on this.

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régional

Major Reporters and Compliance Analytics | Entités déclarantes majeures et activités d'analyse de la conformité

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From: Martineau, Nathalie
Sent: March-26-15 3:20 PM
To: Boudreault, Alain
Cc: Douglas, Lisa; Stoddart, Stephanie
Subject: RE: EFT Scenarios for [REDACTED]

Hi Alain,

Please see my responses; they are within the Comment boxes in your e-mail below.

I spoke with Stephanie over the phone to ensure that I understood the questions correctly, and she was very helpful in providing me with some contextual guidance. In addition, she mentioned that it might be helpful to include a brief explanation on the structure of foreign agents/correspondents of MSBs. This is the description I can provide based on my experience and the business models I have encountered (Lisa – you might have more to add)

Foreign Agents/Counterparty: MSBs in Canada will often set up a relationship with a foreign agent or counterparty to facilitate cross-border movement of funds (into and out of Canada, or into and out of a foreign country) on behalf of customers. In most cases, the agents are neither employees nor franchisees of the company. Sometimes, like seen with some larger MSBs, the relationship with the MSB and the foreign agent/counterparty is formal, in that an agency agreement is signed, and the agent operates under the umbrella, oversight and control (in varying degrees) of the larger MSB. In other cases, you will see that the agents are simply commission-earning independent contractors who are not subject to direct company control.


Where you have a Canadian MSB who serves a specific community of customers, these MSBs largely have established a relationship with another 'MSB' (could double as an importer/exporter, or a business that also sells textiles and electronics) in a specific country, whereby they primarily help facilitate the movement of funds to and from that specific country or the diaspora of that country. These MSBs, largely serving communities from either the Middle East, North Africa, the Horn of Africa or the Indian subcontinent, largely operate using a Hawala/Hundi informal value transfer system. The 'relationship' established between the Canadian MSB and the foreign MSB is one largely based on either family relations, past business relations, or other regional affiliations. They are usually not understood to be formal agent/principal relationships, and don't usually operate under that structure. Sometimes, the foreign MSB, or the Canadian MSB, will make a commission, but their profits are usually earned through bypassing official exchange rates (with other incentives include bypassing taxes, banking fees, etc...) Settlements often take place without any foreign exchange transactions, and they can take the form of goods, services, properties, transfers of employees, etc...

I hope that this answers your questions. Please let me know if you need any additional clarification.

Regards,

Nathalie Martineau

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From: Boudreault, Alain
Sent: March-24-15 1:54 PM
To: Martineau, Nathalie

Cc: Douglas, Lisa; Stoddart, Stephanie

Subject: RE: EFT Scenarios for [REDACTED]

Hi Nathalie,

We had the chance to review your PI request. However, some aspects still need to be clarified. See my questions below:

4 SCENARIOS THAT FALL OUTSIDE OF THE ABOVE

Scenario #	Scenario	How [REDACTED] is currently reporting	Number and Type of Reports Affected	What I feel is missing from these reports
1	<p>Because [REDACTED] is remitting to beneficiaries in Afghanistan through their agent in Afghanistan using a Hawala system, they need to find a way to settle with their agent (whereby [REDACTED] always owes a sum of money to the agent in Afghanistan).</p> <p>The agent in Afghanistan has a client who is a corporation – importer/exporter and wholesaler of small kitchen appliances, etc... The corporation's supplier is located in China.</p> <p>Alain: Do we know what, if any, are the instructions initiated by the client that is a corporation?</p> <p>Nathalie: No. There is nothing in my examination notes that confirms that the corporation is aware or instructs that the funds be sent from Canada to China. The only confirmation I received is that the corporation imports pressure cookers and these kinds of things; that he pays [REDACTED] agent in Afghanistan money, and he imports products from China. When [REDACTED] is sending money through larger MSBs in Canada to China, they are paying 'the client who is a corporation's' suppliers.</p> <p>Instead of sending the funds directly to the agent in Afghanistan, the agent in Afghanistan instructs [REDACTED]</p>	<p>INCOMING EFT REPORTS</p> <p>Part B- The agent's client (the corporation) in Afghanistan</p> <p>Part C-The agent in Afghanistan (the corporation)</p> <p>Part D-Blank</p> <p>Part E- [REDACTED] main location</p> <p>Part F-The beneficiary name (Limited Partnership) in China)</p> <p>Part G-Blank</p>	31 out of 114 Incoming EFTs	<p>Structurally, in my interpretation, the agent is providing instructions to [REDACTED] to wire funds out of Canada to China, on behalf of their client , who is a corporation. As such, I believe these are only reportable as EFTOs and not EFTIs.</p> <p>Alain: Is the client that is a corporation ever instructed that funds be sent from Canada to China?</p> <p>Nathalie: There is nothing in my examination notes that confirms that the suppliers in China are specifying that the money be sent from Canada to China, and therefore requesting that of the "the client who is a corporation".</p> <p>Intelligence missing from the EFTI Reports:</p> <ul style="list-style-type: none"> *The name of the individual acting on behalf of the corporation in Part B *The name of the individual acting on behalf of the corporation in Part C

	<p>to remit the funds to their client's supplier in China. receives the full information on the agent, their client, the supplier (beneficiary), as well as the supplier's bank (including bank account).</p> <p>Alain: Can you confirm that the agent in Afghanistan instructs not the client that is a corporation?</p> <p>Nathalie: Yes, it was confirmed during the examination that the agent in Afghanistan instructs to pay 'the client who is a corporation's' supplier.</p> <p>approaches one of 3 MSBs in Canada, and provides them with instructions to send money to a beneficiary in China. They do not tell any of the 3 MSBs that these wires are being requested on behalf of any third party. The 3 MSBs believe that is requesting these wires on their own behalf.</p>			
2	<p>Same as above , expect the agent's client (the importer/exporter/wholesaler) is requesting that the agent send money to an individual beneficiary in Canada.</p> <p>The Agent provides with those instructions, and pays out the beneficiary in Canada.</p> <p>Alain: What is similar to above?</p> <p>Nathalie: Everything is the same as above (same scenario as #1), expect the final beneficiary is not in China, but in Canada. So, the 'client who is a corporation' is specyng to send money to a specific beneficiary in Canada.</p> <p>Alain: "except"?</p> <p>Nathalie: Yes, except. Typo</p>	<p>INCOMING EFT REPORTS</p> <p>Part B – The agent's client (the corporation) in Afghanistan</p> <p>Part C – The agent in Afghanistan (the corporation)</p> <p>Part D – Blank</p> <p>Part E – main location</p> <p>Part F – The individual beneficiary name in Canada</p> <p>Part G - Blank</p>	1 out of 114 Incoming EFTs	<p>Structurally, in my opinion, the agent is providing instructions to to pay out a beneficiary in Canada, on behalf of their client, who is a corporation. I believe that this is being correctly reported as EFTIs.</p> <p>Intelligence missing from the EFTI Report:</p> <ul style="list-style-type: none"> *The name of the individual acting on behalf of the corporation in Part B *The name of the individual acting on behalf of the corporation in Part C
3	The agent in Afghanistan has an	INCOMING EFT	1 out of	Structurally, in my opinion,

	<p>agent in London. A client in London will approach the agent in London providing him with instructions to send funds to Canada. The agent in London will e-mail the agent in Afghanistan with these instructions, and the agent in Afghanistan will e-mail the instructions (amount, currency, name of client, etc...) to [REDACTED]</p> <p>(Keep in mind they are serving the Afghani Diaspora)</p>	<p>REPORTS Part B – Client in London, UK Part C – Agent in Afghanistan Part D – Blank Part E – [REDACTED] main location Part F – The individual beneficiary name in Canada Part G - Blank</p>	<p>114 Incoming EFTs</p>	<p>the agent is providing instructions to [REDACTED] to pay out a beneficiary in Canada, on behalf of their client, who is an individual. I believe that this is being correctly reported as EFTIs.</p> <p>Intelligence missing from the EFTI Report: *The name of the individual acting on behalf of the corporation in Part C *The name of the agent in London</p>
<p>4</p>	<p>A client in Australia calls [REDACTED] [REDACTED] tells the client to call his family in Afghanistan, and they bring cash to the agent in Afghanistan, and the agent e-mails [REDACTED] with the amount and currency.</p> <p>(Keep in mind they are serving the Afghani Diaspora)</p> <p><i>Alain: Where are the funds coming from and going to?</i> <i>Nathalie: Flow of instructions and funds: Ordering client is in Australia and wants to send money to Canada. Ordering client calls [REDACTED] and asks them how they can move money into Canada. [REDACTED] instructs ordering client to have funds delivered to agent in Afghanistan because it has to go through Afghanistan. Ordering client in Australia calls his family in Afghanistan and asks them to bring money to [REDACTED] agent in Afghanistan. Ordering client's family in Afghanistan brings money to agent in Afghanistan. Agent in Afghanistan e-mails [REDACTED] the amount and currency.</i></p>	<p>INCOMING EFT REPORTS Part B – Client in Sydney, AU Part C – Agent in Afghanistan Part D – Blank Part E – [REDACTED] main location Part F – The individual beneficiary name in Canada Part G - Blank</p>	<p>1 out of 114 Incoming EFTs</p>	<p>Structurally, in my opinion, the agent is providing instructions to [REDACTED] to pay out a beneficiary in Canada, on behalf of their client, who is an individual. I believe that this is being correctly reported as EFTIs.</p> <p>Intelligence missing from the EFTI Report: *The name of the individual acting on behalf of the corporation in Part C *The name of the family member providing the instructions to the agent in Afghanistan</p>

Thanks,

A

From: Martineau, Nathalie
Sent: January-22-15 1:46 PM
To: Boudreault, Alain
Cc: Douglas, Lisa
Subject: EFT Scenarios for [REDACTED]

Hi Alain,

We recently discussed 4 different EFT scenarios for [REDACTED]. I have prepared the scenarios in this e-mail for your consideration prior to your arrival to our office next week (in preparation for our discussion).

Thanks again for all of your help, and your willingness to spare your time during your visit ;)

BASIC SUMMARY OF ORGANIZATION

- [REDACTED] is an MSB that provides EFT services to and from Afghanistan as well as to and from Afghanis who live in the Diaspora.
- [REDACTED]
- [REDACTED] has an Agent in Afghanistan, through which all outgoing and incoming remittances are processed using a Hawala system (e-mails mostly) regardless of the country of origin for EFTIs, or destination for EFTOs

TYPICAL OUTGOING TRANSACTION

- A client in Canada approaches [REDACTED] or one of their agents, and provides them with instructions to remit \$10,000 CAD equivalent or more to Afghanistan
- [REDACTED] provides their client with a reference number for the transaction, and their client contacts the beneficiary in Afghanistan (or elsewhere) to provide them with the reference number
- [REDACTED] e-mails the agent in Afghanistan with the name of the client, the reference number, and the amount
- The agent in Afghanistan pays out the beneficiary in Afghanistan, or arranges for payout if the beneficiary is in another country

*The majority of their reports reflect the scenario above, with the following information: Part B – Client in Canada, Part C – [REDACTED] main location, Part D – Blank, Part E – Agent in Afghanistan, Part F – Beneficiary in Afghanistan, Part G – Blank

TYPICAL INCOMING TRANSACTION

Their typical incoming transactions are as follows:

- A client in Afghanistan approaches the Agent in Afghanistan and provides him with instructions to remit \$10,000 CAD equivalent or more from Afghanistan (or some other country), to Canada
- The agent or [REDACTED] provides the client with a reference number for the transaction, and the client contacts the beneficiary in Canada to provide them with the reference number
- The agent e-mails [REDACTED] with the name of the client, the reference number, and the amount.
- [REDACTED] pays out the beneficiary in Canada

*The majority of their reports reflect the scenario above, with the following information: Part B – Client in Afghanistan, Part C – Agent in Afghanistan, Part D – Blank, Part E – [REDACTED] location (branch or main), Part F – Beneficiary in Canada, Part G – Blank

4 SCENARIOS THAT FALL OUTSIDE OF THE ABOVE

Scenario #	Scenario	How [REDACTED] is currently reporting	Number and Type of Reports	What I feel is missing from these reports
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			Affected	
1	<p>Because [REDACTED] is remitting to beneficiaries in Afghanistan through their agent in Afghanistan using a Hawala system, they need to find a way to settle with their agent (whereby [REDACTED] always owes a sum of money to the agent in Afghanistan).</p> <p>The agent in Afghanistan has a client who is a corporation – importer/exporter and wholesaler of small kitchen appliances, etc... The corporation’s supplier is located in China.</p> <p>Instead of sending the funds directly to the agent in Afghanistan, the agent in Afghanistan instructs [REDACTED] to remit the funds to their client’s supplier in China. [REDACTED] receives the full information on the agent, their client, the supplier (beneficiary), as well as the supplier’s bank (including bank account).</p> <p>[REDACTED] approaches one of 3 MSBs in Canada, and provides them with instructions to send money to a beneficiary in China. They do not tell any of the 3 MSBs that these wires are being requested on behalf of any third party. The 3 MSBs believe that [REDACTED] is requesting these wires on their own behalf.</p>	<p>INCOMING EFT REPORTS Part B- The agent’s client (the corporation) in Afghanistan Part C-The agent in Afghanistan (the corporation) Part D-Blank Part E- [REDACTED] main location Part F-The beneficiary name (Limited Partnership) in China) Part G-Blank</p>	31 out of 114 Incoming EFTs	<p>Structurally, in my interpretation, the agent is providing instructions to [REDACTED] to wire funds out of Canada to China, on behalf of their client, who is a corporation. As such, I believe these are only reportable as EFTOs and not EFTIs.</p> <p>Intelligence missing from the EFTI Reports: *The name of the individual acting on behalf of the corporation in Part B *The name of the individual acting on behalf of the corporation in Part C</p>
2	<p>Same as above, expect the agent’s client (the importer/exporter/wholesaler) is requesting that the agent send money to an individual beneficiary in Canada.</p> <p>The Agent provides [REDACTED] with those instructions, and [REDACTED] pays out the beneficiary in Canada.</p>	<p>INCOMING EFT REPORTS Part B – The agent’s client (the corporation) in Afghanistan Part C – The agent in Afghanistan (the corporation) Part D – Blank Part E – [REDACTED] main location Part F – The</p>	1 out of 114 Incoming EFTs	<p>Structurally, in my opinion, the agent is providing instructions to [REDACTED] to pay out a beneficiary in Canada, on behalf of their client, who is a corporation. I believe that this is being correctly reported as EFTIs.</p> <p>Intelligence missing from the EFTI Report: *The name of the individual acting on behalf of the corporation in Part B</p>

		individual beneficiary name in Canada Part G - Blank		*The name of the individual acting on behalf of the corporation in Part C
3	The agent in Afghanistan has an agent in London. A client in London will approach the agent in London providing him with instructions to send funds to Canada. The agent in London will e-mail the agent in Afghanistan with these instructions, and the agent in Afghanistan will e-mail the instructions (amount, currency, name of client, etc...) to [REDACTED] (Keep in mind they are serving the Afghani Diaspora)	INCOMING EFT REPORTS Part B – Client in London, UK Part C – Agent in Afghanistan Part D – Blank Part E – [REDACTED] main location Part F – The individual beneficiary name in Canada Part G - Blank	1 out of 114 Incoming EFTs	Structurally, in my opinion, the agent is providing instructions to [REDACTED] to pay out a beneficiary in Canada, on behalf of their client, who is an individual. I believe that this is being correctly reported as EFTIs. Intelligence missing from the EFTI Report: *The name of the individual acting on behalf of the corporation in Part C *The name of the agent in London
4	A client in Australia calls [REDACTED] [REDACTED] tells the client to call his family in Afghanistan, and they bring cash to the agent in Afghanistan, and the agent e-mails [REDACTED] with the amount and currency. (Keep in mind they are serving the Afghani Diaspora)	INCOMING EFT REPORTS Part B – Client in Sydney, AU Part C – Agent in Afghanistan Part D – Blank Part E – [REDACTED] main location Part F – The individual beneficiary name in Canada Part G - Blank	1 out of 114 Incoming EFTs	Structurally, in my opinion, the agent is providing instructions to [REDACTED] to pay out a beneficiary in Canada, on behalf of their client, who is an individual. I believe that this is being correctly reported as EFTIs. Intelligence missing from the EFTI Report: *The name of the individual acting on behalf of the corporation in Part C *The name of the family member providing the instructions to the agent in Afghanistan

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: June-22-15 2:10 PM
To: Martineau, Nathalie
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Dear Nathalie,

I am writing further to the scenarios provided by [REDACTED]. However, at this time, instead of going through each of them, I am going to provide general comments.

As you know, subsection 28(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) indicates, every money services business shall report the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be, as well as the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be. Furthermore, subsection 1(2) of the PCMLTFR defines an electronic funds transfer as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada”.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

Based on all of the above, [REDACTED] does not appear to be conducting electronic funds transfer transactions. [REDACTED] is not transmitting instructions to transfer funds across the Canadian border. [REDACTED] is, in fact, conducting a foreign exchange transaction for which they are being paid via EFT. They are not the entity asked by a client to send or receive the EFT, but merely a beneficiary thereof.

That said, as a foreign exchange transaction, [REDACTED] would be required to keep a transaction ticket, as outlined in subsection 30(f) of the PCMLTFR and identify the client, subject to subsection 63(1) and in accordance with subsection 64(1).

Conversely, in the instances when [REDACTED] was asked by a client to transfer funds outside of Canada to, as an example, “a lawyer in trust”, this may constitute a reportable EFT if the threshold is met. However, this type of transfer of funds would not be reportable if they fall within the category of payment processing. As you know, we have said in the past that utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the “remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network”, are not reportable EFTs.

Please do not hesitate to contact me should you have any questions or concerns.

Thanks,

A

Alain Boudreault

Team Leader | Chef d'équipe

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations
financières du Canada

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The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

From: [REDACTED]
Sent: March-27-15 3:11 PM
To: Martineau, Nathalie
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Hi Nathalie,

I apologize for the delay in getting all the scenarios to you, but as a wholesale provider, the complexity of our settlements is far greater than a "traditional" MSB and describing them in detailed simple language has proven to take longer than I had hoped.

The vast majority of our clients conduct multiple trades each day for settlement dates out as far as one year. On any given settlement date the client's trades are netted together to arrive at a single settlement figure for each currency traded. In addition, clients often send margin in with wires they send to us, or request return of margin with their daily settlement when we are instructed to wire out to the client account. As such there is no practical way for [REDACTED] to provide a specific exchange rate for a given settlement.

I am pleased to supply the Request For Information as follows;

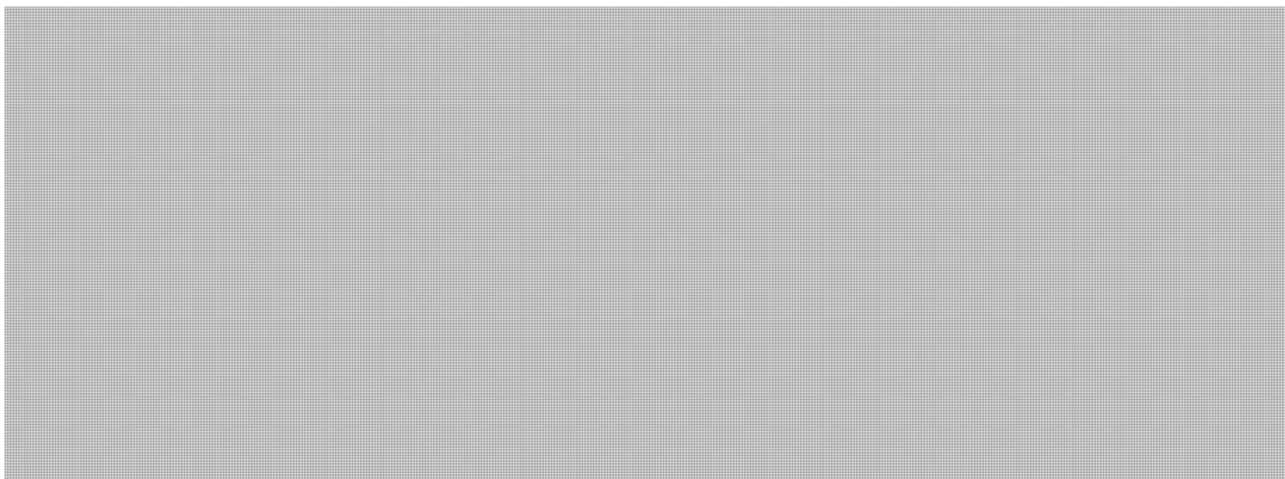
1. Scenarios
 - A. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction.
 - B. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction.
 - C. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction.
 - D. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction.
 - E. Client remits funds from Canada to [REDACTED] to be used as margin for trading purposes.
 - F. Client remits funds from an International bank to [REDACTED] to be used as margin for trading purposes.
 - G. [REDACTED] send funds from Canada to client at a Canadian bank – return of margin.
 - H. [REDACTED] send funds from an International bank to client at a Canadian bank – return of margin.

- I. [REDACTED] send funds from Canada to client at an International bank – return of margin
- J. [REDACTED] send funds from an International bank to client at an International bank – return of margin.
- K. Client remits funds from Canada to [REDACTED] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction.
- L. Client remits funds from Canada to [REDACTED] send funds to a lawyer in trust paid to an International bank. These wires are to settle a spot or forward transaction.
- M. Client remits funds from an International bank to [REDACTED] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction.
- N. Client remits funds from an International bank to [REDACTED] send funds to a lawyer paid to an International bank. These wires are to settle a spot or forward transaction.

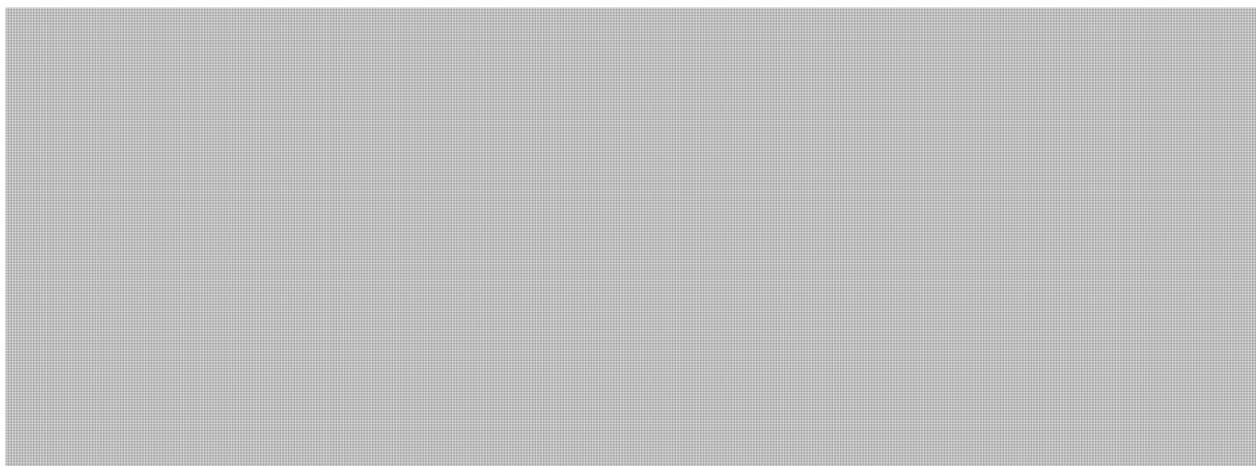
[REDACTED] have both corporations and MSB's as clients. There have been instances when [REDACTED] have made a third party payment on behalf of an MSB. My intention is that such a situation has been covered by scenarios A through D.

To the best of my knowledge, on a couple of occasions over the past 5 years, [REDACTED] have conducted a trade for a client and that client has asked [REDACTED] to make an outgoing wire to a lawyer in trust – typically to close a real estate deal. These situations have been summarized in scenarios K through N.

2. Full statement of facts – For scenarios A through D inclusive the **flow of the instructions** would be as follows;



3. Full statement of facts – For scenarios E & F the **flow of the instructions** would be as follows;



4. Full statement of facts – For scenarios G through J inclusive the **flow of the instructions** would be as follows;

I. Client advises by voice or email that they would like [REDACTED] to return margin to their bank account

5. Full statement of facts – For scenarios K through N inclusive the **flow of the instructions** would be as follows;

- I. [REDACTED]
- II. [REDACTED]
- III. [REDACTED]
- IV. [REDACTED]

6. Full statement of facts – For scenarios A through D inclusive the **flow of funds** would be as follows;

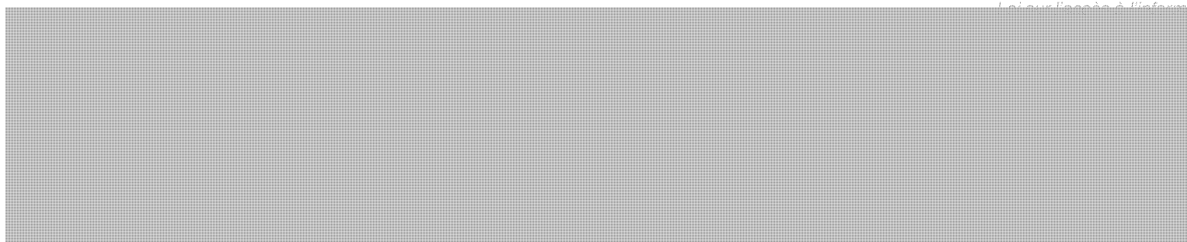
- I. [REDACTED]
- II. [REDACTED]
- III. [REDACTED]
- IV. [REDACTED]

7. Full statement of facts – For scenarios E & F the **flow of funds** would be as follows;

- I. [REDACTED]
- II. [REDACTED]
- III. [REDACTED]

8. Full statement of facts – For scenarios G through J inclusive the **flow of funds** would be as follows;

- I.
- II.
- III.



9. Full statement of facts – For scenarios K through N inclusive the **flow of funds** would be as follows;

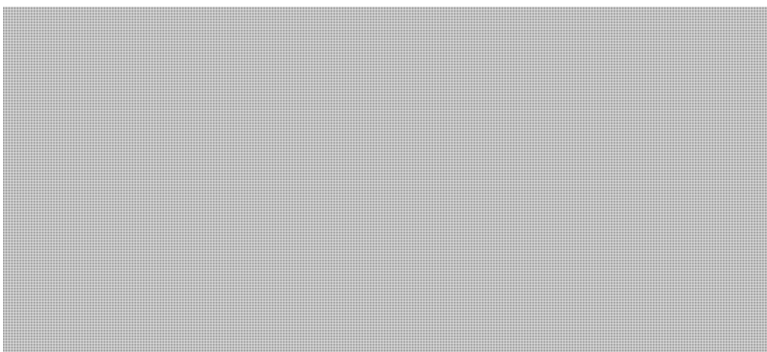
- I.
- II.
- III.
- IV.



I have sent a courier package with the applicable pages from our AML P&P's regarding the Education and Compliance Training that we provide our employees.

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

Thanks



From: Martineau, Nathalie [<mailto:Nathalie.Martineau@fintrac-canafe.gc.ca>]
Sent: Thursday, March 12, 2015 12:41 PM
To: [Redacted]
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: EFT (Wire) Scenarios and request for statement of facts

Good morning [Redacted]

During our examination last Friday, we had identified that [REDACTED] does in fact (a) send out of Canada, at the request of clients, electronic funds transfers (EFTs) of \$10,000 or more in the course of a single transaction or under the 24 hour rule, and (b) receive from outside of Canada electronic funds transfers, sent at the request of clients, of \$10,000 or more in the course of a single transaction or under the 24 hour rule (see PCMLTFR ss. 28.(1)(b) and ss. 28.(1)(c)).

It was previously understood by [REDACTED] that the organization was absolving themselves of their reporting requirements as they were providing the sender's name and address (for outgoing EFTs) to a Canadian Financial Institution, who was ultimately sending the instructions outside of Canada (see PCMLTFR ss. 28.(3)). However, during our onsite visit, it was confirmed that the 'sender's name and address' provided to the Canadian Financial Institutions was in fact [REDACTED] name and address. In addition, it was confirmed that, for incoming EFTs, the Canadian Financial Institution receiving the EFT from a person or entity outside of Canada, for a beneficiary in Canada, is in fact not receiving the name and address of that ultimate beneficiary, but the name and address of [REDACTED]

Please note that an EFT is defined as "the transmission – through any electronic, magnetic or optical device, telephone instrument or computer – of instructions for the transfer of funds, other than the transfer of funds within Canada."

The letter from FINTRAC to the organization on January 29, 2015 requested that the organization make certain documents and records available for review at the location being examined by either having copies ready in advance, or by providing access to the originals.

These records included a request for all records for the remittance or transmission of **\$1,000 or more up to \$9,999.99 CAD equivalent** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive. These records also included a request for all records for the remittance or transmission of **\$10,000 CAD equivalent or more** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive.

As these records were not prepared in advance of FINTRAC's arrival onsite, we requested a list of all EFTs **\$1,000 or more up to \$9,999.99 CAD equivalent** as well as a list of all EFTs **\$10,000 CAD equivalent or more**, incoming and outgoing to be separated. From this list, we selected a sample of [REDACTED] outgoing EFTs over \$10,000.00 CAD equivalent, and a sample of [REDACTED] incoming EFTs over \$10,000.00 CAD equivalent, for which we requested the original records, including the client's profile information and the wire instructions.

During the process of compiling this list, you sought clarification on what would constitute an EFT, and what would not. For example, you explained that certain EFTs appeared straightforward, where a client would be providing instructions to [REDACTED] to pay off a supplier or pay an invoice in a foreign currency to a beneficiary in a foreign country (via an outgoing wire). However, certain scenarios presented were not as straightforward. For example, you explained that you hold money for clients in a margin account, and clients will pay into this margin (by way of an incoming wire) to cover the losses incurred by [REDACTED] covers a trade for the client at a loss. Because some of these scenarios were a bit more ambiguous, I requested that, for each applicable transaction in the scope period, you list out the various scenarios that apply, and that you provide a full statement of facts for each scenario. Please find details of this request below.

Request for Information

Please provide the following information via e-mail:

- 1) Please provide a list of all scenarios that apply all EFT transactions \$10,000 CAD equivalent or more (incoming and outgoing wires) during the examination scope period. In other words, please ensure that each transaction present on the list provided during the examination falls under a scenario described in your reply.
- 2) For each scenario that applies, please provide a full statement of facts, including the following:

- a. A complete and detailed description of the flow of the **instructions** for the transfer from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).
- b. A complete and detailed description of the flow of **funds** for the transfer, from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).

In addition to the above, we are still awaiting the copies of the original records (including client profile information and full wire instructions from the client and to the Canadian Financial Institution) for the [REDACTED] EFTs sampled during the examination. We are likewise still awaiting the additional copies of the policies and procedures that relate to the compliance training program, as well as the FX records made available to us towards the end of the day last Friday.

Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régional

Major Reporters and Compliance Analytics | Entités déclarantes majeures et activités d'analyse de la conformité

Nathalie.Martineau@fintrac-canafe.gc.ca

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Financial Transactions and Reports
Analysis Centre of Canada

Centre d'analyse des opérations
et déclarations financières du Canada

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: June-23-15 11:51 AM
To: [REDACTED]
Subject: RE: Regulatory Interpretation Requested [REDACTED]
Attachments: letter to fintrac june 2015final.pdf

Document divulgué en vertu de la
Loi sur l'accès à l'information

Dear [REDACTED]

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your letter of June 2, 2015, addressed to Mr. Bernard Gagné, wherein you have requested a determination with respect to your client, [REDACTED]. Specifically, you would like to know whether [REDACTED] needs to be registered as a money services business (MSB) with FINTRAC. Mr. Gagné has asked me to respond on his behalf.

As you may know, MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

However, FINTRAC has previously taken the position, and continues to uphold the position that, persons or entities engaged in the business of utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the "remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network" are not considered to be MSBs because they are not engaged in the business of remitting or transmitting funds for the sake of the service. The transfer of funds is simply a corollary of their actual service, which is payment processing.

In the information provided, you state that your client, [REDACTED], was formed to operate as an agent of [REDACTED], a registered MSB. Now, in addition to its operations as an agent, [REDACTED] will offer management of honourarium services for Universities and pharmaceutical companies and accounts payable services for large corporate entities.

Given the payment of honourariums appears to be equivalent to offering payroll and commission services and offering accounts payable services is not the same as offering remitting and transmitting services, it would appear that [REDACTED] is not, at this time, engaged as an MSB in Canada as per the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its associated Regulations. Therefore, it cannot be registered with us.

That said, as a result of its accounts payable services, [REDACTED] may be subject to the PCMLTFA and its associated Regulations under the Accountant sector. Subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) defines an accounting firm as "an entity that is engaged in the business of providing accounting services to the public and has at least one partner, employee or administrator that is an accountant." Accountant is defined as "a chartered accountant, a certified general accountant or a certified management accountant." Pursuant to subsection 34(1) of the PCMLTFR and subject to subsections (2) and (3), "every accountant and every accounting firm is subject to Part 1 of the Act when they:

- (a) engage in any of the following activities on behalf of any person or entity, namely,
 - (i) receiving or paying funds,
 - (ii) purchasing or selling securities, real properties or business assets or entities, or
 - (iii) transferring funds or securities by any means;

- (b) give instructions on behalf of any person or entity in respect of any activity referred to in paragraph (a).

The obligations for accountants and accounting firms only apply if they are carrying out the activities described above. If [REDACTED] falls under the definition of “accountant” or “accounting firm” and pays funds on behalf of any person or entity, or gives instructions for the payment of funds on behalf of any person or entity, then it is subject to Part 1 of the PCMLTFA and has specific obligations when engaging in these activities.

Also, please note that if [REDACTED] is considered to be an agent of [REDACTED] it must be listed as such with us. While the responsibility to ensure it is listed as an agent ultimately lies with [REDACTED] we ask that [REDACTED] confirm this step is taken.

In the future, to ensure a timely response, you may direct all enquiries by e-mail to guidelines-lignesdirectrices@fintrac-canafe.gc.ca or by telephone at 1-866-346-8722.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada
Government of Canada | Gouvernement du Canada
234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7

Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

**Pages 271 to / à 272
are withheld pursuant to sections
sont retenues en vertu des articles**

19(1), 20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: July-09-15 1:42 PM
To: Rapagna, Michael
Subject: NCC - Reasonable measures to confirm beneficial ownership info

Document divulgué en vertu de la
Loi sur l'accès à l'information

Hi Mike,

I'm writing further to the policy interpretation request you submitted on June 5, 2015, where you have asked whether a reporting entity should be cited under subsection 11.1(2) or subsection 11.1(4) of the PCMLTFR for situations where the reasonable measures taken to confirm beneficial ownership information are inadequate. Specifically, you've identified a scenario where the beneficial ownership information on the account opening form and the corporate registry differ and the reporting entity has not explained the discrepancy. You have also asked whether it is reasonable to place this expectation on the reporting entity given there is no central database/repository of beneficial ownership information available.

As you know, pursuant to subsection 11.1(1) of the PCMLTFR, a reporting entity that is required to confirm the existence of an entity in accordance with these Regulations, shall, at the time the existence of the entity is confirmed, obtain the following information:

- (a) in the case of a corporation, the names of all directors of the corporation and the names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the shares of the corporation;
- (b) in the case of a trust, the names and addresses of all trustees and all known beneficiaries and settlors of the trust;
- (c) in the case of an entity other than a corporation or trust, the names and addresses of all persons who own or control, directly or indirectly, 25 per cent or more of the entity; and
- (d) in all cases, information establishing the ownership, control and structure of the entity.

Furthermore, in accordance with subsections 11.1(2) and 11.1(3) of the PCMLTFR, respectively, the reporting entity must take reasonable measures to confirm the accuracy of the information obtained under subsection 11.1(1), and keep a record that sets out the information obtained and the measures taken to confirm the accuracy of that information.

In the event that a reporting entity is unable to obtain beneficial ownership information or confirm its accuracy, subsection 11.1(4) of the PCMLTFR requires the reporting entity to:

- take reasonable measures to ascertain the identity of the most senior managing officer of the corporation, trust or other entity; and
- treat that corporation, trust or other entity as high-risk in your risk assessment document of your compliance regime and undertake more frequent monitoring, updating of client identification information, and any other appropriate enhanced measures.

While FINTRAC does not specify the measures a reporting entity must take to confirm the accuracy of beneficial ownership information, it has provided examples in Guideline 6 of documents where this information may be found. Guideline 6 also identifies the measures a reporting entity may take to confirm client identification information, which includes asking the client to provide documentation and consulting paper or electronic records that contain the necessary information. These measures may be used to confirm beneficial ownership information as well, however, ultimately, it remains up to the reporting entity to determine what measures it considers reasonable, depending on each given situation. Reporting entities may rely on the information provided by clients, but are advised to use discernment when determining if the documentation is appropriate. It is our understanding that the non-exhaustive list of documents outlined in Guideline 6 may provide the information necessary; however, should the reporting entity

determine that the information is not available in one of the documents listed, they are encouraged to consider alternative public sources that provide this information.

Therefore, in situations such as the one you have described, where a reporting entity obtains beneficial ownership information from a client on the account opening form and attempts to confirm that information through a corporate registry search, the reporting entity has taken reasonable measures to confirm the accuracy of the information obtained and has therefore fulfilled its obligation under subsection 11.1(2) of the PCMLTFR. However, if the reasonable measures taken produce differing information than what was previously obtained, the reporting entity has not confirmed the accuracy of the information and must therefore comply with the additional requirements laid out at subsection 11.1(4) of the PCMLTFR. Failure to do so could result in a citation under this provision.

As indicated above, Guideline 6 provides several methods and sources that may be used to obtain and confirm beneficial ownership information. The lack of a central database/repository cannot be used as a justification as to why this information was not confirmed.

I hope this information helps.

Best regards,

Stephanie Stoddart

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada

Government of Canada | Gouvernement du Canada

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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Task Description:

Hello,

We are trying to establish a position for the scenario where the reasonable measures to confirm beneficial ownership information is inadequate. Specifically, the beneficial ownership information listed on the account opening form and the corporate registry information do not match, and the RE has not done anything further to explain the discrepancy. Should the RE be cited for failing to take reasonable measures to confirm the information obtained under s11.1(2) or 11.1(4)?

Further, is it reasonable to place this demand on the RE given there is no central database/repository for beneficial ownership information?

Thanks!

Mike

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: July-23-15 10:21 AM
To: Ly, Roland
Cc: Douglas, Lisa
Subject: RE: PI - Casino - EFTI reporting question

Document divulgué en vertu de la
Loi sur l'accès à l'information

Hi Roland,

I am writing further to the policy interpretation request you submitted on June 11, 2015, where you asked for information regarding an RE's non-SWIFT electronic funds transfer (EFT) reporting obligations for a particular scenario. The scenario involves a casino that believes it must report an EFTI for three instances where it received funds into its [REDACTED] account from the [REDACTED] to settle a client's account. The casino attempted to submit these EFTI reports identifying [REDACTED] in Part C as the sending institution, however F2R would not accept a Canadian address in this field and rejected the reports. The casino asked [REDACTED] for additional information on the sending institution, however the only information supplied was that of [REDACTED]. As a result, you have specifically asked what the casino's reporting obligations are in this case, whether these transactions should be reported to FINTRAC, and if so, how they should be reported given that F2R will not accept a Canadian address for the sending institution. Lastly, you have asked what reasonable measures the casino should take to obtain the missing information, given they asked their financial institution.

As you know, subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) defines EFT as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Subsection 40(1) of the PCMLTFR further specifies that every casino must report the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 6, as well as the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 5.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

As such, to determine whether the casino has EFT reporting obligations in this case, it must first confirm that it has in fact received the transmission of client-initiated instructions for the transfer of funds across the Canadian border. It is possible this transaction may have been processed through the [REDACTED] simply because it is a currency conversion transaction cleared through [REDACTED]. If it is confirmed that an EFT occurred and the client initiated instructions were transmitted through a foreign financial institution to [REDACTED] then to the casino's account at [REDACTED] the casino would be required to report an EFTI to FINTRAC, as it has the true beneficiary information. Had the correct beneficiary information, not the casino's information, been reported by [REDACTED] then the casino would have no reporting obligations as per subsection 40(5) of the PCMLTFR.

Using your example below, if it is confirmed that an EFT occurred, the non-SWIFT EFTI report from the casino should be reported in the following manner:

Part A – Transaction info.

Part B – John Smith

Part C – Foreign FI
Part D – if applicable
Part E – Casino
Part F – John Smith
Part G – if applicable

For EFTs, reasonable measures include contacting the institution(s) that sent the payment instructions and asking for the information. However, pursuant to Schedule 6 of the PCMLTFR, Part C – Information on Sender of Electronic Funds Transfer, is a mandatory field on the non-SWIFT EFT report. Therefore, this information must be provided and reasonable measures cannot be applied. It is the casino's responsibility to obtain and report this information.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: Ly, Roland

Sent: June-11-15 3:30 PM

To: Stoddart, Stephanie

Cc: Douglas, Lisa

Subject: PI - Casino - EFTI reporting question

Hi Stephanie,

Thanks for taking the time to talk yesterday.

One of our reporting entities in the Central region (a casino) is inquiring about their EFTI reporting obligations.

Here is a summary of the case:

- Following a review of their reports due to a VSDONC case, the RE identified three unreported EFTI reports that they now believe should have been submitted to FINTRAC.
- These three EFTI reports involved incoming wire transfers coming from what the RE believes is a foreign financial institution. The funds would then flow through a Canadian bank, in this case [REDACTED] to the RE's own financial institution [REDACTED] into the RE's account. The funds are then credited to the RE's customer's account (i.e. the customer at the casino).
- While on the wire information received from the RE's financial institution the beneficiary is indicated as being the RE itself, the ultimate beneficiary of these wires are the RE's customer, and the purpose of these wires are to pay off the client's outstanding line of credit.
- The ordering customer is almost always the same person as the ultimate beneficiary.
- The RE's customer would provide instructions to the original sending bank and advise the casino of the incoming transfer. The customer's name and casino account number are contained in the "memo" or "remarks" of the transfer.

- The RE's financial institution [REDACTED] receives the funds from the [REDACTED]. However the RE never receives information on the original sending institution (i.e. the sending institution located outside of Canada).
- In all cases, if information is missing from the wire transfer notice, the RE contacts their financial institution to obtain the information. In the specific case described here, the sending bank on the wire transfer notice is in Canada and it was not reported at the time as the casino would have viewed it as a domestic transfer. The RE's AML Unit flagged it because of the "foreign payments centre". The RE contacted its bank for more information and were advised that they did not have further details other than the sending institution was the [REDACTED].
- The RE assumes that the wire transfer originated outside of Canada, since it was processed by [REDACTED].
- The RE attempted to report these transactions using the [REDACTED] as the sending institution through F2R, however they were rejected by F2R. As a result, the RE is unable to submit the respective EFTI reports to FINTRAC because F2R will not allow an EFTI report to have a Canadian address for the sending institution.
- The RE is not a SWIFT member, therefore they can only report via the non-SWIFT channel. However whether the incoming wire is SWIFT or not will depend on the originating bank.

Here is an example of the information the RE receives from its bank:

“Ordering Client:
John Smith
123 Anywhere Street
Toronto, Ontario
M1M 1M1

Sending Institution:
[REDACTED]

Receiving Institution:
[REDACTED]

Beneficiary:
Reporting Entity (Casino)
123 RE Street
City, Ontario
M1M1M1

Comments:
John Smith - Player# 123”

So the RE's questions are:

- What are the RE's reporting obligations for this case? Should these wires be reported to FINTRAC?
- If so, how, since F2R will not accept a Canadian address for the sending institution.

What we at Central are wondering is:

- What reasonable measures should they take to obtain the missing information, taking into account that they contacted their financial institution to obtain the missing information already?

Is this something that PI would look at, or should we consult someone else in ROC (i.e. Reports Monitoring)?

Please let me know if there is any information missing that would help you with the policy interpretation.

Thanks in advance and best regards,

Roland Ly, CIA, CGAP

Compliance Officer, Central Region | Agent de conformité, Région du Centre

roland.ly@fintrac-canafe.gc.ca

Telephone | Téléphone 1-416-952-0131

Facsimile | Télécopieur 1-416-952-0134

Financial Transactions and Reports Analysis Centre of Canada |

Centre d'analyse des opérations et déclarations financières du Canada

200 King Street West, Toronto, ON M5H 3T4 | 200, rue King Ouest, Toronto ON M5H 3T4

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: July-23-15 10:42 AM
To: [REDACTED]
Subject: RE: Question on Behalf of a Client
Attachments: Rep Agmt Intl 2015 - FINTRAC.PDF

Document divulgué en vertu de la
Loi sur l'accès à l'information

Dear [REDACTED]

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of June 2, 2015, where you have indicated that your client, a registered money services business (MSB), uses agents ("master agents") to provide its services and is contemplating the use of sub-agents/delegates to also offer its services. You've indicated that your client, the MSB, will maintain an agreement with each of its master agents and the master agents will maintain an agreement with the sub-agents. As a result, you have asked whether the master agents are required to register as MSBs with FINTRAC and who would be held accountable for the compliance of the sub-agents – the MSB, the master agents, or both.

As you know, MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Pursuant to subsection 11.12(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), you are not considered to be an MSB if you conduct MSB activities solely as an agent or mandatary for another business that is an MSB.

Therefore, to answer your first question, given the master agents provide services on behalf of your client, the MSB, it would appear they operate solely as agents of the MSB and are not required to register themselves as MSBs. They must, however, be identified with us as agents of the MSB. The responsibility to ensure all agents are listed lies with the MSB.

Regarding your second question, the agreements between the MSB and each of its master agents appear to include a provision at section 1 of Attachment D which states "Representative has the right to appoint Sub-representatives to offer the Money Transfer Service in Territory. However, Representative must obtain MSB's prior written consent before Representative appoints any Sub-representative. MSB has the right to approve or disapprove of any Sub-representative that Representative proposes." This suggests the MSB maintains a discretionary role when approving sub-agents. Additionally, while the MSB does not establish a written agreement with the sub-agents, you state the master agents are required to have a written agreement in place with the sub-agents which includes "a requirement for the delegate to comply with all laws and service requirements and impose obligations on the delegate that are substantially similar to the obligations imposed on the master agent under its agreement with the MSB." Which indicates that the MSB expects and sanctions the sub-agents to operate in a specific manner compliant with the responsibilities of the MSB. Therefore, based on this information, the MSB would be held accountable for the compliance of all of its agents, including its master agents and the sub-agents.

It should also be noted that MSBs are required to ascertain the identity of clients. Pursuant to subsection 64.1(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), a person or entity that is required to take measures to ascertain identity under subsections 64(1) or 64(1.1) may rely on an agent or mandatary to take the identification measures described in that subsection only if that person or entity has entered into an agreement or arrangement, in writing, with that agent or mandatary for the purposes of ascertaining identity. The agent would have to be in a position to identify the client at the time of the transaction, either face-to-face or using a combination of the non-face-to-face methods, as is the requirement for the MSB sector.

While the redacted agreement provided does not appear to include any provision related to the requirement to ascertain identity, the responsibility ultimately lies with the MSB to ensure this requirement is met. The MSB must either ascertain the identity of its clients itself or delegate this requirement to its agents by means of a written agreement.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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From: [REDACTED]
Sent: Tuesday, June 02, 2015 4:31:07 PM
To: guidelines-lignesdirectrices
Subject: Question on Behalf of a Client
Auto forwarded by a Rule

Dear Sirs:

I had a question that I am asking on behalf of a client that is a registered money services business.

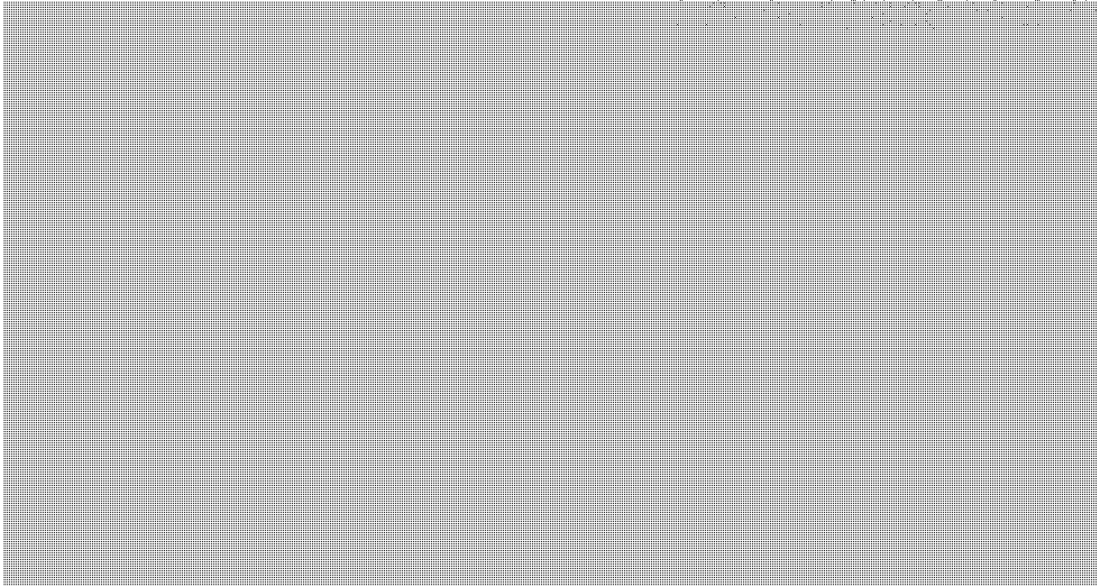
Specifically, my client, the registered MSB, uses agents to provide MSB services. It is now contemplating a structure that would allow certain of its agents (Master agents) to use the MSB brand (and system) to sign up sub-agents/delegates to offer MSB services. The delegate/subagent would not have a direct relationship with my client, the registered MSB, but rather, would have a contractual relationship with the Master agent. The agreement between my client the MSB and the Master agent would require that the Master agent include in its agreement with the sub-agent/delegate, a requirement for the delegate to comply with all laws and service requirements and impose obligations on the delegate that are substantially similar to the obligations imposed on the Master agent under its agreement with the MSB.

The questions we had in respect of this proposed arrangement are as follows:

1. Would the Master agent be required to be registered with FinTrac as an MSB?
2. Who would FinTrac hold accountable for compliance with the PCMLTFA in respect of activities carried on by the delegate? My client, the Master agent, or both?

Please let me know if you have any questions in respect of the above or if you require any further information.

Regards,



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**Pages 282 to / à 302
are withheld pursuant to section
sont retenues en vertu de l'article**

20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: July-29-15 1:31 PM
To: Lee, Rhoda
Subject: FW: PI [REDACTED] (additional info)

Document divulgué en vertu de la
Loi sur l'accès à l'information

Hi Rhoda,

I am writing further to the policy interpretation request you submitted on June 30, 2015, on behalf of [REDACTED] where [REDACTED] has provided an electronic funds transfer (EFT) scenario and has asked what reporting obligations [REDACTED] has.

As indicated in Reginald's initial response to [REDACTED] subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) defines EFT as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Subsection 12(1) of the PCMLTFR further specifies that every financial entity must report the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be, as well as the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5.

For this reason, we have said in the past that to be reportable an EFT must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

In the scenario provided, [REDACTED] a Canadian reporting entity, receives instructions from a client (ABC Inc.) in the UK to transfer \$10,000 pounds to a beneficiary's account (ABC Inc.) at a financial institution in France. To execute the transaction, [REDACTED] provides instructions to a financial entity in the UK [REDACTED] to transfer funds to the beneficiary's account in France.

As a result, an incoming electronic funds transfer (EFTI) is not required from [REDACTED] as the client's instructions were not transmitted through a foreign entity. Instead the instructions were received directly by [REDACTED] the physical location of a client is not a determining factor of the EFT reporting requirements — as per the definition of EFT, the instructions must be transmitted through another entity in order to be reportable. Therefore, [REDACTED] would only be required to report an outgoing electronic funds transfer (EFTO), as it transmitted client-initiated instructions for the transfer of funds to a financial entity outside of Canada.

For your information only Rhoda (not to be shared with the RE) - [REDACTED] described scenario is similar to Scenario 9 of the EFT Scenarios document (RDIMS # 517128).

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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From: Lee, Rhoda
Sent: July-15-15 2:39 PM
To: Stoddart, Stephanie
Subject: PI - [REDACTED] (additional info)

Hi Stephanie,

Hope this email finds you well.

I recently received additional information in regards to my PI request for [REDACTED] and noticed that you have been assigned the task.

I have attached the new info to the work item, as well as this email:

Original Request: RDIMS #463961

Additional Info: RDIMS #544914

Thanks in advance for your help.

Thank you,
Rhoda Lee
Senior Compliance Officer | Agente de conformité
rhoda.lee@fintrac-canafe.gc.ca
Telephone | Téléphone 1-866-346-8722
Facsimile | Télécopieur 416-952-0134

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Government of Canada | Gouvernement du Canada

From: [REDACTED]
Sent: July-15-15 2:20 PM
To: Lee, Rhoda
Cc: Borneo, Reginald; [REDACTED]
Subject: RE: EFT Reporting

Hi Rhoda,

I should have copied you on my email to Reginald below – my apologies.

I look forward to the written confirmation of the interpretation provided.

We are still somewhat confused (the disconnect between the single transfer of funds and the two sets of instructions) but will follow the guidance once the confirmation is received.

For your benefit, below is the interpretation provided by Reginald:

"Subsection 1(2) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) defines an electronic funds transfer as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada".

To be reportable an electronic funds transfer must be: • client initiated, and • must be the transmission, across our border, of instructions to transfer funds (except where the instructions are to transfer funds from a place in Canada to another place in Canada). In response to your question, it is the instructions that must cross the Canadian border, not the funds, in order to trigger an EFT reporting obligation."

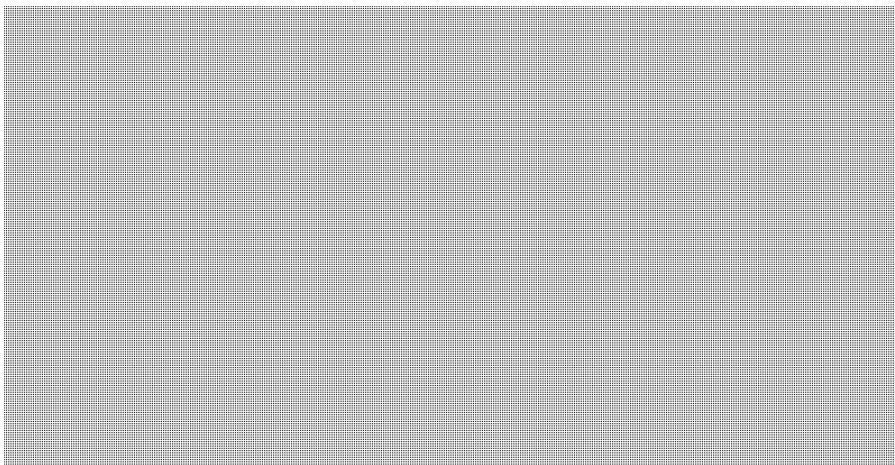
On the above basis, Reginald advised that both an EFTI and an EFTO will apply for the scenario presented below.

In the scenario presented below, with respect, we do not see the logic in filing an EFTI as there is no corresponding movement of funds. Both sets of instructions (our ordering client's to us, and ours to our bank) relate to just a single movement of funds - from the London account to the Paris account. The only information that would likely differ between the two reports is the time and date of the transmissions of the respective instructions. However, to capture the information to report an EFTI within 5 business days after the date of the receipt of the instructions will create significant process and system changes for financial institutions. (As I understand, most financial institutions are not currently following this interpretation).

We respectfully suggest that there be a reconsideration of FINRAC's interpretation that an EFTI report is to be filed even when there is no separate movement of money. We note that the EFTI report fields and the related FINTRAC guidance even introduces questions. For example, in completing Fields A3, A4 and A5, the guidance in Guideline 8A certainly seems to contemplate that there is an actual transfer of funds. For example, Field A5 reads "For an incoming EFT, enter the actual exchange rate you used when you received the transfer to convert the amount and currency shown in fields A3 and A4 to Canadian dollars." While, arguably, the commentary could be read to apply to the 'notional' dollars that are the subject of the instructions from our client in London, the interpretation received from your office will have us reporting dollar amounts, currencies and exchange rates on a transfer of funds that has not occurred, and may not occur (if at all) until a later date (when we conduct our corresponding outgoing EFT), in which case, in respect of the single transfer of funds from London to Paris, FINTRAC would be receiving reports aggregating to **double** the actual amount transferred, and possibly with two different exchange rates reported (only one of which is 'real', that is, actually applied to the actual conversion of a transferred amount of funds).

As usual, I appreciate the guidance and support. I am available to discuss should there be a need or an opportunity.

Thanks and regards,



From: Lee, Rhoda
Sent: July-03-15 8:20 AM
To: [REDACTED]
Subject: RE: EFT Reporting

Thanks for your response [REDACTED] I will review your inquiry and respond once I have further information.

Thank you,
Rhoda

From: [REDACTED]
Sent: July-02-15 4:58 PM
To: Lee, Rhoda
Subject: RE: EFT Reporting

Hi Rhoda,

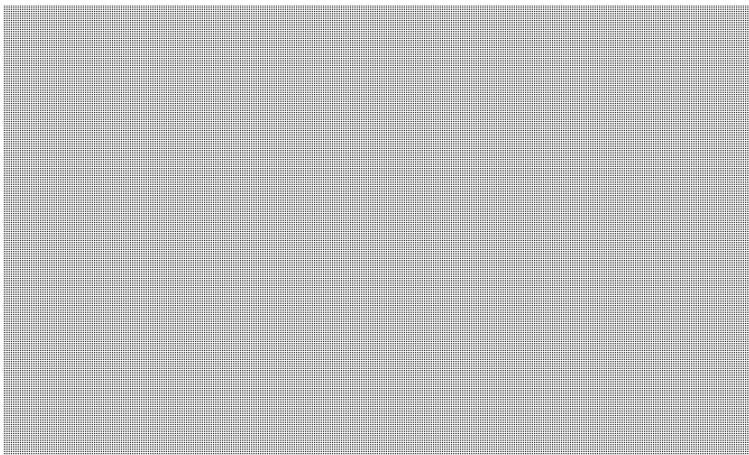
Please find the requested scenario details below:

- (i) [REDACTED] (a 'financial entity' under the Regulations) receives the electronic transmission of instructions **by email, originating from a client (ABC Inc.), located in London, U.K.**, to transfer \$10,000 U.K. pounds sterling from funds [REDACTED] holds for that client in an account with [REDACTED] located in London, U.K. to ABC Inc.'s bank account in Paris, France. **The instructions are received by [REDACTED] in its Toronto, Canada offices.**
- (ii) As [REDACTED] does not itself conduct wire transfers, [REDACTED] electronically transmits instructions using the banks online banking platform (unique to each bank) **originating from Canada to [REDACTED] in London, U.K.**, instructing [REDACTED] to transfer \$10,000 U.K. pounds sterling from funds [REDACTED] holds for that client in an account with [REDACTED] located in London, U.K. to ABC Inc.'s bank account in Paris, France. **These instructions originate in Canada from [REDACTED] and is received in London, U.K. by [REDACTED]**
- (iii) [REDACTED] executes the instructions and wires the funds from the London, U.K. account to ABC Inc.'s bank account in Paris, France. The funds flow are outside of Canada. In this example, moving from an account in London, U.K. to and account in Paris, France.

What are the reporting obligations, if any, for [REDACTED] (EFTO/EFTI)?

Do let me know if you require more details.

Thanks and regards,



From: Lee, Rhoda
Sent: June-30-15 11:25 AM
To: [REDACTED]
Subject: RE: EFT Reporting

Hi [REDACTED]

Thanks for your email.

Further to your inquiry, please provide us with a complete detailed step-by-step walkthrough of the scenario indicated below. Provide the currency of the requested transfer and the complete flow of instructions/funds. Start from the ordering client's initial request for the transfer to the final receipt of funds by the beneficiary client. Details requested include, for each step, indicate the country where each instruction is originating from, the country where each instruction is received, method in which the instructions are being sent/received by each party, the country where the accounts are held.

Thank you,
Rhoda Lee
Senior Compliance Officer | Agente de conformité
rhoda.lee@fintrac-canafe.gc.ca
Telephone | Téléphone 1-866-346-8722
Facsimile | Télécopie

*verified via email that CG&RB have not started working on inquiry

From: [REDACTED]
Sent: Thursday, June 25, 2015 3:25:45 PM
To: guidelines-lignesdirectrices
Cc: Gonzales, Charles; Borneo, Reginald
Subject: EFT Reporting
Auto forwarded by a Rule

Hello,

I am hoping that you can address a question for us regarding Incoming EFT reporting obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations.

Having regard to both the precise definition of "electronic funds transfer" and the requirements of paragraphs 12(1)(b) and (c) of the Regulations, we would appreciate your guidance on the following scenario. (Bear in mind that

[REDACTED]

Let us assume:

(i) [REDACTED] (a 'financial entity' under the Regulations) receives from outside Canada the electronic transmission of instructions, sent at the request of a client, to transfer \$10,000 from funds we hold for that client in an account with [REDACTED] located in London, UK to that client's account in Paris, France;

(ii) complying with these instructions, [REDACTED] electronically transmits instructions to [REDACTED] in London to transfer the \$10,000 to the client's account in Paris; and

(iii) all instructions are non-SWIFT.

It seems clear to us that we have a Schedule 5 (EFTO) reporting obligation pursuant to paragraph 12(1)(b), because we have sent out of Canada our instructions for the \$10,000 transfer from London to Paris.

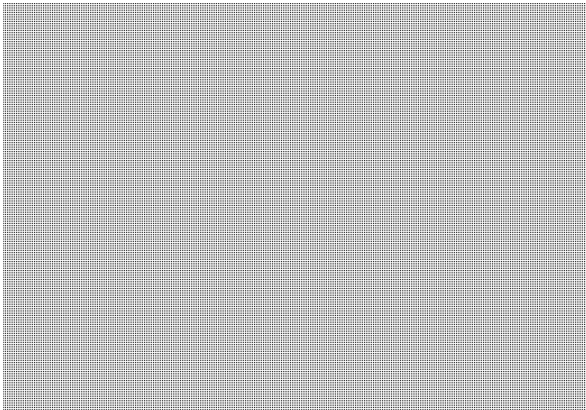
Our question is whether FINTRAC would also expect us to file a Schedule 6 incoming EFT (EFTI) report in respect of the same matter?

. In our scenario, [REDACTED] has received and complied with the single instruction of its client to cause a single movement of funds - from the London account to the Paris account.

. We also observe that the information that would be contained in the Schedule 6 report would be almost entirely duplicative of the information in the EFTO report. It appears to us that no additional information would be provided to FINTRAC in the EFTI report than what it would receive in the EFTO report (with the exception of the time sent).

While we would be pleased to file an EFTI report in the above scenario (or similar variants), for the reasons noted above, we question whether the Regulations actually intend, or whether FINTRAC actually expects, the filing of such 'pairs' of EFTO and EFTI reports in respect of the single movement of funds, as described above. If you can clarify your expectations in this regard, that would be appreciated.

Thanks and regards,



Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: August-10-15 2:39 PM
To: Low, Kim
Subject: RE: [REDACTED] PI request

Document divulgué en vertu de la
Loi sur l'accès à l'information

Hi Kim,

I'm writing in response to your request for a policy interpretation, submitted on July 10, 2015, regarding the [REDACTED]. Specifically, you have indicated that [REDACTED] holds funds in trust at [REDACTED] and in its capacity as Trustee will transfer client's payments to beneficiaries both inside and outside of Canada as required. Consequently, you have asked whether the transactions outside of Canada constitute reportable client-initiated outgoing electronic funds transfers (EFTOs) for [REDACTED] or whether [REDACTED] has satisfied the requirement at subsection 12(3) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) and provided [REDACTED] with the client's information given the name of the account.

As you know, subsection 1(2) of the PCMLTFR defines electronic funds transfer (EFT) as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Subsection 12(1) of the PCMLTFR further specifies that every financial entity must report the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be, as well as the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5.

For this reason, we have said in the past that to be reportable an EFT must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

As you've indicated, subsection 12(3) of the PCMLTFR states that "Paragraph (1)(b) applies in respect of a financial entity that orders a person or entity, to which subsection (1), 28(1) or 40(1) applies, to send out of Canada an electronic funds transfer made at the request of a client, unless it provides that person or entity with the name and address of that client."

Based on our understanding of the information provided, it appears that clients of [REDACTED] in this case ABC Trust, provide ongoing EFT instructions to [REDACTED] to conduct transactions on their behalf as necessary. As such, [REDACTED] is conducting an EFTO, as it is transmitting client-initiated instructions for the transfer of funds to [REDACTED]. Given that [REDACTED] does not explicitly provide [REDACTED] with the name and address of ABC Trust, it does not fulfil the requirement at subsection 12(3) of the PCMLTFR and must therefore report the EFTO. It is not acceptable for [REDACTED] to assume [REDACTED] has the client's name and address based on the account information provided.

For your information only Kim (please do not share this with the reporting entity), this situation is similar to Scenario 12 of the EFT Scenarios document (RDIMS # 517128).

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: Low, Kim
Sent: July-10-15 5:14 PM
To: Boudreault, Alain
Cc: Lee, Peter
Subject: [REDACTED] - PI request

Hi Alain,
Hope all is well. I conducted an exam for [REDACTED] and they have provided me with a typical transaction as outlined in the email chain below. In general, my question is: Is the transaction an EFT- outgoing, and if yes, is it reportable by [REDACTED]
Please assume the transaction is 10K CDN or more and it is international.

Specific questions:

- 1) Because the trustee is [REDACTED] is the transaction client initiated?
- 2) Section 12(3) of the Regulations says :
Paragraph (1)(b) applies in respect of a financial entity that orders a person or entity, to which subsection (1), 28(1) or 40(1) applies, to send out of Canada an electronic funds transfer made at the request of a client, unless it provides that person or entity with the name and address of that client.
[REDACTED] has indicated that when [REDACTED] as trustee instructs [REDACTED] to send funds to the contractor, the funds come out of the account [REDACTED] - in trust for ABC Trust" – so [REDACTED] should know who the underlying client is ie ABC Trust. I don't know if [REDACTED] would have the address for "ABC Trust" but I'm quite certain [REDACTED] would have the address of [REDACTED]. If [REDACTED] does not have an address on file for ABC Trust, and [REDACTED] does not provide [REDACTED] with ABC Trust's address for the transaction, is it a reportable EFTO for [REDACTED]

Therefore again, my general, my question is: Is the transaction an EFT- outgoing, and if yes, is it reportable by [REDACTED]
[REDACTED]

If you need more information , please let me know, and I will contact [REDACTED] I will set up a work item soon.

Thanks,
Km


From: [REDACTED]
Sent: July-10-15 1:27 PM
To: Low, Kim
Subject: RE: [REDACTED]

Hi Kim,

Thank you for this.

I can confirm the details of the case scenario which you have set out, with the addition of a clarifying comment in red.

Kind regards,



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From: Low, Kim [<mailto:Kim.Low@fintrac-canafe.gc.ca>]

Sent: July-10-15 10:01 AM

To: [REDACTED]

Subject: [REDACTED]

Hi [REDACTED]

Subsection 12(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) states that “ Subject to section 50 and subsection 52(1), every financial entity shall report the following transactions and information to the Centre: [...] the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be; and [...] the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.”

Furthermore, subsection 1(2) of the PCMLTFR defines an electronic funds transfer as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada”.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

On June 30, 2015, you provided an example of a transaction which I summarize below:

Consequently, it holds funds in trust for its clients at [REDACTED]. For example, [REDACTED] client is ABC Trust, and the account held at [REDACTED] would be [REDACTED] In trust for ABC Trust". ABC Trust owns a house and work is being done on the house. The ABC Trust needs to pay the contractor who submits the invoice to [REDACTED] is the trustee for ABC Trust. To pay the invoice, [REDACTED] as Trustee for ABC Trust, would instruct [REDACTED] to send funds from the trust account [REDACTED] in trust for ABC Trust) to the contractor's bank account. (You advised that [REDACTED] could alternatively issue a cheque to the contractor, and the method of payment to the contractor depends on how the contractor wants to be paid. However, the method of payment ultimately remains in the sole discretion of [REDACTED] in its capacity as trustee.) As trustee, [REDACTED] has the authority to make payments on behalf of ABC Trust as per the trust agreement.

Please confirm if the above is correct.

Kim Low

Compliance Officer | Agent de la conformité

Western Regional Office | Bureau régional de l'ouest

kim.low@fintrac-canafe.gc.ca | kim.low@canafe-fintrac.gc.ca

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: August-11-15 8:45 AM
To: Kelly, Kimberly
Subject: RE: Fintrac Reporting EFTO & EFTI Question [REDACTED]

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Hi Kim,

I'm writing further your request for a policy interpretation submitted on July 16, 2015, on behalf of [REDACTED] of [REDACTED] where [REDACTED] has asked whether [REDACTED] has any electronic funds transfer (EFT) reporting obligations for the specific scenarios identified.

As you know, subsection 28(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) indicates that every money services business (MSB) shall report the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be, as well as the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.

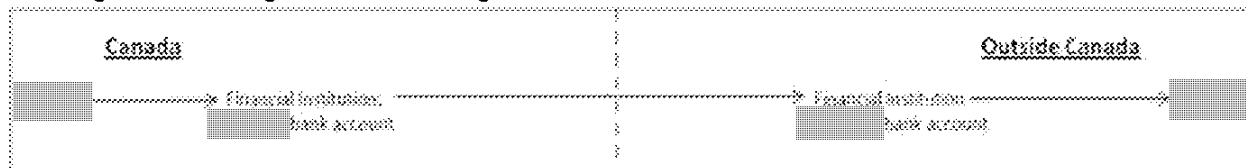
Furthermore, subsection 1(2) of the PCMLTFR defines an EFT as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada".

For this reason, we have said that to be reportable an EFT must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

In the first scenario provided, [REDACTED] has indicated it will provide instructions to its financial institution in Canada for the transfer of funds to its bank account located at a financial institution outside Canada. As a result, [REDACTED] has asked whether [REDACTED] must report an outgoing EFT (EFTO).

Here is a diagram illustrating our understanding of this scenario:



Based on the information provided, it appears that [REDACTED] is operating in the capacity of a client and is not operating on behalf of anyone else's instructions. As a result, [REDACTED] has no EFTO reporting obligations for this scenario.

The second scenario provided involves [REDACTED] receiving funds in its bank account in Canada from a financial institution located outside Canada sent at the request of [REDACTED] outside Canada. As a result, [REDACTED] has asked whether [REDACTED] must report an incoming EFT (EFTI).

Again, here is a diagram illustrating our understanding of this scenario:



Based on the information provided, it appears that [redacted] is the client and beneficiary of this transaction and is not receiving instructions or funds on behalf of anyone else. Therefore, [redacted] has no EFTI reporting obligations.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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From: [redacted]
Sent: July-16-15 5:39 PM
To: compliance-conformité
Subject: Fintrac Reporting EFTO & EFTI Question

Hi Nathalie,

I am not sure if this question should go to you, or if this question should go to the general Fintrac email address so I have sent it to both.

[redacted] send money to our liquidity providers to settle trades. Some of the bank accounts for our liquidity providers are located within Canada and some of the bank accounts for our liquidity providers are located outside Canada. I have two scenarios;

1. When [redacted] send funds from an account in Canada in the name of [redacted] to a bank account located outside Canada in the name of [redacted] is this a reportable EFTO? [redacted] are sending funds from one of our accounts to another of our accounts.
2. When [redacted] receive funds from an account outside Canada in the name of [redacted] to a bank account located inside Canada in the name of [redacted] is this a reportable EFTI? Our liquidity provider is sending funds from one of our accounts to another of our accounts.

Thanks

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[Redacted]

Transactions and Reports Analysis Centre (FINTRAC) in Canada. [Redacted] is registered with Financial

[Redacted]

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: September-21-15 3:45 PM
To: Kelly, Kimberly
Subject: RE: EFT Reporting Guideline 8B

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Hi Kim,

I am writing further to your policy interpretation request submitted on August 27, 2015, on behalf of [REDACTED]. Specifically, [REDACTED] has asked whether any of the following fall within the definition of an electronic funds transfer (EFT):

1. Pre-Authorized Debits or ACH (Automated Clearing House)
2. E-mail transfer
3. Online banking transmission
4. Fax payment or wire instructions

Here is a revised version of your proposed response to the RE:

As you are aware, the definition of an Electronic Funds Transfer, as per subsection 1(2) of the PCMLTFR, is: the transmission – through any electronic, magnetic or optical device, telephone instrument or computer – of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included.

Subsection 28(1) of the PCMLTFR, further specifies that every MSB must report the sending out of Canada, at the request of a client, of an electronic funds transfer (EFTO) of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be, as well as the receipt from outside Canada of an electronic funds transfer (EFTI), sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

Section 9.5 of the PCMLTFA further requires entities referred to in section 5 to include certain information with prescribed EFTs when they occur in the course of their financial activities. Subsection 66.1(2) of the PCMLTFR states that the prescribed EFTs to which section 9.5 of the Act applies are those as defined in subsection 1(2), and also include transfers within Canada that are SWIFT MT 103 messages. That being said, subsection 66.1(3) of the PCMLTFR specifies that subsection 66.1(2) does not apply in respect of:

- (a) a transfer carried out using a credit or debit card, if the recipient has an agreement with the payment service provider permitting payment by such means for the provision of goods and services;
- (b) a transfer where the recipient withdraws cash from their account;
- (c) a transfer carried out by means of a direct deposit or a pre-authorized debit ; or
- (d) a transfer carried out using cheque imaging and presentment.

Whether a transaction constitutes a reportable EFT will always be a question of fact and will depend on the information relating to each given situation. Therefore, further detail and specific scenarios would be required for each of the listed transfer types before we could determine whether they are considered EFTs.

Kind regards,

Stephanie Stoddart

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From: Kelly, Kimberly

Sent: August-27-15 4:06 PM

To: Boudreault, Alain; Lafontaine, Camille; Stoddart, Stephanie

Subject: EFT Reporting Guideline 8B

Hi Alain, Stephanie, and Camille,

I checked the PI knowledge base but am struggling with the answer because only Swift MT103s were addressed in regard to #2 Email transfer and number #3 Online banking transmission as far as I can see.


So far here is the answer I have:

As you are aware, the definition of an Electronic Funds Transfer, as per the PCMLTFR, is: the transmission – through any electronic, magnetic or optical device, telephone instrument or computer – of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included. Based on this definition the transmission of instructions through fax payment or wire instructions would fall under this definition.

Section 9.5 of the PCMLTFA requires entities referred to in section 5 to include certain information with prescribed EFTs when they occur in the course of their financial activities. Subsection 66.1(2) of the PCMLTFR goes on to state that the prescribed EFTs to which section 9.5 of the Act applies are those as defined in subsection 1(2), and also include transfers within Canada that are SWIFT MT 103 messages. That being said, subsection 66.1(3) of the PCMLTFR specifies that subsection 66.1(2) does not apply in respect of:

- (a) a transfer carried out using a credit or debit card, if the recipient has an agreement with the payment service provider permitting payment by such means for the provision of goods and services;
- (b) a transfer where the recipient withdraws cash from their account;
- (c) a transfer carried out by means of a direct deposit or a pre-authorized debit ; or
- (d) a transfer carried out using cheque imaging and presentment.

Whether a transaction constitutes a pre-authorized debit is a question of fact, and must be determined by the reporting entity, based on the available information in each given situation and in consideration of the definition of EFT.

I am also sending this as a  task but wanted to provide you my thoughts also.

Thanks in advance,

Kimberly Kelly

Compliance Officer | Agent de conformité
Regional Operations and Compliance | Opérations régionales et conformité
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From: [REDACTED]
Sent: Thursday, August 13, 2015 11:30:46 PM
To: MSB-ESM Registration
Subject: EFT Reporting Guideline 8B
Auto forwarded by a Rule

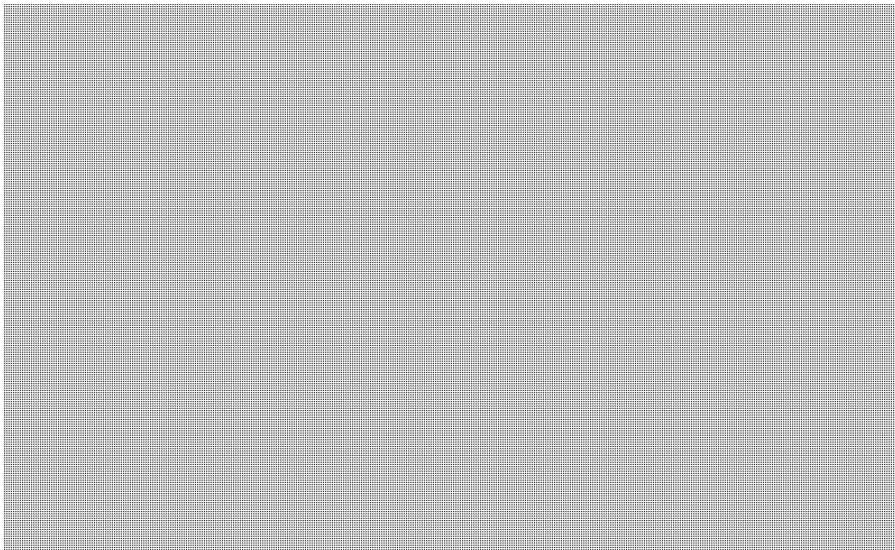
Hello,

I have a question concerning Non-SWIFT reporting of EFTs. The documentation online states "This reporting covers EFTs that are the transmission of instructions for a transfer of funds through any electronic, magnetic or optical device, telephone instrument or computer other than SWIFT MT 103 messages described above."

Please confirm if any of the following fall under the description of "electronic, magnetic or optical device, telephone instrument or computer":

1. Pre-Authorized Debits or ACH (Automated Clearing House)
2. E-mail transfer
3. Online banking transmission
4. Fax payment or wire instructions

Thank you,



Orchowski, Julia (FINTRAC/CANAFE)

From: Stoddart, Stephanie
Sent: September-21-15 3:22 PM
To: Borneo, Reginald
Subject: RE: person to bind the account

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Loi sur l'accès à l'information

Hi Reginald,

Here's what we recommend providing to the RE:

Part C contains information on the account and account holders while Part F contains information on the entity on whose behalf the transaction is conducted and the individuals authorized to bind the entity or act on the account. Therefore it is possible for the information contained in Part C and Part F to differ depending on the situation. For example, the account involved in the transaction and reported in Part C may not be the account of the entity that is a third party to the transaction and that is reported in Part F.

Although certain transactions may seem obvious to a reporting entity (e.g. a small business owner depositing cash from his business into the business' account), the information provided in the LCTR report allows FINTRAC to gain a more holistic view of the transaction. As such, the PCMLTFA and its associated Regulations indicate when a reporting entity is required to provide an LCTR and the way in which it must be reported. Allowances have been made to account for certain specific situations (e.g. an employee making a deposit into an employer's business account); However, in this case Part C and Part F must be completed in order for the report to be acceptable.

Best regards,

Stephanie Stoddart

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From: Borneo, Reginald
Sent: September-17-15 2:12 PM
To: Stoddart, Stephanie
Subject: FW: person to bind the account

Oops!
I forgot to add you!

From: Borneo, Reginald
Sent: September-17-15 2:11 PM
To: Boudreault, Alain; Lafontaine, Camille
Subject: FW: person to bind the account

Salut team!

We are looking for a succinct response to this CAMLO regarding his question. The questions are being posed as a result of an exam conducted and a penalty is being considered.

Their question:

One more question: For the situations I am inquiring about, if we fill part F, then Part C and Part F are providing information on the same business, which I am not sure is the intention when the form was designed, because Part F is supposed to capture information on a third party. As you said we have to look at the fact of the situation. If from our understanding it is obvious that a small business owner is depositing cash from his business into the business' account, i.e. amount / frequency is consistent with the nature of the business, then we probably should not fill Part F? Let me know if that makes sense.

This is what I had proposed to respond with:

Just to clarify. Part F is not necessarily for information on the business that owns the account. Part F of the LCTR is for information on the THIRD PARTY TO THE TRANSACTION THAT IS AN ENTITY. That is why this drops away when you select that the disposition was a deposit by employee into employer's account. As per section 7 of the Regulations, an employee depositing into their employer's business account is not acting on behalf of a third party.

The question on person to bind the account was already addressed using a previously provided PI.

Alain: Could we possibly get a response by Monday?

Bonne journée à tous et à toutes!

Merci!!

From: [REDACTED]
Sent: September-17-15 10:37 AM
To: Borneo, Reginald
Cc: Wilson, Yuklin
Subject: RE: person to bind the account

Thank you Reginald. One more question: For the situations I am inquiring about, if we fill part F, then Part C and Part F are providing information on the same business, which I am not sure is the intention when the form was designed, because Part F is supposed to capture information on a third party. As you said we have to look at the fact of the situation. If from our understanding it is obvious that a small business owner is depositing cash from his business into the business' account, i.e. amount / frequency is consistent with the nature of the business, then we probably should not fill Part F? Let me know if that makes sense.

Regards,

[REDACTED]

From: "Borneo, Reginald" <Reginald.Borneo@fintrac-canafe.gc.ca>
To: [REDACTED]
Cc: "Wilson, Yuklin" <Yuklin.Wilson@fintrac-canafe.gc.ca>
Date: 2015-09-17 08:47
Subject: RE: person to bind the account

Hello [REDACTED]

As you know, section 7 of the PCMLTFR states that "for the purposes of these Regulations, a person acting on behalf of their employer is considered to be acting on behalf of a third party except when the person is depositing cash into the employer's business account." FINTRAC has previously taken the position that a third party is an individual or entity who gives instructions in regards to an account. As such, it is only when an employee makes a large cash deposit into the employer's business account that this exemption applies, as they are "acting on behalf of a third party." It is not about who owns the money, but rather about who gives instructions to deal with the money. For this reason, owners, officers, and directors are not typically considered to be employees. Having said that, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and the PCMLTFR do not define what it is to be an employee of a business. Therefore, it will always be a question of facts. Having signing authority, or the authority to bind or act on an account, does not necessarily make you an employee.

Please feel free to contact me if you have any further questions.

Regards,

Reginald Borneo, CAMS

Regional Compliance Officer | Agent de conformité régional

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reginald.borneo@fintrac-canafe.gc.ca

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FAX | Télécopier 1-416-952-0134



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et déclarations financières du Canada

From: [REDACTED]

Sent: September-14-15 3:20 PM

To: Borneo, Reginald

Subject: RE: person to bind the account

Hi Reginald,

We would very much appreciate your opinion before we move forward with a solution to resolve the deficiency. If a quick phone call would help to explain, I would be happy to arrange that.

Thanks & regards,

From: "Borneo, Reginald" <Reginald.Borneo@fintrac-canafe.gc.ca>
To: [REDACTED]
Cc: "Wilson, Yuklin" <Yuklin.Wilson@fintrac-canafe.gc.ca>
Date: 2015-09-08 13:16
Subject: RE: person to bind the account

Hello [REDACTED]

This email acknowledges the receipt of your question around the person to bind the account and LCTR reporting. We will review and revert accordingly. Thanks!

Regards,

Reginald Borneo, CAMS

Regional Compliance Officer | Agent de conformité régional

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reginald.borneo@fintrac-canafe.gc.ca

Phone | Téléphone 1-416-973-2009

FAX | Télécopier 1-416-952-0134



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et de données financières du Canada

From: [REDACTED]

Sent: September-04-15 5:40 PM

To: Wilson, Yuklin

Subject: person to bind the account

Hello Yuklin,

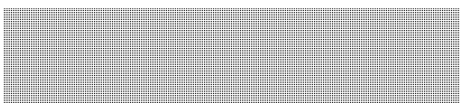
Regarding Deficiency #2 of the Finding Letter, 256 occurrences where the names of persons authorized to bind the account are missing on a LCTR, we have a question that would like clarify with you. In most cases these are small business owners depositing cash on behalf of their business. The missing information of the persons are supposed to be filled in Part F.

According to Guideline 7A, "Part F only applies if the transaction's disposition was conducted on behalf of a third party that is an entity...If an employee deposited cash in his or her employer's business account, or if the transaction was a deposit to a business account by night deposit or quick drop, Part F does not apply".

Our interpretation is that is the owner is depositing cash from regular operation of his business, then we don't need to fill Part F. If he is depositing for another entity, then Part F is applicable and we should fill information of that entity in Part F.

Just want to clarify with you before we implement our solution. Thank you for your guidance.

Regards,



----- Forwarded by [REDACTED] on 2015-09-04 17:20 -----
From: [REDACTED]
To: Yuklin.Wilson@fintrac-canafe.gc.ca,
Cc: "Allyson.Lang@osfi-bsif.gc.ca", "Bart.Evans@osfi-bsif.gc.ca", Nathalie.Martineau@fintrac-canafe.gc.ca, [REDACTED]
Date: 2015-08-18 16:35
Subject: Compliance progress update

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Hello Ms Wilson,

Following receipt of FINTRAC Exam Findings Letter, senior management and board of directors of [REDACTED] mandated several initiatives to make sure the bank is taking concrete step to become fully compliant. I would like to provide you with an update on the measures we have taken so far, and how we are going to address all deficiencies in due course. A hard copy is also sent to your office.

As did the Findings Letter, I have included our contacts at OSFI on the cc list of this email as well.

Best regards,

[REDACTED]

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: September-23-15 4:02 PM
To: [REDACTED]
Subject: RE: [REDACTED] MSB classification - help request

Document divulgué en vertu de la
Loi sur l'accès à l'information

Dear [REDACTED]

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of August 17, 2015, where it appears that you are seeking a determination with respect to your business, [REDACTED]. More specifically, you would like to know if [REDACTED] needs to be registered as a money services business (MSB) with FINTRAC.

As you may know, MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Typically, if an MSB offers the service of remitting or transmitting funds it will have electronic funds transfer (EFT) reporting obligations. Pursuant to subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), an EFT is defined as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Having said that, as per subsection 66.1(3) of the PCMLTFR, the following transactions are not considered to be EFTs:

- (a) a transfer carried out using a credit or debit card, if the recipient has an agreement with the payment service provider permitting payment by such means for the provision of goods and services;
- (b) a transfer where the recipient withdraws cash from their account;
- (c) a transfer carried out by means of a direct deposit or a pre-authorized debit ; or
- (d) a transfer carried out using cheque imaging and presentment.

Based on the information you provided, namely that [REDACTED] merchants can accept customer payments for purchases made through a merchant's web site in the form of a checking account debit (PAD)," it appears that your entity will be facilitating payments between consumers and merchants through pre-authorized debits, which are not considered to be EFTs. Therefore, it appears [REDACTED] is not, at this time, engaged as an MSB in Canada as per the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its associated Regulations. Therefore, you cannot register with us.

Should your business model change in the future to expand beyond offering pre-authorized debit services, we would appreciate you contacting us in order for us to review and reassess our interpretation to reflect these new facts.

Also, for your information, I am providing you with the link to the FINTRAC Interpretation Notice, FIN 1 <http://www.fintrac-canafe.gc.ca/publications/FINS/2008-05-20-eng.asp>, which provides guidance regarding who is an MSB for purposes of Part 1 and Part 1.1 of the PCMLTFA.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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Government of Canada | Gouvernement du Canada
234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7

Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: Monday, August 17, 2015 5:48:54 AM
To: guidelines-lignesdirectrices
Subject: [REDACTED] MSB classification - help request
Auto forwarded by a Rule

Dear Fintrac,

I'm writing on behalf of [REDACTED] a payment processor based in the UK (Canadian subsidiary will be registered prior to [REDACTED] operating in Canada). Could you please confirm our interpretation that [REDACTED] is not classified as a Money Services Business (MSB). Further clarification would be greatly appreciated.

I have included further details below of the [REDACTED] service:

[REDACTED] operates a service called [REDACTED] that provides thirdparty origination services for Pre Authorised Debit ("PAD") transactions on behalf of merchants.

Through [REDACTED] merchants can accept customer payments for purchases made through a merchant's web site in the form of a checking account debit (PAD).

Note that [REDACTED] only accepts merchants who are using [REDACTED] service for the payment of goods or services - typically these are recurring subscriptions such as music streaming services. [REDACTED] does not allow individuals to sign up to use this to transfer money owed/promised to other individuals (i.e. money gifting / money remittance).

[REDACTED] merchant customers obtain payment instructions to debit a customer's checking account and submit these payment instructions to the Automated Clearing Settlement System (ACSS) through [REDACTED]

[REDACTED] batches and submits the debit information to [REDACTED] bank for processing through the ACSS.

Once [REDACTED] bank initiates the PAD, the depository institution at which the merchant's customer maintains a checking account debits the account of the customer, and sends a credit instruction through the ACSS to [REDACTED] bank, which then credits the amount to a segregated client monies / "for the benefit of" account maintained at the bank by [REDACTED]

After a temporary holding period to ensure that the transaction initiated by the merchant is not returned, [redacted] remits the funds to the merchant.

Through [redacted] merchants are also able to initiate credits to provide refunds to customers.

Note, [redacted] currently operates this model in the UK as well as continental Europe (using UK Bacs and SEPA). All transactions are kept within each country - for instance, Canadian merchants would debit Canadian customers - there would be no cross country transfers.

If you require further clarification, please do let me know.

Many thanks,

[redacted]

[redacted]

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: September-24-15 8:04 AM
To: [REDACTED]
Subject: RE: FINTRAC - MSB Registration

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Loi sur l'accès à l'information

Dear [REDACTED]

Thank you for providing this additional clarification.

Typically, if an MSB offers the service of remitting or transmitting funds, it will have electronic funds transfer (EFT) reporting obligations. Pursuant to subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), an EFT is defined as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included.”

Having said that, as per subsection 66.1(3) of the PCMLTFR, the following transactions are not considered to be EFTs:

- (a) a transfer carried out using a credit or debit card, if the recipient has an agreement with the payment service provider permitting payment by such means for the provision of goods and services;
- (b) a transfer where the recipient withdraws cash from their account;
- (c) a transfer carried out by means of a direct deposit or a pre-authorized debit ; or
- (d) a transfer carried out using cheque imaging and presentment.

Based on the information you provided, specifically that you will facilitate the payment between consumers and merchants and will use pre-authorized debits and will have merchant agreements in place, it appears that your entity is not, at this time, engaged as an MSB in Canada as per the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its associated Regulations. Therefore, you cannot be registered with us.

Should your business model change in the future to expand beyond offering these services, and payment processing services, we would appreciate you contacting us at that time so that we may review and reassess our interpretation to reflect these new facts.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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From: [REDACTED]
Sent: August-31-15 8:08 PM

To: Policy-Interpretation
Subject: RE: FINTRAC - MSB Registration - [REDACTED]

Hello Stephanie,

We have not launched our solution yet so our website and portal have yet to be posted for review.

Currently we have two types of login portals for our users. The first is a consumer portal that has payment restrictions set in place. The second is a merchant portal that allows merchants to send invoices, maintain a record of their customers, their products, their service plans or payroll structures. Our system was designed to only allow payments from a consumer portal to a merchant portal and not from consumer to consumer. Transactions are only allowed when related to an invoice number as proof of receipt for a product or service.

We currently allow two types of payment methods as agreed upon with our acquiring banks. The first is payment via invoice. We have a link on the invoice that allows consumers to pay for products and or services via the gateway. In order for a consumer to be able to make a payment via this method they must first upload a copy of their void cheque at which time we send a small \$0.01 - \$0.04 transaction to their bank account that they input into the gateway for verification. The merchants are required to complete a merchant agreement and to be in business for no less than two years, have good credit, provide financials and bank statements in order to meet our underwriting requirements. The other method of payment is via PAD that is provided by the acquiring bank in order to meet CPA regulations and the signed PAD's as well as customer voids are loaded into the gateway at which time our underwriting team reviews each document individually before activating each account for debit capabilities.

We simply act as a payment gateway similar to ecommerce solutions via Interac online or credit card processing utilizing EFT's as a method of payment.

To be clear we do not at any time allow peer to peer payments or remittance of funds that are not for a consumer purchase or payroll. We are not a western union we are an automated invoicing and EFT platform for recurring billing customers. Consumers are not coming to us in order to remit funds on their behalf our customers are the merchants and the portal is used for their consumers to make payments or to be debited automatically via PAD.

I hope this clears up any confusion.

Sincerely,

[REDACTED]

From: Policy-Interpretation [<mailto:Policy-Interpretation-Politique@fintrac-canafe.gc.ca>]
Sent: August 31, 2015 3:32 PM
To: [REDACTED]
Subject: RE: FINTRAC - MSB Registration - Littler

[REDACTED]

To ensure you are not subject to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) as a money services business (MSB), it would be helpful if you could please elaborate on exactly how you allow consumers to make purchases from merchants for goods and services. In your explanation, please outline your interaction with clients from start (initial contact with the client) to finish (completion of the transaction) when offering this service.

Please also provide more detail about how you offer a billing software rather than a payment remittance platform. Do you at any time hold funds on behalf of a client? Or do you simply provide the software and technical support?

If you have a website, it would be helpful if you could provide this as well.

After reviewing this additional information I will be in a better position to confirm whether you are operating as an MSB in Canada.

I look forward to hearing from you.

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: August-31-15 11:28 AM
To: Policy-Interpretation
Subject: FW: FINTRAC - MSB Registration

Hello Stephanie,

Thank you for the response. It appears we have some confusion and I have made an error with the description of our services. We do not allow peer to peer remittance of funds. We only allow consumer to merchant or vice versa for the purchase of goods and or services and utilize electronic funds transfers methods as a form of payment processing for our merchants. We offer a billing software not a payment remittance platform. So based on the information in your email we are not an MSB and would not require to register with fintrac at this time. Please confirm understanding and clarity.

I look forward to your response.

Sincerely,

From: Policy-Interpretation [<mailto:Policy-Interpretation-Politique@fintrac-canafe.gc.ca>]
Sent: August 27, 2015 12:01 PM
To: [REDACTED]
Subject: RE: FINTRAC - MSB Registration

Dear [REDACTED]

Thank you again for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of August 14, 2015, where it appears that you are seeking a new determination with respect to your business, [REDACTED]. More specifically, you've provided a more detailed business model and would like to know if your business now needs to be registered as a money services business (MSB) with FINTRAC.

As previously mentioned, MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Also as mentioned, FINTRAC has previously taken the position, and continues to uphold the position that persons or entities engaged in the business of utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the "remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network", are not considered to be MSBs because they are not engaged in the business of remitting or transmitting funds for the sake of the service. The transfer of funds is simply a corollary of their actual service, which is payment processing.

Based on the information provided, your business appears to still offer payment processing services such as the "Automated Billing" lease payment services; however, it appears that as a result of your "Money Transfer" services, [REDACTED] will also, at the request of a client, remit or transmit funds by any means or through any person, entity or electronic funds transfer network. Specifically, you state that "a money transfer is a peer to peer transaction where a user sends a set amount of money in USD/CAD to another user." [REDACTED] is therefore engaged as an MSB in Canada, as per the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its associated Regulations.

As an MSB in Canada, you have legal obligations under Canada's PCMLTFA which include registering your business with us, reporting to us, keeping records, identifying your clients, and having a compliance regime. Our publication, *Your Money Services Business in Canada: What you need to know*, available at the following link <http://www.fintrac-canafe.gc.ca/msb-esm/intro-eng.asp>, gives a short summary of your obligations and responsibilities. All of these are described in greater detail on our website at www.fintrac-canafe.gc.ca. It is important that you understand these obligations and meet them to be in full compliance with this law.

I have forwarded your information to FINTRAC's MSB Registration Unit and a Compliance Officer will be in touch shortly to assist you with the registration process.

Best regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: August-17-15 1:25 PM
To: Policy-Interpretation

Cc: [REDACTED]
Subject: RE: FINTRAC - MSB Registration

Ok thanks , I look forward to hearing from you.

From: Policy-Interpretation [<mailto:Policy-Interpretation-Politique@fintrac-canafe.gc.ca>]
Sent: August 17, 2015 1:18 PM
To: [REDACTED]
Subject: RE: FINTRAC - MSB Registration

Hello [REDACTED]

We have received your updated business model, sent on August 11th, 2015, but have not yet had a chance to review it. While it takes some time to review the requests we receive in an orderly and consecutive manner, please rest assured that we will respond to you shortly.

Thank you,

Stephanie Stoddart

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From: [REDACTED]
Sent: August-17-15 1:05 PM
To: Policy-Interpretation
Cc: [REDACTED]
Subject: RE: FINTRAC - MSB Registration

Hi Steffanie, do you have any feed back on the flow of our system and if it is considered an MSB ? I have sent in 2 inqueries and got a phone call but nobody has responded to the specific request as to whether or not we would be considered an MSB.

Please advise

From: [REDACTED]
Sent: Friday, August 14, 2015 4:26:16 PM
To: MSB-ESM Registration
Subject: FW: Business model for [REDACTED]
Auto forwarded by a Rule

Hello Fintrac,

Here are the flows of money in our system. I wrote them all out just in case the diagrams lead to mis-interpretation.

The important thing to note on all transactions in the system is that any accounts used as a source of funds for transactions must be verified prior to usage. During verification, we deposit two small amounts (less than a dollar) to the user's account. The user is then required to enter these amounts into the verification screen for the account before being able to use the account to perform payments in the system. This adds a level of security to the process by verifying user ownership of the account.

1. Money Transfer: A money transfer is a peer to peer transaction where a user sends a set amount of money in USD/CAD to another user. This transaction needs to be accepted by the recipient before the system performs any actions on it. Once the transfer is accepted, the initiator's account is debited for the amount. If that debit from the initiator is successful, a credit is initiated into the destination user's account. If the credit fails, the amount is returned to the initiator's account.

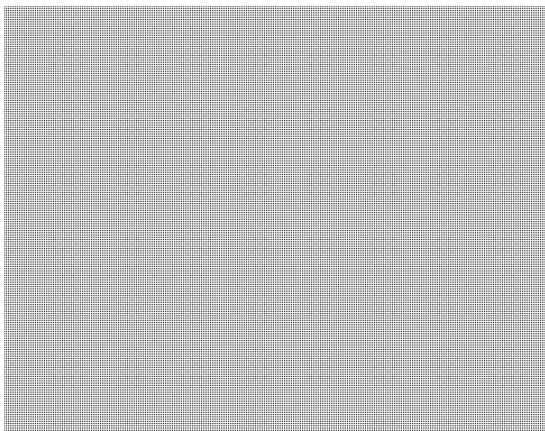
2. Invoice Payments: Users in the system are able to send invoices to other users. Upon receipt of an invoice, the user can manually select the source of funds for the payment. As before in the process for the money transfer, a two step credit-debit process is initiated. However, no acceptance of the payment is required. We allow both partial and complete payments on invoices.

3. Automated Billing: Users in the system are able to add leases and subscriptions for other users. Users who have leases and subscriptions can be imported into the system with their account information with PAD agreements or with basic information in which case they are required to enter their account information manually and go through the account verification process. Invoices for leases and subscriptions are automatically generated and emailed to the customer. Any change to the billing details of either leases and subscriptions results in an email to the customer. In automated billing, the amount that is designated as the payment method is automatically debited the amount of the invoice on the due date of the invoice.

In all transactions, disbursement of the funds for the recipient is only done after a hold period of 48 hours (to account for returns, reversals). This ensures that the platform may not be used to commit fraud. Also, fund disbursements are only performed to bank accounts.

The [REDACTED] Also be seen at [REDACTED]

Thanks and look forward to finding out if we are classified as an MSB



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The contents of this communication, including any attachment(s), are confidential and may be privileged information and are intended for the person addressed. If you are not the intended recipient, we ask that you please notify the sender immediately and delete or destroy this communication and any further communications. Thank you for your cooperation.

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: September-29-15 1:24 PM
To: [REDACTED]
Subject: RE: Request for advice

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Dear [REDACTED]

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of September 11, 2015, where it appears that you are seeking a determination with respect to your business, [REDACTED]. More specifically, you would like to know if [REDACTED] needs to be registered as a money services business (MSB) with FINTRAC.

As you may know, MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Typically, if an MSB offers the service of remitting or transmitting funds it will have electronic funds transfer (EFT) reporting obligations. Pursuant to subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), an EFT is defined as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included." However, as per subsection 66.1(3) of the PCMLTFR, the following transactions are not considered to be EFTs:

- (a) a transfer carried out using a credit or debit card, if the recipient has an agreement with the payment service provider permitting payment by such means for the provision of goods and services;
- (b) a transfer where the recipient withdraws cash from their account;
- (c) a transfer carried out by means of a direct deposit or a pre-authorized debit; or
- (d) a transfer carried out using cheque imaging and presentment.

Based on the information you provided, it appears [REDACTED] will facilitate the payment between buyers and sellers for online purchases of goods and services made with credit cards. If [REDACTED] enters into agreements with sellers for the provision of this payment service and this is the only service [REDACTED] offers, paragraph 66.1(3)(a) of the PCMLTFR applies and [REDACTED] would not, at this time, be engaged as an MSB in Canada as per the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its associated Regulations. Therefore, you could not be registered with us.

In the event [REDACTED] does not have agreements in place with the sellers for the provision of this payment service, it would be remitting and transmitting funds and would therefore be engaged as an MSB in Canada, required to register with FINTRAC. Please follow the MSB registration steps outlined on the FINTRAC website found here: <http://www.fintrac-canafe.gc.ca/msb-esm/register-inscrire/reg-eng.asp>.

For more information, I am providing you with the link to the FINTRAC Interpretation Notice, FIN 1, <http://www.fintrac-canafe.gc.ca/publications/FINS/2008-05-20-eng.asp>, which provides guidance regarding who is an MSB for the purposes of Part 1 and Part 1.1 of the PCMLTFA.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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From: [REDACTED]
Sent: Friday, September 11, 2015 10:41:55 AM
To: guidelines-lignesdirectrices
Cc: [REDACTED]
Subject: Request for advice
Auto forwarded by a Rule

To,
FINTRAC
CANADA

I am writing to you for guidance, on behalf of [REDACTED] and on request of our bankers [REDACTED]

[REDACTED] proposes to start an online platform for processing payments for sellers on line. This will be only an online point of sale processing. We have requested our bankers for a Merchant Account. Our Bankers have requested for an advice from FINTRAC to determine that this operation does not come under MSB category.

[REDACTED] business operation will be as follows:

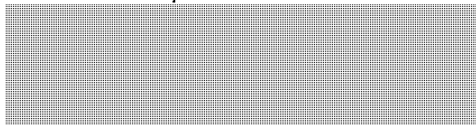
1. [REDACTED] will launch a website for processing payments online for sellers in the internet market.
2. Sale will be processed through the website and payments will be accepted through designated and established credit card companies.
3. These sale proceeds will be credited into the Merchant Account provided by [REDACTED] to be ultimately passed on to the sellers after deduction of previously agreed service charges.
4. All transactions will be through the website and the banking system. Full records will be available to the Banking system.

Sir, we have seen your website and do not see any of our operations coming under your MSB category. We also understand that there are a number of other online and point of sale companies running similar operations.

We will be grateful for your determination, for enabling us to start our operations soonest possible.

Thanking you

Yours sincerely



Document released under the **s.19(1)**
Access to Information Act **s.20(1)(b)**

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: September-29-15 1:14 PM
To: Borneo, Reginald
Cc: Dixon, Joseph
Subject: RE: MSB Status - [REDACTED]
Attachments: RE: FINTRAC guidance for Bill payment in Canada; MSB Status; MSB Status - [REDACTED]

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Loi sur l'accès à l'information

Hi Reginald,

Thanks for obtaining this additional information.

As previously indicated, MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Typically, if an MSB offers the service of remitting or transmitting funds it will have electronic funds transfer (EFT) reporting obligations. Pursuant to subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), an EFT is defined as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included.” However, as per subsection 66.1(3) of the PCMLTFR, the following transactions are not considered to be EFTs:

- (a) a transfer carried out using a credit or debit card, if the recipient has an agreement with the payment service provider permitting payment by such means for the provision of goods and services;
- (b) a transfer where the recipient withdraws cash from their account;
- (c) a transfer carried out by means of a direct deposit or a pre-authorized debit; or
- (d) a transfer carried out using cheque imaging and presentment.

In the information provided, [REDACTED] states that it will facilitate the online payment between consumers and merchants using online banking transactions and will have an agreement in place with merchants for the provision of this payment service. It also states that it will order FX transactions from other MSBs, FX brokers, or banks for the purposes of paying a merchant in its local currency. As such, if the only service offered by [REDACTED] is transfers carried out using a credit or debit card, for which the recipient has an agreement with [REDACTED] permitting payment by such means for the provision of goods and services, it would then appear as though [REDACTED] is not, at this time, engaged as an MSB in Canada as per the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its associated Regulations. It should therefore not be registered with us.

Please be advised, it is not simply because [REDACTED] carries out “bill payment” services that it is not covered. It is because paragraph 66.1(3)(a) of the PCMLTFR specifically applies to its activities and because the payment service it provides appears to be its only activity.

Should the business model of [REDACTED] change in the future to expand beyond offering transfers carried out using a credit or debit card, for which the recipient has an agreement permitting payment by such means for the

provision of goods and services, we would appreciate if [redacted] would contact us so we may review and reassess our interpretation to reflect any new facts.

Feel free to give me a call if you have any additional questions.

Best regards,

Stephanie Stoddart

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada
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From: Borneo, Reginald
Sent: September-15-15 7:39 AM
To: Policy-Interpretation
Subject: FW: MSB Status - [redacted]

Hi there,

As requested, here are more details of the business and business model. Please let me know if you require any further details. Thanks!

Reginald Borneo, CAMS

Regional Compliance Officer | Agent de conformité régional

Major Reporters and Compliance Analytics | Entités déclarantes majeures et activités d'analyse de la conformité

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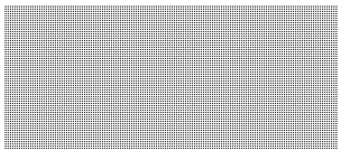
From: [redacted]
Sent: September-14-15 4:12 PM
To: Borneo, Reginald
Subject: RE: MSB Status - [redacted]

Hi Reginald

Sorry for the long time between replies, was swamped a bit.
I have embedded the answers below proceeding →

Please let me know if there is anything else you need to be cleared up.

Thanks,



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From: [REDACTED]
Sent: August-28-15 12:58 PM
To: 'Borneo, Reginald'
Cc: [REDACTED]
Subject: RE: MSB Status - [REDACTED]

Hello Reginald,

[REDACTED] the CEO of [REDACTED] will provide you with additional information to help you determining [REDACTED] status as an MSB because next Friday, September 04th, it will be my last day at [REDACTED]

Best regards,

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From: Borneo, Reginald [<mailto:Reginald.Borneo@fintrac-canafe.gc.ca>]
Sent: August-28-15 10:04 AM
To: [REDACTED]
Subject: MSB Status - [REDACTED]

Hello [REDACTED]
I am working with [REDACTED] with regards to determining [REDACTED] status as a MSB.

As you know, MSBs have the obligation to be registered with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;

- We are simply settling amounts in foreign currencies to merchants based on a weekly schedule for transactions that are related to e-commerce.
 - RE: online gaming, pre-paid cards, physical products, memberships, internet services, marketing services, etc.
 - We do not offer merchants/consumers or anyone else the ability to buy/sell FX.
 - The merchants are under an on-going services agreement for ecommerce transactions processing by [REDACTED]
 - The merchants are not making a request to send funds out of the country, we are settling ecommerce transactions via a foreign currency
 - We never directly send the wire to merchants outside of Canada. It is done through another MSB, FX broker, or Bank.
 - We provide all the information and agree to keep all the required FINTRAC KYC/UBO/etc information with the other MSB, FX broker, or Bank.
 - We are the ones requesting of the other MSB, FX broker, or Bank to send a wire on [REDACTED] behalf to settle merchants weekly balance.
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
 - We are not remitting/transmitting as much as we are settling ecommerce transactions on behalf of consumers to merchants for goods and services in a foreign currency.
 - Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).
 - We are not redeeming any money orders, traveller's cheques, or other similar negotiable instruments.
 - All payments are done through online banking and are already considered by FINTRAC in a previous guidance as being exempted as applied against the FINTRAC regulation for debit/credit card exemptions. (email attached – subject: RE: FINTRAC guidance for Bill payment in Canada – 1/08/15)

Unfortunately, the information you provided on your business is insufficient for us to have a clear understanding of your business activities, in order to determine whether you are engaged as an MSB. Could you please provide us with additional information about the services [REDACTED] offers - a business model detailing your activities with clients from start to finish. Also, you stated that the FX Broker/Wire agents handle the payments sent outside of Canada and as a result, you have no EFT reporting requirements. Please provide us with more information on the foreign transactions conducted by [REDACTED] through the FX Broker/Wire agents.

- The follow describes the business model at a high level from start to finish
 1. Global merchant signs up with [REDACTED] to facilitate payments for ecommerce transactions with consumers using online banking
 2. Merchant sets up a payment button on their website to accept payments through [REDACTED]
 3. Consumer selects payment button from merchants website for a selected amount in local consumer currency
 4. Merchant payment button is redirected to [REDACTED]
 5. [REDACTED] facilitates an online banking (bill payment) transaction on behalf of the consumer to the merchant
 6. Merchant credits the consumer for the transaction
 7. [REDACTED] bulks up the consumer transactions on a weekly basis that were collected from online banking on behalf of the merchants
 8. [REDACTED] reconciles the amount to another currency to the merchants (minus fees) via a wire transfer through another MSB, FX broker, or Bank.
- The attached email (subject: MSB Status – 8/10/15) describes our position, based on FINTRAC guidance, for EFTi/EFTo reporting.

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Additionally to clarify, FINTRAC has previously taken the position and continues to uphold the position that persons or entities engaged in the business of utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the “remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network”, are not considered to be MSBs. These companies are not engaged in the business of remitting or transmitting funds for the sake of the service - the transfer of funds is simply a corollary of their actual service, which is payment processing. Offering “bill payment” services does not exclude an entity from being an MSB, unless those payment services are specifically identified above.

- ➔ The payments to the merchants from the consumers are for “actual services” re: ecommerce transactions, this includes online gaming, pre-paid cards, physical products, memberships, internet services, marketing services, etc.
- ➔ We are not saying we still do not have to do the appropriate recorded keeping, suspicious monitoring and the like as it will most likely be required as our other MSBs, FX broker or Banks, but that we do not believe based on the regulations we are considered an MSB that has to register with FINTRAC.

Looking forward to your prompt response.

Please feel free to contact me if you have any questions. Thanks!

Regards,

Reginald Borneo, CAMS

Regional Compliance Officer | Agent de conformité régional

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Orchowski, Julia (FINTRAC/CANAFE)

From: Douglas, Lisa <Douglal@fintrac.gc.ca>
Sent: September-22-08 8:03 AM
To: [REDACTED]
Subject: RE: FINTRAC guidance for Bill payment in Canada

Good morning [REDACTED]

Thank you for your patience. Bill payments are not considered to be covered activities under the PCMLTFA therefore you are not required to report LCTs or EFTs for these transactions, nor are they subject to client identification and record-keeping requirements. However you are still able to submit suspicious transaction reports for these transactions.

Regards
Lisa Douglas
Senior Compliance Officer
Financial Transactions Reports Analysis Centre of Canada (FINTRAC)
416-952-0127

douglal@fintrac.gc.ca
www.fintrac-canafe.gc.ca

-----Original Message-----

From: [REDACTED]
Sent: August 18, 2008 10:40 AM
To: Douglas, Lisa
Subject: FINTRAC guidance for Bill payment in Canada

Hi Lisa:

Thanks for following up on Thursday. As part of our discussion, we are writing to you today to determine what are the client identification requirements, if any, based on the fact that we are planning on using the Bill Payment system in Canada again, as we are currently using debit cards, and Pre-authorized Debit transactions since we switched from our biller GPAY back in Oct. 2007.

Our intent is to start accept payments from consumers who wish to use the Bill Payment services from the various banks here in Canada. These payments would be accepted to our Payment Service Provider as per their arrangement with their banks. On pre-determined schedule basis, these payments would be bulked up and settled to our Canadian bank account.

Once we receive the funds then we would settle these funds to our merchants.

The question we have is, as the initial payments are done by the consumer through their bank account to the PSP, would they be subject to the client identification requirements as outline in the regulations? From our understanding of reading section 3.7 of Guideline 6C, it would seem that it is not. This is further clarified by definition of what constitutes and EFT under the regulation from the amendments to section 19, subsection (2) of SOR/2007-122 (pg 1293) as to the definition of an EFT, quote -- "other than the transfer of funds within Canada". This is also further

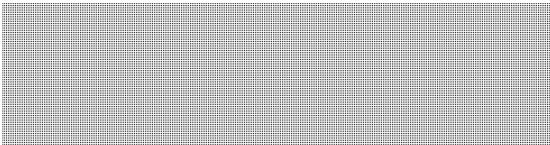
defined in the same document under the title, "Consultation" on page 1287, which states, "the record keeping requirements applicable to financial entities for funds transfers of \$1,000 or more have been limited to international electronic funds transfers". And again, in the same document, on page 1289 under section 1, subsection one, the definition of EFT as follows, "other than the transfer of funds within Canada".

In addition, like Pre-Authorized Debit, under the CPA H1 rule, Bill Payment has similar rules and regulations under the CPA H6 rule which we intent to follow.

This is not to be confused with the other side of our business which we report for international funds transfers for our merchants.

Meaning, today we report international electronic funds transfers of \$10,000 or more. This is not in question, and we agree based on our interpretation, that this will not change, and we will continue to report.

Sincerely,



No virus found in this incoming message.

Checked by AVG.

Version: 7.5.526 / Virus Database: 270.7.0/1683 - Release Date: 21/09/2008

10:10 AM

Orchowski, Julia (FINTRAC/CANAFE)

From: [REDACTED]
Sent: August-10-15 2:33 PM
To: Dixon, Joseph
Cc: [REDACTED]
Subject: MSB Status
Attachments: RE: FINTRAC guidance for Bill payment in Canada

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Dear Joseph,

Based on your recommendation we stopped submitting EFT reports to FINTRAC because they were not our responsibility since the FX brokers we are using are the ones required to do it.

In addition, we looked at our business activities and we concluded that we should not be considered an MSB anymore.

Please see below our arguments (highlighted blue) based on your definition of MSB. Please advise.

Money services business criteria

You are considered a money services business if any of the following apply to you:

- You own or operate a business and you offer money transfer services in any amount.
- ➔ We do not offer money transfer to either Person-To-Person or Person-To-Business. We provide ecommerce processing of transactions for merchants who are under contract.
- Your business issues or redeems money orders, travellers' cheques or other similar negotiable instruments for more than \$1,000 during a single transaction with the same individual or entity. For these purposes, a single transaction is defined as two or more transactions related to the redemption of money orders, travellers' cheques or other similar negotiable instruments of less than \$1,000 each that are made within 24 consecutive hours and that total \$1,000 or more.
- ➔ We do not issue or redeem any of the items above. As per attached, online bank payments are exempt. With respect to reporting suspicious, this is related to a voluntary reporting and not as per MSB activities.
- Your business conducts foreign exchange transactions for more than \$1,000 during a single transaction with the same individual or entity. For these purposes, a single transaction is defined as two or more transactions related to a foreign exchange transaction of less than \$1,000 each that are made within 24 consecutive hours and that total \$1,000 or more.
- ➔ We do not provide foreign exchange transactions. We settle through a licensed FX broker/Wire Agent which converts settlements from CAD to merchants preferred currency, mostly EUR and GBP.
- You advertise (by means of newspaper, television, yellow pages, internet, any other media, or by an interior or exterior sign) the fact that you engage in any of the above-mentioned money services business activities.

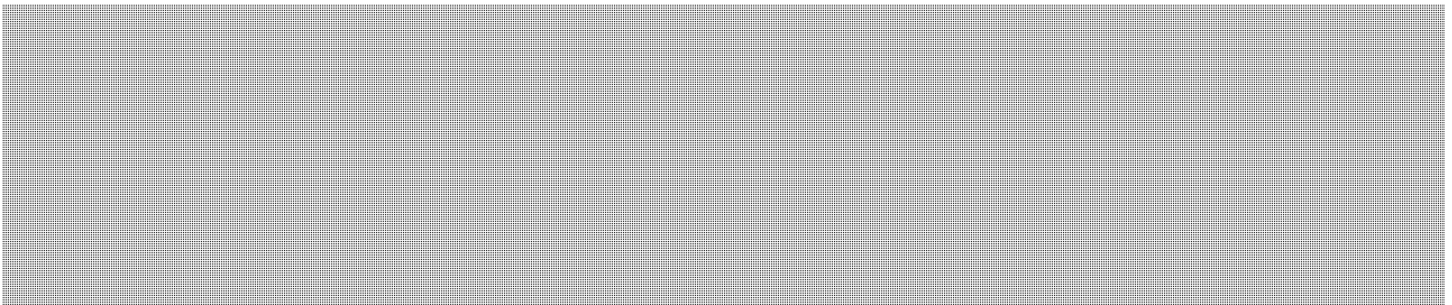
- We do not advertise any of the services mentioned.
- You hold a permit or license related to any of the above-mentioned money services business activities.
- We are currently registered as an MSB. This is what we are looking to change as we do not do the activities as described in the PCMLTF Act.
- You are registered as someone carrying on any of the above-mentioned money services business activities.
- We are currently registered as an MSB. This is what we are looking to change as we do not do the activities as described in the PCMLTF Act.
- You report the income of any of the above-mentioned money services business activities as income from a separate business for tax purposes.
- We are currently registered as an MSB. This is what we are looking to change as we do not do the activities as described in the PCMLTF Act.

Exceptions

You are not considered a money services business in the following situations:

- if you conduct money services business activities **solely as an agent or mandatory** for another business that is a money services business; or
- if you carry out money services business activities as part of other activities for which you are already subject to the PCMLTFA and regulations.
- We are not an agent/mandatory. We thought we were considered an MSB. Based upon verbal discussions with our last FINTRAC examiner as well as guidance on reporting EFTo/EFTi, as well as the fact that Bill payment is not considered an activity as per guidance from Lisa Douglas, we do not consider that we fall in the MSB definition. All transactions are now handled domestically in Canada. Our FX Broker/Wire agents handle all payments that are sent outside of Canada. We no longer receive wires into Canada that are related to MSB type of activities.

Best regards,



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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: August-27-15 11:56 AM
To: Dixon, Joseph
Subject: MSB Status - [REDACTED]
Attachments: RE: MSB Status

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Hi Joseph,

I'm writing further to your request for a policy interpretation submitted on August 11, 2015, on behalf of [REDACTED] where it appears you are seeking a determination as to whether they should remain registered or not based on the arguments they provided.

As you know, MSBs have the obligation to be registered with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Unfortunately, the information provided in the e-mail from [REDACTED] is not sufficient enough for us to have a clear understanding of their business activities in order to determine whether they are still engaged as an MSB. Therefore, could you please obtain and provide additional information about the services [REDACTED] offers. A business model detailing their activities with clients from start to finish would be helpful. It appears they offer settlement services between buyers and merchants, which may be considered an MSB activity, however we need confirmation of this.

Also, [REDACTED] states that the FX Broker/Wire agents handle the payments sent outside of Canada and that they have no EFT reporting requirements, however it is unclear whether this activity may render the entity as an MSB. So it may be helpful if you could also obtain and provide more information on the foreign transactions conducted by [REDACTED] through the FX Broker/Wire agents. If you have had prior discussions with [REDACTED] on this matter and can provide some context, that may also be helpful. I attempted to clarify this matter through the contact events in [REDACTED] however it seems the information about these particular transactions may not have been documented.

Additionally, because [REDACTED] believes that "bill payment" is not considered an MSB activity, I must mention that FINTRAC has previously taken the position, and continues to uphold the position that persons or entities engaged in the business of utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the "remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network", are not considered to be MSBs because they are not engaged in the business of remitting or transmitting funds for the sake of the service. The transfer of funds is simply a corollary of their actual service, which is payment processing. Therefore, offering "bill payment" services does not exclude an entity from being an MSB, unless those payment services are specifically identified above.

I'll await the additional information from you.

Thanks in advance,

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Stephanie Stoddart

Compliance Officer | Agente de conformité
Policy Interpretation | Interprétation des politiques
Regional Operations & Compliance | Opérations régionales et conformité
Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du
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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: October-13-15 8:53 AM
To: Salvador, Ryan
Subject: RE: clarification on 'affiliate' credit unions

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Hi Ryan,

I am writing further to the request from [REDACTED] submitted on July 14, 2015, where [REDACTED] has asked for clarification as to whether Class B & C members of [REDACTED] may be considered affiliates when using the affiliate method to ascertain identity.

Pursuant to subclause 64(1)(b)(i)(A)(III) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), a financial entity may ascertain the identity of a person not physically present when the account is opened, the credit card application is submitted, the trust is established, the client information record is created or the transaction is conducted, by obtaining the person's name, address, and date of birth and confirming that another entity, subject to the Act, that is a member of the same association as the entity ascertaining the ID of the person, has identified the person by referring to their birth certificate, driver's licence, provincial health card (where not prohibited), passport, or other similar document. The financial entity must also verify that the name, address, and date of birth in the record kept by the member entity corresponds to the information provided by the person.

Paragraph 64(1.21)(b) of the PCMLTFR further clarifies that for the purpose of 64(1)(b)(i) "a credit union central and each of its members that is a financial entity are considered to be members of the same association".

Therefore, [REDACTED] should be made aware that it is only when financial entities are members of [REDACTED] that they are considered to be members of the same association. As members of the same association, the affiliate method may be used amongst all class members.

I trust this information will be of assistance.

Kind regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: Tuesday, July 14, 2015 11:44:52 AM
To: guidelines-lignesdirectrices
Subject: clarification on 'affiliate' credit unions
Auto forwarded by a Rule

Hi

I am working with four [redacted] to review and improve their policies and procedures. We recently have implemented using 'affiliate' credit unions to ascertain identity of individuals. It is my understanding, that all Class A members [redacted] credit unions) of [redacted] are considered affiliates. However, we would like clarification on Class B & C members of [redacted]

The compliance experts at [redacted] provided the following information, which does not address Class B & C membership:

The Regs and the guidance and they're both silent:

- PCMLTFR s.64(1)(b)(i)(A)(III), provides that another credit union can ascertain the individual's identity provided the other credit union, "is a member of the same association", but "member" is not defined.
- FINTRAC 6G doesn't elaborate on what it means to be a member.

FINTRAC interpretation, but note the date of the answer is 2008

"286. Non Face To Face ID- Co-member- Credit Unions from different provinces

Question:

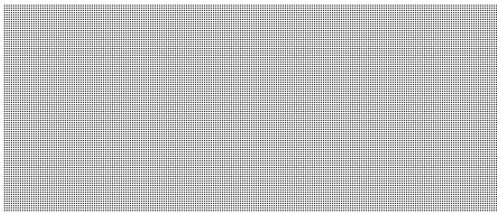
64(1)(b)(i)(A)(III) (III) an entity that is a member of the same association - being a central cooperative credit society as defined in section 2 of the Cooperative Credit Associations Act- as the entity ascertaining the identity of the person, and Question: When the Credit Union identifies a client by contacting a credit union in another province - is this considered "by association" even though we do not share the same Credit Union Central? All Credit Union Centrals belong to the Credit Union Central of Canada

Answer:

In regards to your question, the answer is no a [redacted] could not use a [redacted] by association. At this time, the only exception to this would be [redacted] because their respective Centrals merged - so the CUs are now part of the same association). In other words they can rely on credit unions members of the same provincial association. Date Answered: 2008-07-15"

Please provide an update to this interpretation to include Class B & C members of [redacted] as credit unions in provinces other than [redacted] can become members of [redacted] also advised that financial entities other than credit unions can become members of [redacted] (Class C members).

I will be out of the office starting July 16th, returning on August 4th.



Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: October-16-15 8:26 AM
To: Guthrie, Monique
Subject: RE: FINTRAC Query - non-deposit accounts

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Hi Monique,

I am writing further to the request for a policy interpretation you submitted on September 21, 2015, on behalf of [REDACTED]. In the request, [REDACTED] has referenced Guideline 4: Implementation of a Compliance Regime and has asked what is meant by the term “Non-deposit account services” used in Appendix 1. Please be advised that Guideline 4 has recently been updated and this reference no longer exists. The update was made to complement the information provided in the Risk-Based Approach Guide.

Nevertheless, the term “non-deposit account services” was previously used in Guideline 4 to identify financial services that are not guaranteed and carry an amount of risk for the investor. Examples include common shares, surplus shares, preferred shares, mutual funds, and self-administered RRSPs that are not deposits. The Canada Deposit Insurance Corporation (CDIC), and other provincial deposit insurers, guarantee eligible deposits made with member institutions and typically do not insure non-deposit products. For more information visit the CDIC website <http://www.cdic.ca/Coverage/Pages/default.aspx>.

Ultimately, it is for a reporting entity to know whether it offers these types of services or not.

Best regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: September-21-15 10:24 AM
To: Guthrie, Monique
Cc: [REDACTED]
Subject: RE: FINTRAC Query

Hi Monique

In FINTRAC Appendix 1 there is a reference to Non-deposit account services (for example, non-deposit investment products and insurance)

This reference is listed under “Financial Entities”. The other questions/considerations in this section clearly suggest these matters pertain to a bank or a trust company

The sole product we market/distribute are conventional mutual/pooled funds so I suspect that non-deposit investment products have no application to us—but am wanting to be 100% certain.

Once this matter addressed our amended written policies and procedures for AML will be complete

Regards
[REDACTED]

From: Guthrie, Monique [mailto:Monique.Guthrie@fintrac-canafe.gc.ca]
Sent: Monday, September 21, 2015 9:21 AM
To: [REDACTED]
Subject: RE: FINTRAC Query

Hello [REDACTED]

I wanted to provide you with a brief update regarding your request. We are in the process of providing you with a written policy interpretation regarding non-deposit accounts . However, in order to provide a more comprehensive response, we wanted to clarify if your organization has a specific product or service that you would like us to address in our response. If so, we would like to request that you send an email outlining all the relevant details of the product/service; this information will assist us in determining whether or not the particular product is considered a “non-deposit account service”.

Please let me know if you have any questions.

Regards,

Monique Guthrie

Compliance Officer, Central Region | Agente de conformité, Région du Centre
monique.guthrie@fintrac-canafe.gc.ca
Financial Transactions Reports Analysis Centre of Canada (FINTRAC) |
Centre d'analyse des opérations et déclarations financières du Canada (CANAFE)
200 King St West, Suite 1906, Box 61
Toronto, ON M5H 3T4
Tel: 416-952-0106
Government of Canada | Gouvernement du Canada

From: [REDACTED]
Sent: September-15-15 11:04 AM
To: Guthrie, Monique
Cc: [REDACTED]
Subject: FINTRAC Query

Hi Monique—following up on a voice mail I left you recently
In appendix 1 of Guideline # 4 could you please clarify what is meant by : Do you offer Non-deposit account services (for example, non-deposit investment products and insurance)?

Thanks
[REDACTED]

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: November-03-15 2:11 PM
To: Low, Kim
Subject: RE: [REDACTED]

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Loi sur l'accès à l'information

Hi Kim,

I am writing further to your request for a policy interpretation submitted on October 1, 2015, on behalf of [REDACTED] where you have described a series of international transactions and have asked whether [REDACTED] has any electronic funds transfer (EFT) reporting obligations associated. Specifically, you indicate that in order to conduct a foreign exchange transaction on behalf of a client (ABC), [REDACTED] will instruct the client to transfer one type of funds to [REDACTED] account held with a financial entity in the US. Once the funds are received, [REDACTED] will use its account held at a financial entity in Canada to transfer Canadian dollars to its client's account held with a financial entity in Canada. You also indicate that occasionally, ABC's client will transfer one type of funds from its account held at a financial entity within or outside of Canada to [REDACTED] account held at a financial entity in the US. Again, once the funds are received, [REDACTED] uses its account held at a financial entity in Canada to transfer Canadian dollars to complete the foreign exchange transaction.

As you know, subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) defines EFT as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Subsection 28(1) of the PCMLTFR further specifies that every money services business (MSB) must report the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be, as well as the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5.

For this reason, we have said in the past that to be reportable an EFT must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

As such, it appears that in the majority of situations, when [REDACTED] receives funds to its US account and transfers the equivalent Canadian amount from its account in Canada to ABC's account in Canada, it is not receiving client initiated instructions for the transfer of funds, nor is it transmitting client initiated instructions for the transfer of funds across our border. Instead, [REDACTED] appears to conduct the foreign exchange transactions by reconciling its own accounts within and outside of Canada. As such, [REDACTED] has no EFT-related reporting obligations associated with these transactions and it is the financial entities involved that are the reporting entities responsible for providing EFT reports to FINTRAC.

However, we note that [REDACTED] could have EFT related obligations when they transmit client-initiated instructions in the instance where ABC's client pays ABC for work completed.

I trust this information will be of assistance.

Kind regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: Low, Kim
Sent: October-01-15 8:10 PM
To: Boudreault, Alain
Cc: Lafontaine, Camille; Stoddart, Stephanie
Subject: Axiom Foreign Exchange International

Hi Alain,

Below is a string of emails from a reporting entity, [REDACTED] who is asking about their reporting obligations for a scenario.

Here is a summary of the scenario:

ABC is a client of [REDACTED] ABC wants to conduct a foreign exchange transaction (conversion of Euros to Canadian dollars). In order for this transaction to proceed, [REDACTED] advises ABC to wire the Euros to [REDACTED] account in the USA. Therefore, ABC will advise its bank in Canada to wire the funds to [REDACTED] account at [REDACTED] in USA. Alternatively, it is possible that ABC's client may advise its bank to wire the funds to [REDACTED] account in the USA, and the client's account may or may not be in Canada. ([REDACTED] advised that "ABC bank would typically be in Canada but in the event they are being paid for work completed by a client then their bank would be outside of Canada.")

Once the money is received in [REDACTED] account at [REDACTED] the equivalent funds in Canadian dollars is released to ABC. Specifically, [REDACTED] would wire the Canadian equivalent from [REDACTED] account in Canada to ABC's bank account in Canada. [REDACTED] also advises that it sells the Euros to [REDACTED] for every transaction.

Question:

Does [REDACTED] have any reporting obligations? I have discussed this with my colleagues, and there is difference of opinions. We have looked at the scenarios you had provided during PI training, and scenario 5 and 13 were possibilities.

Thanks for your assistance. I will be setting up a work item. Please let me know if you need further clarification and I can contact the RE.

Kim

From: [REDACTED]
Sent: September-30-15 10:36 AM
To: Low, Kim
Cc: [REDACTED]
Subject: RE: Reporting wires

Hi Kim,

1) [REDACTED] would sell its Euros every transaction

However we would like to understand all scenarios for these accounts.

From: [REDACTED]
Sent: Wednesday, September 30, 2015 11:29 AM
To: [REDACTED]
Subject: FW: Reporting wires

From: Low, Kim [mailto:Kim.Low@fintrac-canafe.gc.ca]
Sent: Wednesday, September 30, 2015 11:28 AM
To: [REDACTED]
Subject: RE: Reporting wires

Hi [REDACTED]

You have advised that [REDACTED] would sell its Euros held at [REDACTED] account at [REDACTED] in USA to [REDACTED] and receive Canadian funds. [REDACTED] would then request [REDACTED] in USA to send the Canadian Funds to [REDACTED] account in Canada.

Does [REDACTED] sell its Euros to [REDACTED]

- 1) for every transaction, that is, each time ABC wants to convert Euros to Canadian, or
- 2) when a number of transactions have occurred (which could be for ABC or other [REDACTED] clients) and aggregates these transactions before [REDACTED] sell its Euros to [REDACTED]?

Please provide a response and add any additional details that you believe would be helpful.

Regards,

Kim Low

Compliance Officer | Agent de la conformité
Western Regional Office | Bureau régional de l'ouest
kim.low@fintrac-canafe.gc.ca | kim.low@canafe-fintrac.gc.ca
Telephone | Téléphone 604-666-8221

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations
financières du Canada

1120-1185 West Georgia Street, Vancouver, BC V6E 4E6 | 1120, 1185 rue Georgia ouest, Vancouver, (C-B.), V6E 4E6

From: [REDACTED]
Sent: September-29-15 1:02 PM
To: Low, Kim
Subject: FW: Reporting wires

Yes this is a correct scenario. The Euros would then be sold to [REDACTED] and would come out of our [REDACTED] account and [REDACTED] would fund our Canadian account.

From: [REDACTED]
Sent: Friday, September 25, 2015 1:35 PM
To: [REDACTED]
Subject: Fwd: Reporting wires

Sent from my iPhone

Begin forwarded message:

From: "Low, Kim" <Kim.Low@fintrac-canafe.gc.ca>
Date: September 25, 2015 at 1:10:02 PM MDT
To: [REDACTED]
Subject: RE: Reporting wires

Hi [REDACTED]

I recap the scenario with changes based on your input so far:

ABC is a client of [REDACTED] ABC wants to conduct a foreign exchange transaction (conversion of Euros to Canadian dollars). In order for this transaction to proceed, your company advises ABC to wire the Euros to [REDACTED] bank account in the USA. ABC will advise its bank in Canada to wire the funds to [REDACTED] account at [REDACTED] in USA. Alternatively, it is possible that ABC's client may advise its bank to wire the funds to [REDACTED] account in the USA, and the client's account may or may not be in Canada.

Once the money is received in [REDACTED] account at [REDACTED] the equivalent funds in Canadian dollars is released to ABC. Specifically, [REDACTED] would wire the Canadian equivalent from [REDACTED] account in Canada to ABC's bank account in Canada.

1. Is the above recap correct?
2. For this transaction, is there a settlement between [REDACTED] account and [REDACTED] Canadian account? That is, is there a transfer of funds from the [REDACTED] account to the [REDACTED] account for this transaction, or a bulk transfer (for an aggregation of several similar transactions)?

Regards,

Kim Low

Compliance Officer | Agent de la conformité
Western Regional Office | Bureau régional de l'ouest
kim.low@fintrac-canafe.gc.ca | kim.low@canafe-fintrac.gc.ca
Telephone | Téléphone 604-666-8221
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1120-1185 West Georgia Street, Vancouver, BC V6E 4E6 | 1120, 1185 rue Georgia ouest, Vancouver,
(C-B.), V6E 4E6
Facsimile | Télécopieur 604-666-8106
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From: [REDACTED]
Sent: September-22-15 9:30 AM
To: Low, Kim
Subject: RE: Reporting wires

Questions

1. Yes this is correct
2. It would be only abc company I some instances it maybe the company who is paying abc the euros for work that was completed.
3. ABC bank would typically be in Canada but in the even they are being paid for work completed by a client then there bank would be outside of Canada.
4. When [REDACTED] converts the euro at [REDACTED] would send cad from [REDACTED] Canada to abc

From: Low, Kim [<mailto:Kim.Low@fintrac-canafe.gc.ca>]
Sent: Tuesday, September 22, 2015 10:25 AM
To: [REDACTED]
Subject: RE: Reporting wires

Hi [REDACTED]

Based on your emails below, my understanding is as follows:
ABC wants to conduct a foreign exchange transaction (conversion of Euros to Canadian dollars). In order for this transaction to proceed, your company advises ABC to wire the Euros to [REDACTED] bank account in the USA. Once the money is received in [REDACTED] account at [REDACTED] the equivalent funds in Canadian dollars is released to ABC.

I have some additional questions:

1. Please confirm that the above recap is correct and add additional information that you feel may be helpful.
2. Is ABC the only party to this transaction? That is, there is no other beneficiary or third party involved in this transaction?
3. When ABC is wiring Euros from its bank account to ██████████ bank account in the USA (██████████) what country is ABC's bank located?
4. When ██████████ is sending the equivalent Canadian dollars to ABC, is the money being sent from ██████████ bank in the USA? AND, are the Canadian equivalent funds being sent to ABC's bank account – and if yes, which country is ABC's bank account located?

Regards,

Kim Low

Compliance Officer | Agent de la conformité
Western Regional Office | Bureau régional de l'ouest
kim.low@fintrac-canafe.gc.ca | kim.low@canafe-fintrac.gc.ca
Telephone | Téléphone 604-666-8221
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Facsimile | Télécopieur 604-666-8106
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From: ██████████
Sent: September-22-15 7:26 AM
To: Low, Kim
Subject: RE: Reporting wires

Kim,

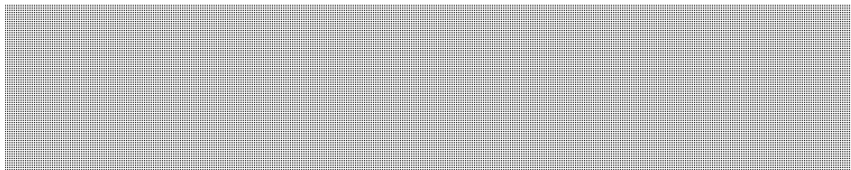
It is our bank in the USA ██████████ no monies have been wired there as of yet. If the client wires EURO's to our US ██████████ we convert the EURO to CAD then w wire CAD to the client in Canada what are obligations? I spoke to FINCEN yesterday they told me we do NOT need to submit a report for the incoming wire. I know we submit a report if those Euro were wired to Canada.

Here is scenario:

Client: ABC in Calgary calls ██████████ fx want to send 50kEURO to ██████████ tells ABC to Wire those funds to US BANK ██████████ Once Wire is in ██████████ converts 50kEURO @ market for CAD ██████████ Wires CAD from ██████████ to ABC in Calgary.

I hope this helps

Can you please help me with what ██████████ obligations are on this transaction.



From: Low, Kim [mailto:Kim.Low@fintrac-canafe.gc.ca]

Sent: Monday, September 21, 2015 6:18 PM

To: [REDACTED]

Subject: RE: Reporting wires

Hi [REDACTED]

In order to answer your question, we require more information. It would be helpful if you could provide details of your client's instructions and the flow through of funds and all banks that are involved and the location of the bank (in Canada or outside Canada), and indicate the bank account owners (do the accounts involved belong to your client or to your company.) It might also be helpful if you provide the scenario(s).

Regards,

Kim Low

Compliance Officer | Agent de la conformité

Western Regional Office | Bureau régional de l'ouest

kim.low@fintrac-canafe.gc.ca | kim.low@canafe-fintrac.gc.ca

Telephone | Téléphone 604-666-8221

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Facsimile | Télécopieur 604-666-8106

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From: [REDACTED]

Sent: September-21-15 8:32 AM

To: Low, Kim

Cc: [REDACTED]

Subject: Reporting wires

Kim,

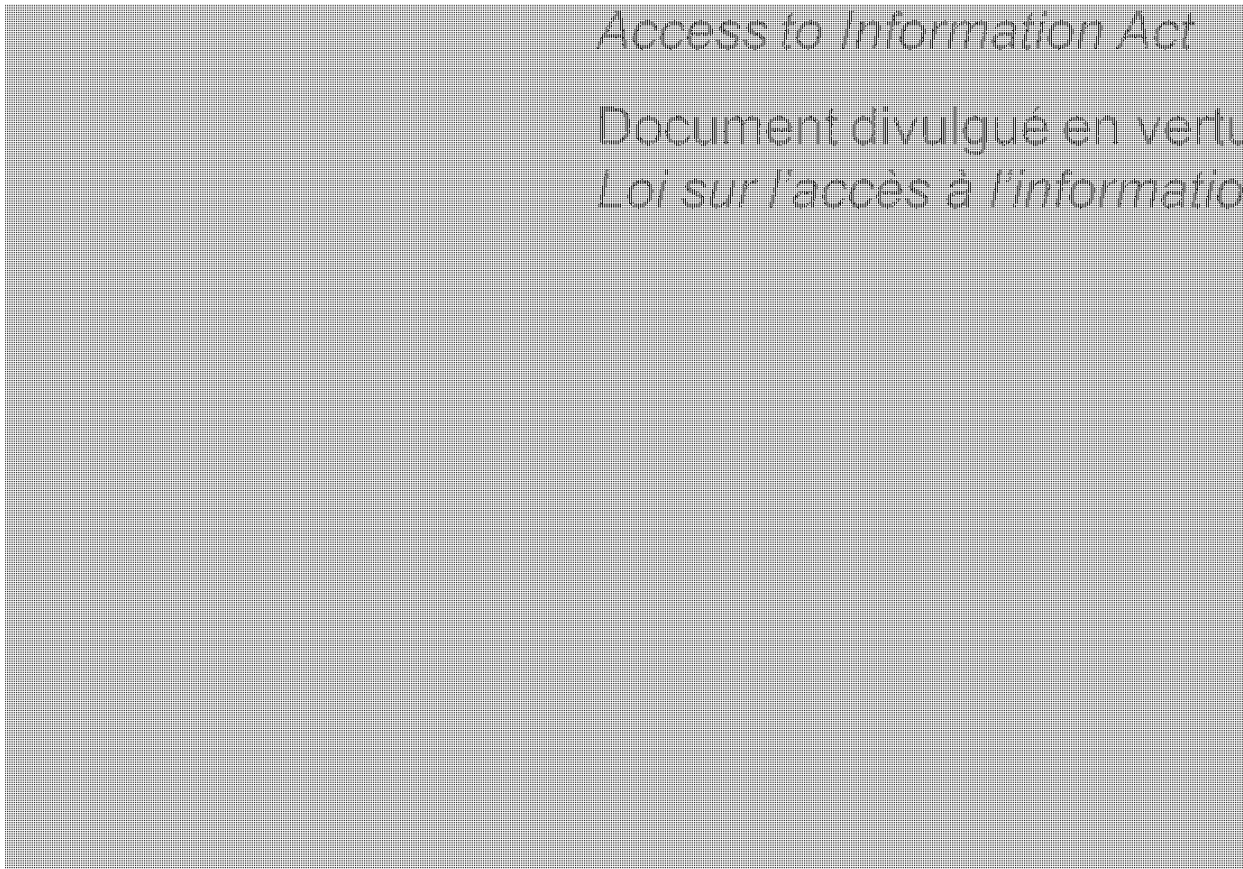
I hope all is well.

I just needed some clarification. We have opened up a [REDACTED] account in the USA. When our Canadian clients wire or have their clients wire funds such as EUR/GBP/JPY what are the reporting regulation to FINTRAC? We report INCOMING WIRE that come to our [REDACTED] Accounts in Canada and we just wanted clarification on what our requirements to FINTRAC are? When the wire out [REDACTED] USA bank?

Have a wonderful day

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: December-10-15 11:16 AM
To: [REDACTED]
Subject: RE: Payment processing business

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Loi sur l'accès à l'information

Dear [REDACTED]

Thank you again for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of November 23, 2015, where you outlined your client's activities and asked for a determination as to whether your client needs to be registered as a money services business (MSB) with FINTRAC.

MSBs have the obligation to register with FINTRAC and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

However, as you have indicated, FINTRAC has previously taken the position, and continues to uphold the position that persons or entities engaged in the business of utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the "remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network", are not considered to be MSBs because they are not engaged in the business of remitting or transmitting funds for the sake of the service. The transfer of funds is simply a corollary of their actual service, which is payment processing. It will always be a question of facts to determine whether a business is engaged in payment processing activities.

The information you provided about your client, specifically that they will facilitate payments between merchants and consumers for the online purchase of goods or services using what appears to be pre-authorized debits, indicates that your client will not be engaged as an MSB in Canada. Specifically, you state that "If a Merchant's Customer chooses to pay the Merchant for goods or services via online bank account debit, the Merchant will present the Customer with a request for an authorization for the Payment Processor to debit the Customer's Canadian bank account for the dollar amount of the transaction agreed to with the Merchant." Accepting pre-authorized debit payments is not considered to be the same as remitting or transmitting funds at the request of a client. Therefore, your client does not appear to be engaged in any of the MSB activities listed in the bullet points above.

Should your client's business model change in the future to expand beyond offering pre-authorized debit payment services, we would appreciate you contacting us again so that we may review and reassess our determination to reflect any new facts.

Also, for your information, I am providing you with the link to the FINTRAC Interpretation Notice, FIN 1, <http://www.fintrac-canafe.gc.ca/publications/FINS/2008-05-20-eng.asp>, which provides guidance regarding who is an MSB for the purposes of Part 1 and Part 1.1 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA).

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

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Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: Monday, November 23, 2015 3:20:48 PM
To: MSB-ESM Registration
Subject: RE: Payment processing business
Auto forwarded by a Rule

CONFIDENTIAL

MSB Registration Unit

Attention: Daniel

This is further to our discussion on Thursday November 19th. I understand that this information will not be made public. If it is necessary to publish any information regarding this matter, I would appreciate if you could let me know so that we can appropriately limit the information to be made public.

I understand that FinTRAC takes the view that entities that are engaged in the business of payment processing services that involve remitting or transmitting funds are not considered to be money services businesses (**MSBs**) and therefore are not required to be registered because they are not engaged in the business of money transfer. I am looking for clarification as to which activities require registration and which activities do not.

As requested, the following is a description of my client's service offering:

My client is a payment processor (I will refer to it here as the "**Payment Processor**"). It provides payment processing services to merchants who wish to offer their customers (each a "**Customer**") an option to pay online for goods and/or services using the Customer's Canadian bank account. I will refer to each merchant who has contracted with the Payment Processor for services as a "**Merchant**".

The Payment Processor provides services only to Merchants. It does not offer any services to Customers. The Payment Processor provides the following services to Merchants, as described in more detail below:

- online transaction risk management;
- transaction status and risk reporting;
- obtaining payment authorizations and submitting payment instructions on Merchant's behalf; and
- return and reconciliation services if payments are returned or rejected.

The Payment Processor has contractual arrangements in place with its financial institution which permit it to submit such instructions for payment on behalf of Merchants. Many merchants do not have such arrangements in place and are therefore unable to participate as payees in the Canadian Payments Association's automated funds transfer system without the assistance of a payment processor.

If a Merchant's Customer chooses to pay the Merchant for goods or services via online bank account debit, the Merchant will present the Customer with a request for an authorization for the Payment Processor to debit the Customer's Canadian bank account for the dollar amount of the transaction agreed to with the Merchant.

Once the Customer has provided his or her authorization, the Merchant sends a payment instruction to the Payment Processor via the Payment Processor's online interface.

Following receipt of a payment instruction from a Merchant, the Payment Processor, using its proprietary software, assists the Merchant to mitigate the risk associated with online payments (due to Customers not being present with the Merchant). In particular, the Payment Processor assists the Merchant to verify the Customer's identity, location, address, as well as bank account information and ownership. This service reduces the risks that payments will be returned, rejected or charged back to the Merchant.

Following completion of the risk mitigation process, the Payment Processor submits payment instructions to its financial institution to debit the Customer's bank account for the agreed transaction dollar amount.

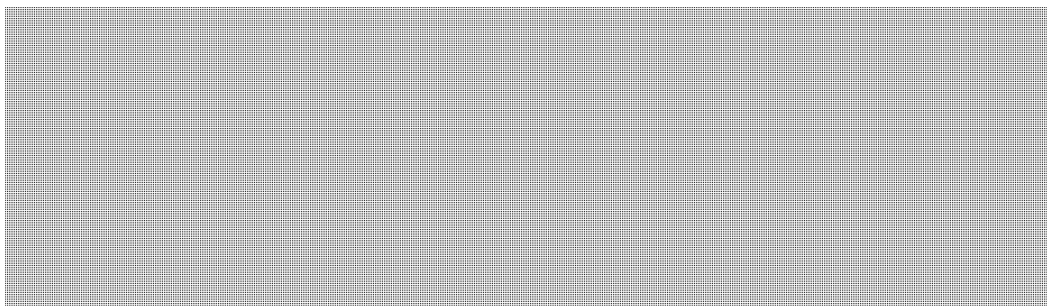
The Payment Processor transfers funds (once cleared and after deducting its fees) to the Merchant via wire transfer.

My understanding is that the Payment Processor's services are very similar to those provided by credit card merchant acquirers and other payment processors that FinTRAC has determined are not required to be registered as MSBs. As such, I would appreciate if you could advise whether the Payment Processor as described above is be required to be registered as an MSB. I would also appreciate if you could clarify which specific factors inform your analysis so that I can understand the distinction between activities that require registration and those that do not.

I would appreciate an early response.

Please let me know if you have any questions.

Regards,



From: MSB-ESM Registration [<mailto:msb-esm@fintrac-canafe.gc.ca>]
Sent: November-18-15 3:00 PM
To: [REDACTED]
Subject: Payment processing business

Good afternoon [REDACTED]

This is to answer your telephone request of November 5, 2015 regarding obligations with FINTRAC and businesses engaged in payment processing.

To determine if businesses engaged in payment processing is considered a MSB, FINTRAC needs to see a business model. The policy interpretation team will look at the written model and send back an email response.

You can send the business model in responding to this email address.

Regards,

MSB Registration Unit/Unité des inscriptions ESM

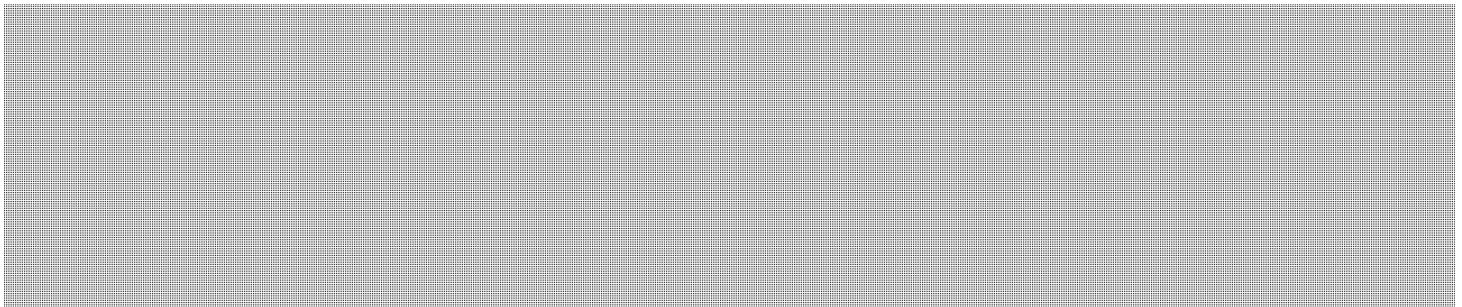
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Email | Courriel MSB-ESM@Fintrac-Canafe.gc.ca

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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: December-15-15 2:08 PM
To: [REDACTED]
Subject: RE: EFT Reporting Clarification

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Dear [REDACTED]

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of November 25, 2015, where you have provided two scenarios and asked for a determination regarding the electronic funds transfer (EFT) reporting obligations of each scenario.

Pursuant to subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR), EFT is defined as "the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included."

Subsection 12(1) of the PCMLTFR further specifies that every financial entity must report the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be, as well as the sending out of Canada, at the request of a client, of an EFT of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5.

For this reason, we have said in the past that to be reportable an EFT must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

Regarding the first scenario, you indicate that a client cashes a cheque at a foreign financial institution and the foreign financial institution requests the Canadian financial institution to submit a wire to settle the cheque. As such, it appears there are no client initiated instructions for the transfer of funds transmitted across the border and therefore no reportable EFT takes place.

For the second scenario, you state that a Canadian financial institution reverses an EFT that it receives because it cannot confirm the beneficiary for whom it was intended. Given that it appears the Canadian financial institution received client initiated instructions for the transfer of funds transmitted across our border, an incoming EFT (EFTI) must be reported and Part B of the report should contain information on the original ordering client who provided the instructions to transmit the funds to a beneficiary in Canada. An outgoing EFT (EFTO) is not required as the returned transaction does not constitute a reportable EFT, as per the definition, since it is not sent at the request of a client.

I trust this information will be of assistance.

Best regards,

Stephanie Stoddart

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du
Canada
Government of Canada | Gouvernement du Canada
234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa, ON K1P 1H7

Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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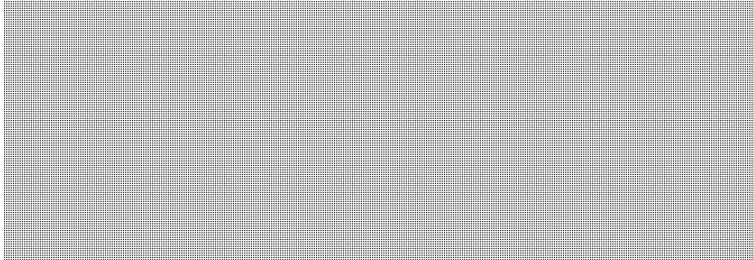
From: [REDACTED]
Sent: Wednesday, November 25, 2015 9:17:05 AM
To: guidelines-lignesdirectrices
Subject: EFT Reporting Clarification
Auto forwarded by a Rule

Good morning,

I would like to request clarification on two EFT reporting scenarios:

1. Where an FI's customer send a cheque to be cashed at a foreign FI, and the foreign FI requests a wire in order to settle the cheque and an EFTO is reported: is the ordering client in Part B the FI's customer, or the foreign FI?
2. Where an FI receives an EFT, but cannot confirm the customer/account for whom the EFT is intended and reverses the transaction, are both EFTO and EFTI reporting required? If so, what information must be included in Part B (ordering client information)?

Thank you,



Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: December-23-15 10:46 AM
To: [REDACTED]
Subject: RE Question to FINTRAC

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Loi sur l'accès à l'information

Dear [REDACTED]

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the collection, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your e-mail of December 14, 2015, where you have outlined questions concerning the proposed amendments to the regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* published on July 4, 2015, more specifically you are seeking clarification on the definition of Politically Exposed Domestic Person.

As you may know, these changes will only come into force one year after registration. Once the amendments are in force, FINTRAC will be in a position to provide guidance to help interpret any amendments. This guidance is often published in advance of a coming into force date and is available on FINTRAC's website. The provided guidance may address the questions you have raised; however, should you continue to have questions, we could address them in writing at that time.

Best regards,

Julie Rozon

Senior Compliance Officer | Agente principale de conformité
Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du
Canada
234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa, ON K1P 1H7
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From: [REDACTED]
Sent: Monday, December 14, 2015 11:11:00 AM
To: MSB-ESM Registration
Subject: Question to FINTRAC - from [REDACTED]
Auto forwarded by a Rule

As discussed, attached is a question for FINTRAC on proposed legislation relating to politically exposed domestic person. Look forward to hearing back.

Regards,
[REDACTED]

[REDACTED]

Orchowski, Julia (FINTRAC/CANAFE)

From: Rozon, Julie (FINTRAC/CANAFE)
Sent: December-23-15 10:27 AM
To: Leclerc, Julie (FINTRAC/CANAFE)
Subject: RE: Questions additionnelles - Télévirements
Attachments: Processus des paiements pour [REDACTED].docx

Bonjour Julie,

Je vous remercie d'avoir obtenu l'information supplémentaire. Il importe de préciser qu'il n'y a pas de déclaration en double, c'est-à-dire que les messages non-SWIFT transmis par l'entremise du réseau SWIFT ne sont pas transmis deux fois comme une opération non-SWIFT et une opération SWIFT. C'est une bonne chose.

Pour répondre à votre question de ce qui doit être déclaré, comme vous le savez, selon le paragraphe 1(2) du *Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes* (le *Règlement*), un télévirement s'entend de la transmission — par voie électronique, magnétique ou optique ou au moyen d'un appareil téléphonique ou d'un ordinateur — d'instructions pour un transfert de fonds, à l'exclusion du transfert de fonds à l'intérieur du Canada. Dans le cas de messages SWIFT, seuls les messages SWIFT MT 103 sont visés par la présente définition.

Le paragraphe 12(1) du *Règlement* indique également que toute entité financière doit déclarer la réception de télévirement de l'étranger, à la demande du client, de 10 000 \$ ou plus au cours d'une seule opération, et joindre à la déclaration les renseignements prévus aux annexes 3 ou 6, selon le cas, ainsi que la transmission d'un télévirement à l'étranger, à la demande du client, d'un télévirement de 10 000 \$ ou plus au cours d'une seule opération, et joindre à la déclaration les renseignements prévus aux annexes 2 ou 5.

Pour cette raison, nous avons mentionné par le passé que le télévirement doit être déclaré si les conditions suivantes sont remplies :

- si le client en a fait la demande;
- s'il s'agit de la transmission à l'étranger d'instructions pour transférer des fonds (ne s'applique donc pas s'il s'agit d'un transfert de fonds d'une région canadienne vers une autre région canadienne).

Bien qu'il s'agisse toujours d'une question de fait de savoir si un télévirement doit être déclaré ou non, selon les renseignements fournis, [REDACTED] transmet, semble-t-il, peut-être des opérations qui ne doivent pas être déclarées, notamment les messages SWIFT MT101 et MT102. Selon la définition de télévirement, seuls les messages SWIFT MT 103 doivent être déclarés. Dans le document Word ci-joint, les scénarios 4 et 5 prévoient l'utilisation de messages SWIFT MT 101 et MT 102. Ces télévirements ne doivent donc pas être déclarés.

De plus, il semble que des déclarations SWIFT soient transmises pour des opérations non-SWIFT. En particulier, [REDACTED] signale que « les paiements indiqués par les chiffres 2 et 3 sont des paiements qui ne sont pas de format MT103 et sont échangés par en lot sur le réseau Swift ». Par conséquent, ces opérations doivent être déclarées comme un télévirement non-SWIFT.

Enfin, le scénario 1 semble être une opération transmise au moyen d'un message MT 103 du réseau SWIFT. Par conséquent, elle doit être déclarée comme une opération SWIFT.

J'espère que cette information vous sera utile.

Sincères salutations,

Julie Rozon

Senior Compliance Officer | Agente principale de conformité
Regional Operations & Compliance | Opérations régionales et conformité
Email | Courriel : policy-interpretation-politique@fintrac-canafe.gc.ca
Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada
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From: [REDACTED]
Sent: December-09-15 8:44 AM
To: Leclerc, Julie (FINTRAC/CANAFE)
Cc: [REDACTED]
Subject: RE: Questions additionnelles - Télévirements

Bonjour Julie,

Tel que demandé voici quelques explications supplémentaires (et je retourne le diagramme des processus de paiement de [REDACTED])

Question a) Oui, les paiements indiqués par les chiffres 2 et 3 sont des paiements qui ne sont pas de format MT103 et sont échangés par en lot sur le réseau Swift.

Question b) Non aucune duplication, maintenant avec les modifications misent en place au mois de novembre tous les MT103 (paiement de type 1) sont déclarés comme Swift et tous les autres sont déclarés sont Non-Swift.

Pour ce qui du commentaire « [REDACTED] semble déclarer des messages MT101 et MT102, qui ne sont pas « déclarables » en vertu de la Loi. Pourquoi?« [REDACTED] interprète que les Swift sont des MT103 et que tout paiement international (télévirement) qui n'est pas un MT103 est un non-Swift .

Si nous comprenons bien le sens de ta question, les paiements internationaux échangés sur le réseau Swift qui ne sont pas des MT103, ne devraient pas être déclarés.

Donc le tableau de déclaration de [REDACTED] devrait être le suivant :

Paiement de type 1	À déclarer sous Swift
Paiement de type 2	Pas sujet à déclaration
Paiement de type 3	Pas sujet à déclaration
Paiement de type 4	À déclarer sous non-Swift

Païement de type 5

À déclarer sous non-Swift

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Svp confirmer ou infirmer notre compréhension,

Bonne journée

De : Leclerc, Julie (FINTRAC/CANAFE) [<mailto:Julie.Leclerc@fintrac-canafe.gc.ca>]

Envoyé : 8 décembre 2015 09:07

À : [REDACTED]

Cc : Nathalie Richard

Objet : Questions additionnelles - Téléversements

Bonjour [REDACTED]

Alors, voici des questions additionnelles (en mauve) suite aux réponses fournies par [REDACTED] sur les téléversements:

Scénario 2

- Est-ce que ces transactions sont effectuées à la demande d'un client? OUI
- Qui transmet les instructions au correspondant via SWIFT? [REDACTED]
- Est-ce que ces transactions sont ultimement traitées par [REDACTED] via le réseau SWIFT (après le clearing via ACH)? [REDACTED] produit un fichier en format ACH qu'elle transmet via le réseau SWIFT vers son correspondant bancaire américain.

Scénario 3

- Est-ce que ces transactions sont effectuées à la demande d'un client? OUI
- Pouvez-vous expliquer le Fileact (102) format? [REDACTED] produit un fichier en format FIN qu'elle transmet via le réseau SWIFT vers ses correspondants bancaire étranger.
- Qui transmet ces instructions au correspondant via SWIFT? [REDACTED]

- a. Nous comprenons donc que les transactions dans les scénarios 2 et 3 sont des transactions non-SWIFT qui sont acheminées via le réseau SWIFT? Est-ce bien cela?
- b. Est-ce que ces transactions sont déclarées 2 fois (non-SWIFT et SWIFT)?

Afin de confirmer à nouveau, [REDACTED] semble déclarer des messages MT101 et MT102, qui ne sont pas « déclarables » en vertu de la Loi. Pourquoi?

Encore une fois merci pour votre temps et patience.

Julie Leclerc

Agente principale de conformité/Senior Compliance Officer
CANAFE/FINTRAC
Bureau régional de l'Est, Montréal/Eastern Regional Office Montreal
800, boul. René Lévesque Ouest, Suite 1105,
Montréal (Québec) H3B 1X9
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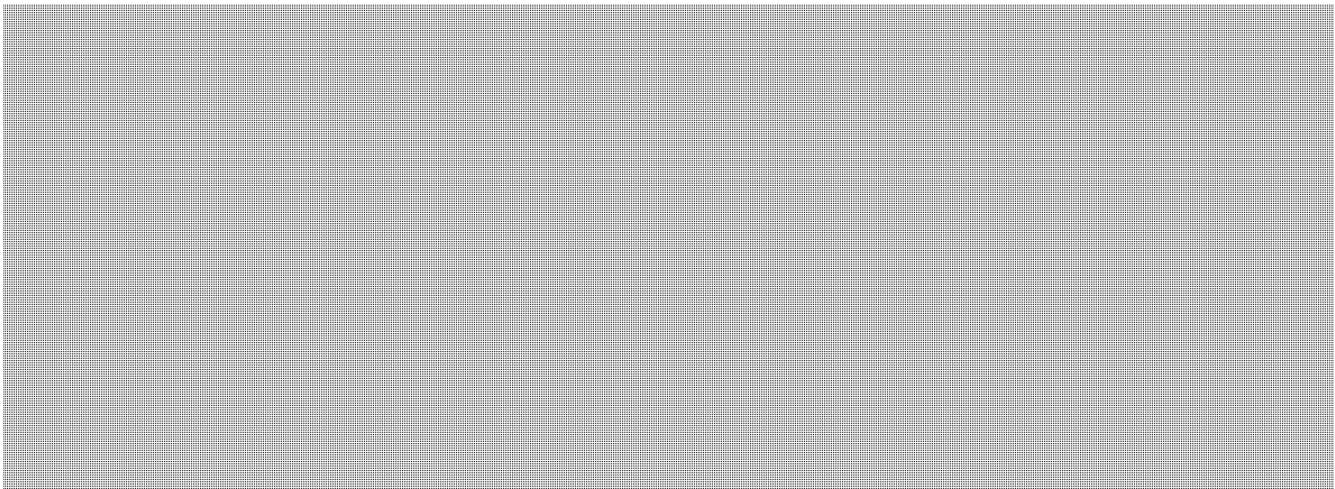
From: [REDACTED]
Sent: December-03-15 3:18 PM
To: Leclerc, Julie
Cc: Nathalie Richard
Subject: Téléversements et [REDACTED]

Bonjour Julie,

Je vérifiai si tu avais eu un retour sur nos petites questions de [REDACTED] et Téléversements.

De notre côté nous avons déployé en production le module de corrections avant déclaration pour les téléversements Swift et non-Swift et automatisé les déclarations Non-Swift (sauf pour le incoming non-Swift, environ 4 transactions/semaine, échéance début 2016). Une nette amélioration devrait être perceptible de votre côté.

Bonne journée



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**is withheld pursuant to section
est retenue en vertu de l'article**

20(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**

Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: July-27-15 9:10 AM
To: Martineau, Nathalie
Cc: Douglas, Lisa; Wilson, Yuklin; Beach, Geron
Subject: RE: EFT (Wire) Scenarios and request for statement of facts
Attachments: FW: EFT (Wire) Scenarios and request for statement of facts; #540833-PI_REPLY_-_MSB_-_EFT_Scenarios_vs__FX_Transactions.MSG.DRF

Hi Nathalie,

As mentioned in our previous reply, subsection 28(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) indicates that every money services business (MSB) shall report the sending out of Canada, at the request of a client, of an electronic funds transfer (EFT) of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be, as well as the receipt from outside Canada of an EFT, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.

Furthermore, subsection 1(2) of the PCMLTFR defines an EFT as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada”.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

The additional information provided by [REDACTED] clarifies that, in addition to the foreign exchange transactions it conducts for clients it also conducts EFTs when it transmits or accepts the transmission of client initiated instructions for the transfer of funds across the Canadian border and the threshold is met, as indicated in the latter part of our previous reply. These transactions do not appear to fall into the category of payment processing and are therefore reportable. I have reviewed each scenario below in green.

Feel free to contact me if you have any additional questions.

Thanks,

Stephanie Stoddart

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada
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234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7

Email | Courriel Policy-Interpretation-Politique@fintrac-canafe.gc.ca

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From: [REDACTED]
Sent: Tuesday, June 30, 2015 1:09 PM

To: 'Martineau, Nathalie'
Cc: Kelly, Kimberly; Douglas, Lisa; Wilson, Yuklin
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Hi Nathalie,

I am happy to respond to your questions and requests for clarification below (answers in black).

If you have any questions, or need further clarification, please do not hesitate to contact me.

Thanks

From: Martineau, Nathalie [mailto:Nathalie.Martineau@fintrac-canafe.gc.ca]

Sent: Tuesday, June 23, 2015 2:18 PM

To: [REDACTED]

Cc: Kelly, Kimberly; Douglas, Lisa; Wilson, Yuklin

Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Good morning [REDACTED]

We are just about ready to finalize the policy interpretation to send out to you and your organization, addressing the Scenarios and statements of facts in you re-mail below (March 27, 2015).

I do have a few clarifying questions for you, and I have included them in red in your e-mail below.

Please let me know if you have any questions.

Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régional

Major Reporters and Compliance Analytics | Entités déclarantes majeures et activités d'analyse de la conformité

Nathalie.Martineau@fintrac-canafe.gc.ca

Telephone | Téléphone 416-973-2013



Financial Transactions and Reports
Analysis Centre of Canada

Centre d'analyse des opérations
et déclarations financières du Canada

200 King Street West, Toronto, ON, M5H 3T4 | 200 Rue King Ouest, Toronto, ON M5H 3T4

Facsimile | Télécopieur 416-952-0134

Government of Canada | Gouvernement du Canada

From: [REDACTED]

Sent: March-27-15 3:11 PM

To: Martineau, Nathalie

Cc: Kelly, Kimberly; Douglas, Lisa

Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Hi Nathalie,

I apologize for the delay in getting all the scenarios to you, but as a wholesale provider, the complexity of our settlements is far greater than a "traditional" MSB and describing them in detailed simple language has proven to take longer than I had hoped.

1. The vast majority of our clients conduct multiple trades each day for settlement dates out as far as one year. (Can you please provide a description of the purpose of the trade/trade transaction? Is the trade transaction strictly a currency conversion, or are you facilitating the payment from a client to a third party as well? Please provide an example) [REDACTED] response – [REDACTED] conduct two primary types of transactions. The first transaction we conduct is a currency conversion, for example a company in Canada has received payment in USD and needs to convert the USD to CAD to cover operational costs. In this type of transaction, the converted funds are returned to the company that requested the currency conversion. More than 95% of our transactions would fall under this category. The second transaction we conduct is also a currency conversion, but [REDACTED] would facilitate payment on behalf of a client to a third party, for example a company needs to buy a piece of equipment from Germany but does not have a EURO account. The client would contact [REDACTED] to convert CAD (or USD) to EUR and then instruct [REDACTED] to pay the EUR to their supplier (ie ABC Engine Company in Germany). Roughly 5% of our transaction would fall under the third party payment scenario. On any given settlement date the client's trades are netted together to arrive at a single settlement figure for each currency traded. In addition, clients often send margin in with wires they send to us, or request return of margin with their daily settlement when we are instructed to wire out to the client account. As such there is no practical way for [REDACTED] to provide a specific exchange rate for a given settlement.

I am pleased to supply the Request For Information as follows;

1. Scenarios
 - A. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert revenue received in USD to CAD to cover Canadian operational costs. Purpose of the trade is currency conversion.

No reportable EFT as this scenario does not appear to involve the transmission of instructions across the Canadian border.

- B. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert revenue received in USD to EUR to cover European operational costs. Or client wants to convert revenue received in USD to EUR to pay for a piece of equipment purchased in Europe. We would consider both of these transactions to be third party payments if the name on the beneficiary bank account was different from the company name on our account opening documents. Purpose of the trade is currency conversion.

[REDACTED] must report an EFTO, as it transmits client-initiated instructions to an international bank.

- C. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert funds from EUR to CAD for one of their clients. Purpose of the trade is currency conversion.

[REDACTED] must report an EFTI, as it receives client-initiated instructions from an international bank.

- D. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert funds from EUR to USD for one of their clients. Purpose of the trade is currency conversion.

[REDACTED] must report an EFTI and an EFTO, as it receives client-initiated instructions from an international bank and transmits client-initiated instructions to an international bank.

- E. Client remits funds from Canada to [REDACTED] to be used as margin for trading purposes.
F. Client remits funds from an International bank to [REDACTED] to be used as margin for trading purposes.
G. [REDACTED] send funds from Canada to client at a Canadian bank – return of margin.
H. [REDACTED] send funds from an International bank to client at a Canadian bank – return of margin.
I. [REDACTED] send funds from Canada to client at an International bank – return of margin
J. [REDACTED] send funds from an International bank to client at an International bank – return of margin.

[REDACTED] states in section 8 that for G through J “ordering clients are permitted to keep funds on account at [REDACTED] and should the ordering client instruct [REDACTED] to make a payment to a third party using excess funds on account, [REDACTED] will fulfill that request of the ordering client”. Therefore, it is possible for EFTOs to occur as a result of these scenarios, when the ordering client requests that a payment be made, so long as the recipients are outside of Canada and the thresholds are met; however, this will always be a question of facts.

- K. Client remits funds from Canada to [REDACTED] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert USD to CAD and have the CAD sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.

No reportable EFT as this scenario does not appear to involve the transmission of instructions across the Canadian border.

- L. Client remits funds from Canada to [REDACTED] send funds to a lawyer in trust paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert USD to EUR and have the EUR sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.

[REDACTED] must report an EFTO, as it transmits client-initiated instructions to an international bank.

- M. Client remits funds from an International bank to [REDACTED] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert EUR to CAD and have the CAD sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.

[REDACTED] must report an EFTI, as it receives client-initiated instructions from an international bank.

- N. Client remits funds from an International bank to [REDACTED] send funds to a lawyer paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert EUR to USD and have the USD sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.

██████████ must report an EFTI and an EFTO, as it receives client-initiated instructions from an international bank and transmits client-initiated instructions to an international bank.

██████████ have both corporations and MSB's as clients. There have been instances when ██████████ have made a third party payment on behalf of an MSB. My intention is that such a situation has been covered by scenarios A through D.

To the best of my knowledge, on a couple of occasions over the past 5 years, ██████████ have conducted a trade for a client and that client has asked ██████████ to make an outgoing wire to a lawyer in trust – typically to close a real estate deal. These situations have been summarized in scenarios K through N.

2. Full statement of facts – For scenarios A through D inclusive the **flow of the instructions** would be as follows;

- I. ██████████
- II. ██████████
- III. ██████████
- IV. ██████████

3. Full statement of facts – For scenarios E & F the **flow of the instructions** would be as follows;

- I. ██████████
- II. ██████████

III.

IV.

4. Full statement of facts – For scenarios G through J inclusive the **flow of the instructions** would be as follows;

I.

5. Full statement of facts – For scenarios K through N inclusive the **flow of the instructions** would be as follows;

I.

II.

III.

IV.

6. Full statement of facts – For scenarios A through D inclusive the **flow of funds** would be as follows;

I.

II.

III.

IV.

7. Full statement of facts – For scenarios E & F the **flow of funds** would be as follows;

I.

II.

III.

8. Full statement of facts – For scenarios G through J inclusive the **flow of funds** would be as follows;

I.

II.

III.

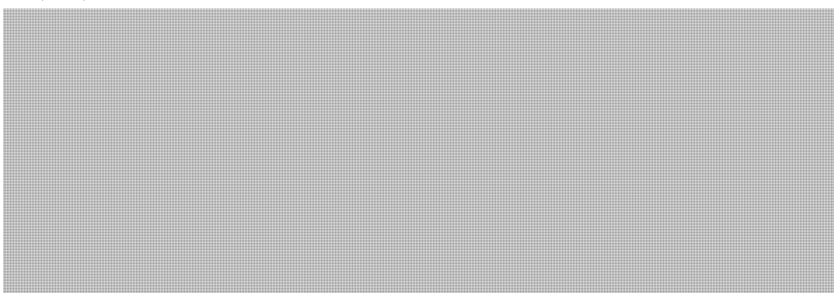
9. Full statement of facts – For scenarios K through N inclusive the **flow of funds** would be as follows;


- I. 
- II. 
- III. 
- IV. 

I have sent a courier package with the applicable pages from our AML P&P's regarding the Education and Compliance Training that we provide our employees.


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

Thanks



From: Martineau, Nathalie [<mailto:Nathalie.Martineau@fintrac-canafe.gc.ca>]
Sent: Thursday, March 12, 2015 12:41 PM
To: 
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: EFT (Wire) Scenarios and request for statement of facts

Good morning 

During our examination last Friday, we had identified that  does in fact (a) send out of Canada, at the request of clients, electronic funds transfers (EFTs) of \$10,000 or more in the course of a single transaction or under the 24 hour rule, and (b) receive from outside of Canada electronic funds transfers, sent at the request of clients, of \$10,000 or more in the course of a single transaction or under the 24 hour rule (see PCMLTFR ss. 28.(1)(b) and ss. 28.(1)(c)).

It was previously understood by [REDACTED] that the organization was absolving themselves of their reporting requirements as they were providing the sender's name and address (for outgoing EFTs) to a Canadian Financial Institution, who was ultimately sending the instructions outside of Canada (see PCMLTFR ss. 28.(3)). However, during our onsite visit, it was confirmed that the 'sender's name and address' provided to the Canadian Financial Institutions was in fact [REDACTED] name and address. In addition, it was confirmed that, for incoming EFTs, the Canadian Financial Institution receiving the EFT from a person or entity outside of Canada, for a beneficiary in Canada, is in fact not receiving the name and address of that ultimate beneficiary, but the name and address of [REDACTED]

Please note that an EFT is defined as "the transmission – through any electronic, magnetic or optical device, telephone instrument or computer – of instructions for the transfer of funds, other than the transfer of funds within Canada."

The letter from FINTRAC to the organization on January 29, 2015 requested that the organization make certain documents and records available for review at the location being examined by either having copies ready in advance, or by providing access to the originals.

These records included a request for all records for the remittance or transmission of **\$1,000 or more up to \$9,999.99 CAD equivalent** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive. These records also included a request for all records for the remittance or transmission of **\$10,000 CAD equivalent or more** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive.

As these records were not prepared in advance of FINTRAC's arrival onsite, we requested a list of all EFTs **\$1,000 or more up to \$9,999.99 CAD equivalent** as well as a list of all EFTs **\$10,000 CAD equivalent or more**, incoming and outgoing to be separated. From this list, we selected a sample of [REDACTED] outgoing EFTs over \$10,000.00 CAD equivalent, and a sample of [REDACTED] incoming EFTs over \$10,000.00 CAD equivalent, for which we requested the original records, including the client's profile information and the wire instructions.

During the process of compiling this list, you sought clarification on what would constitute an EFT, and what would not. For example, you explained that certain EFTs appeared straightforward, where a client would be providing instructions to [REDACTED] to pay off a supplier or pay an invoice in a foreign currency to a beneficiary in a foreign country (via an outgoing wire). However, certain scenarios presented were not as straightforward. For example, you explained that you hold money for clients in a margin account, and clients will pay into this margin (by way of an incoming wire) to cover the losses incurred by [REDACTED] if [REDACTED] covers a trade for the client at a loss. Because some of these scenarios were a bit more ambiguous, I requested that, for each applicable transaction in the scope period, you list out the various scenarios that apply, and that you provide a full statement of facts for each scenario. Please find details of this request below.

Request for Information

Please provide the following information via e-mail:


- 1) Please provide a list of all scenarios that apply all EFT transactions \$10,000 CAD equivalent or more (incoming and outgoing wires) during the examination scope period. In other words, please ensure that each transaction present on the list provided during the examination falls under a scenario described in your reply.
- 2) For each scenario that applies, please provide a full statement of facts, including the following:
 - a. A complete and detailed description of the flow of the **instructions** for the transfer from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).
 - b. A complete and detailed description of the flow of **funds** for the transfer, from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).

In addition to the above, we are still awaiting the copies of the original records (including client profile information and full wire instructions from the client and to the Canadian Financial Institution) for the [REDACTED] EFTs sampled during the examination. We are likewise still awaiting the additional copies of the policies and procedures that relate to the compliance training program, as well as the FX records made available to us towards the end of the day last Friday.

Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régional
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Orchowski, Julia (FINTRAC/CANAFE)

From: Policy-Interpretation
Sent: June-22-15 2:10 PM
To: Martineau, Nathalie
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

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Loi sur l'accès à l'information

Dear Nathalie,

I am writing further to the scenarios provided by [REDACTED]. However, at this time, instead of going through each of them, I am going to provide general comments.

As you know, subsection 28(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR) indicates, every money services business shall report the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be, as well as the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be. Furthermore, subsection 1(2) of the PCMLTFR defines an electronic funds transfer as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada”.

For this reason, we have said in the past that to be reportable an electronic funds transfer must be:

- client initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

Based on all of the above, [REDACTED] does not appear to be conducting electronic funds transfer transactions. [REDACTED] is not transmitting instructions to transfer funds across the Canadian border. [REDACTED]s, in fact, conducting a foreign exchange transaction for which they are being paid via EFT. They are not the entity asked by a client to send or receive the EFT, but merely a beneficiary thereof.

That said, as a foreign exchange transaction, [REDACTED] would be required to keep a transaction ticket, as outlined in subsection 30(f) of the PCMLTFR and identify the client, subject to subsection 63(1) and in accordance with subsection 64(1).

Conversely, in the instances when [REDACTED] was asked by a client to transfer funds outside of Canada to, as an example, “a lawyer in trust”, this may constitute a reportable EFT if the threshold is met. However, this type of transfer of funds would not be reportable if they fall within the category of payment processing. As you know, we have said in the past that utility payments, payroll and commission services, mortgage and rent payment services, and certain tuition payment services, that involve the “remitting or transmitting of funds by any means or through any person, entity or electronic funds transfer network”, are not reportable EFTs.

Please do not hesitate to contact me should you have any questions or concerns.

Thanks,

A

Alain Boudreault

Team Leader | Chef d'équipe

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations
financières du Canada

234 Laurier Avenue West, Ottawa, ON K1P 1H7 | 234, avenue Laurier Ouest, Ottawa ON K1P 1H7

Telephone | Téléphone 613-943-4451

Cellphone | Portable [REDACTED]

Facsimile | Télécopieur 613-943-7931

Email | Courriel Alain.Boudreault@fintrac-canafe.gc.ca

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The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

From: [REDACTED]
Sent: March-27-15 3:11 PM
To: Martineau, Nathalie
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Hi Nathalie,

I apologize for the delay in getting all the scenarios to you, but as a wholesale provider, the complexity of our settlements is far greater than a "traditional" MSB and describing them in detailed simple language has proven to take longer than I had hoped.

The vast majority of our clients conduct multiple trades each day for settlement dates out as far as one year. On any given settlement date the client's trades are netted together to arrive at a single settlement figure for each currency traded. In addition, clients often send margin in with wires they send to us, or request return of margin with their daily settlement when we are instructed to wire out to the client account. As such there is no practical way for [REDACTED] to provide a specific exchange rate for a given settlement.

I am pleased to supply the Request For Information as follows;

1. Scenarios

- A. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction.
- B. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction.
- C. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction.
- D. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction.
- E. Client remits funds from Canada to [REDACTED] to be used as margin for trading purposes.
- F. Client remits funds from an International bank to [REDACTED] to be used as margin for trading purposes.
- G. [REDACTED] send funds from Canada to client at a Canadian bank – return of margin.
- H. [REDACTED] send funds from an International bank to client at a Canadian bank – return of margin.

- I. [redacted] send funds from Canada to client at an International bank – return of margin
- J. [redacted] send funds from an International bank to client at an International bank – return of margin.
- K. Client remits funds from Canada to [redacted] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction.
- L. Client remits funds from Canada to [redacted] send funds to a lawyer in trust paid to an International bank. These wires are to settle a spot or forward transaction.
- M. Client remits funds from an International bank to [redacted] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction.
- N. Client remits funds from an International bank to [redacted] send funds to a lawyer paid to an International bank. These wires are to settle a spot or forward transaction.

[redacted] have both corporations and MSB's as clients. There have been instances when [redacted] have made a third party payment on behalf of an MSB. My intention is that such a situation has been covered by scenarios A through D.

To the best of my knowledge, on a couple of occasions over the past 5 years, [redacted] have conducted a trade for a client and that client has asked [redacted] to make an outgoing wire to a lawyer in trust – typically to close a real estate deal. These situations have been summarized in scenarios K through N.

2. Full statement of facts – For scenarios A through D inclusive the **flow of the instructions** would be as follows;

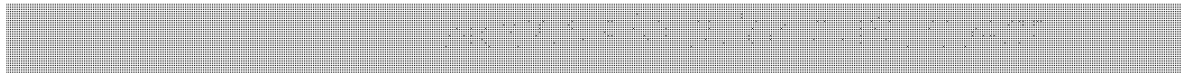
- I. [redacted]
- II. [redacted]
- III. [redacted]
- IV. [redacted]

3. Full statement of facts – For scenarios E & F the **flow of the instructions** would be as follows;

- I. [redacted]
- II. [redacted]
- III. [redacted]
- IV. [redacted]

4. Full statement of facts – For scenarios G through J inclusive the **flow of the instructions** would be as follows;

I.



5. Full statement of facts – For scenarios K through N inclusive the **flow of the instructions** would be as follows;

I.

II.

III.

IV.



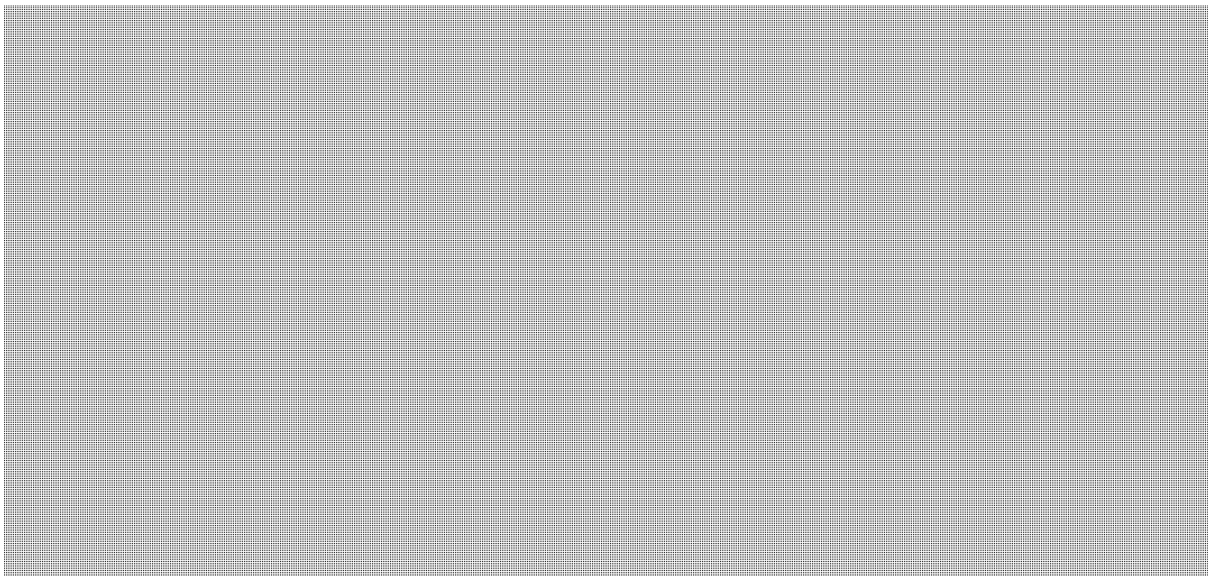
6. Full statement of facts – For scenarios A through D inclusive the **flow of funds** would be as follows;

I.

II.

III.

IV.

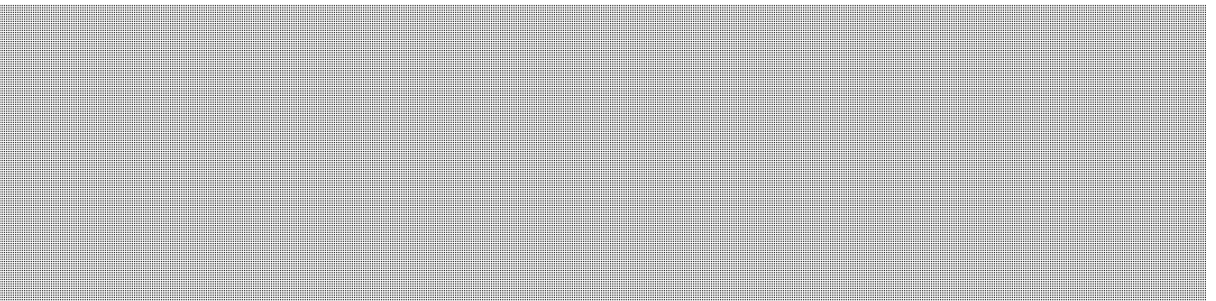


7. Full statement of facts – For scenarios E & F the **flow of funds** would be as follows;

I.

II.

III.



8. Full statement of facts – For scenarios G through J inclusive the **flow of funds** would be as follows;

- I.
- II.
- III.

Access to Information Act

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9. Full statement of facts – For scenarios K through N inclusive the **flow of funds** would be as follows;

- I.
- II.
- III.
- IV.

I have sent a courier package with the applicable pages from our AML P&P's regarding the Education and Compliance Training that we provide our employees.

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

Thanks

From: Martineau, Nathalie [<mailto:Nathalie.Martineau@fintrac-canafe.gc.ca>]
Sent: Thursday, March 12, 2015 12:41 PM
To: [REDACTED]
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: EFT (Wire) Scenarios and request for statement of facts

Good morning [REDACTED]

During our examination last Friday, we had identified that [REDACTED] does in fact (a) send out of Canada, at the request of clients, electronic funds transfers (EFTs) of \$10,000 or more in the course of a single transaction or under the 24 hour rule, and (b) receive from outside of Canada electronic funds transfers, sent at the request of clients, of \$10,000 or more in the course of a single transaction or under the 24-hour rule (see PCMLTFR ss. 28.(1)(b) and ss. 28.(1)(c)).

It was previously understood by [REDACTED] that the organization was absolving themselves of their reporting requirements as they were providing the sender's name and address (for outgoing EFTs) to a Canadian Financial Institution, who was ultimately sending the instructions outside of Canada (see PCMLTFR ss. 28.(3)). However, during our onsite visit, it was confirmed that the 'sender's name and address' provided to the Canadian Financial Institutions was in fact [REDACTED] name and address. In addition, it was confirmed that, for incoming EFTs, the Canadian Financial Institution receiving the EFT from a person or entity outside of Canada, for a beneficiary in Canada, is in fact not receiving the name and address of that ultimate beneficiary, but the name and address of [REDACTED]

Please note that an EFT is defined as "the transmission – through any electronic, magnetic or optical device, telephone instrument or computer – of instructions for the transfer of funds, other than the transfer of funds within Canada."

The letter from FINTRAC to the organization on January 29, 2015 requested that the organization make certain documents and records available for review at the location being examined by either having copies ready in advance, or by providing access to the originals.

These records included a request for all records for the remittance or transmission of **\$1,000 or more up to \$9,999.99 CAD equivalent** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive. These records also included a request for all records for the remittance or transmission of **\$10,000 CAD equivalent or more** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive.

As these records were not prepared in advance of FINTRAC's arrival onsite, we requested a list of all EFTs **\$1,000 or more up to \$9,999.99 CAD equivalent** as well as a list of all EFTs **\$10,000 CAD equivalent or more**, incoming and outgoing to be separated. From this list, we selected a sample of [REDACTED] outgoing EFTs over \$10,000.00 CAD equivalent, and a sample of [REDACTED] incoming EFTs over \$10,000.00 CAD equivalent, for which we requested the original records, including the client's profile information and the wire instructions.

During the process of compiling this list, you sought clarification on what would constitute an EFT, and what would not. For example, you explained that certain EFTs appeared straightforward, where a client would be providing instructions to [REDACTED] to pay off a supplier or pay an invoice in a foreign currency to a beneficiary in a foreign country (via an outgoing wire). However, certain scenarios presented were not as straightforward. For example, you explained that you hold money for clients in a margin account, and clients will pay into this margin (by way of an incoming wire) to cover the losses incurred by [REDACTED] if [REDACTED] covers a trade for the client at a loss. Because some of these scenarios were a bit more ambiguous, I requested that, for each applicable transaction in the scope period, you list out the various scenarios that apply, and that you provide a full statement of facts for each scenario. Please find details of this request below.

Request for Information

Please provide the following information via e-mail:

- 1) Please provide a list of all scenarios that apply all EFT transactions \$10,000 CAD equivalent or more (incoming and outgoing wires) during the examination scope period. In other words, please ensure that each transaction present on the list provided during the examination falls under a scenario described in your reply.
- 2) For each scenario that applies, please provide a full statement of facts, including the following:


- a. A complete and detailed description of the flow of the **instructions** for the transfer from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).
- b. A complete and detailed description of the flow of **funds** for the transfer, from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).

In addition to the above, we are still awaiting the copies of the original records (including client profile information and full wire instructions from the client and to the Canadian Financial Institution) for the [REDACTED] EFTs sampled during the examination. We are likewise still awaiting the additional copies of the policies and procedures that relate to the compliance training program, as well as the FX records made available to us towards the end of the day last Friday.

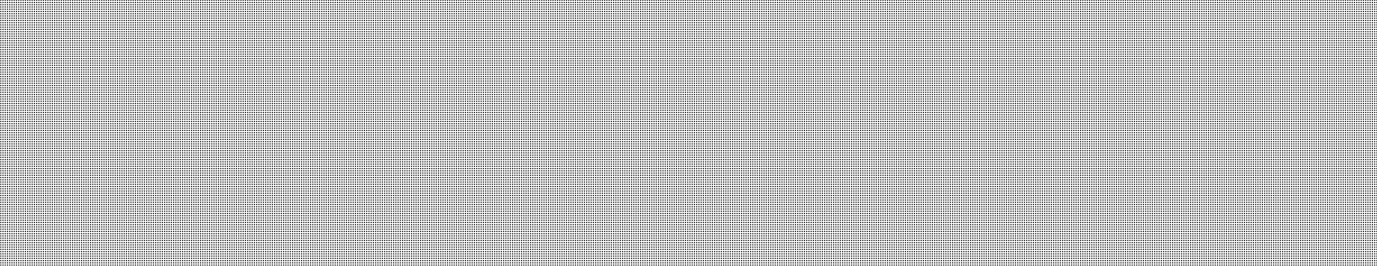
Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régional
Major Reporters and Compliance Analytics | Entités déclarantes majeures et activités d'analyse de la conformité
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Orchowski, Julia (FINTRAC/CANAFE)

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From: Martineau, Nathalie
Sent: June-30-15 1:51 PM
To: Boudreault, Alain
Cc: Stoddart, Stephanie; Wilson, Yuklin; Douglas, Lisa
Subject: FW: EFT (Wire) Scenarios and request for statement of facts


Good afternoon Alain,

Below, you will find [REDACTED] response to the additional questions I sent to the Compliance Officer. Let me know if these responses satisfy, for you, some of the outstanding questions we had following our discussion or if you are in need of further clarification. I have assigned a new task in [REDACTED]

Thanks again!

Nathalie Martineau

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From: Martineau, Nathalie
Sent: June-30-15 1:50 PM
To: [REDACTED]
Cc: Kelly, Kimberly; Douglas, Lisa; Wilson, Yuklin
Subject: RE: EFT (Wire) Scenarios and request for statement of facts


Thank you very much for your e-mail [REDACTED]

I will be in touch once the response is formalized in light of the additional information provided.

Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régionale
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From: [REDACTED]
Sent: June-30-15 1:09 PM
To: Martineau, Nathalie
Cc: Kelly, Kimberly; Douglas, Lisa; Wilson, Yuklin
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Hi Nathalie,

I am happy to respond to your questions and requests for clarification below (answers in black).

If you have any questions, or need further clarification, please do not hesitate to contact me.

Thanks

From: Martineau, Nathalie [<mailto:Nathalie.Martineau@fintrac-canafe.gc.ca>]
Sent: Tuesday, June 23, 2015 2:18 PM
To: [REDACTED]
Cc: Kelly, Kimberly; Douglas, Lisa; Wilson, Yuklin
Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Good morning [REDACTED]

We are just about ready to finalize the policy interpretation to send out to you and your organization, addressing the Scenarios and statements of facts in you re-mail below (March 27, 2015).


I do have a few clarifying questions for you, and I have included them in red in your e-mail below.

Please let me know if you have any questions.

Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régional
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Facsimile | Télécopieur 416-952-0134
Government of Canada | Gouvernement du Canada

From: [REDACTED]
Sent: March-27-15 3:11 PM
To: Martineau, Nathalie

Cc: Kelly, Kimberly; Douglas, Lisa

Subject: RE: EFT (Wire) Scenarios and request for statement of facts

Hi Nathalie,

I apologize for the delay in getting all the scenarios to you, but as a wholesale provider, the complexity of our settlements is far greater than a "traditional" MSB and describing them in detailed simple language has proven to take longer than I had hoped.

1. The vast majority of our clients conduct multiple trades each day for settlement dates out as far as one year. (Can you please provide a description of the purpose of the trade/trade transaction? Is the trade transaction strictly a currency conversion, or are you facilitating the payment from a client to a third party as well? Please provide an example) [REDACTED] response – [REDACTED] conduct two primary types of transactions. The first transaction we conduct is a currency conversion, for example a company in Canada has received payment in USD and needs to convert the USD to CAD to cover operational costs. In this type of transaction, the converted funds are returned to the company that requested the currency conversion. More than 95% of our transactions would fall under this category. The second transaction we conduct is also a currency conversion, but [REDACTED] would facilitate payment on behalf of a client to a third party, for example a company needs to buy a piece of equipment from Germany but does not have a EURO account. The client would contact [REDACTED] to convert CAD (or USD) to EUR and then instruct [REDACTED] to pay the EUR to their supplier (ie ABC Engine Company in Germany). Roughly 5% of our transaction would fall under the third party payment scenario. On any given settlement date the client's trades are netted together to arrive at a single settlement figure for each currency traded. In addition, clients often send margin in with wires they send to us, or request return of margin with their daily settlement when we are instructed to wire out to the client account. As such there is no practical way for [REDACTED] to provide a specific exchange rate for a given settlement.

I am pleased to supply the Request For Information as follows;

1. Scenarios
 - A. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert revenue received in USD to CAD to cover Canadian operational costs. Purpose of the trade is currency conversion.
 - B. Client remits funds from Canada to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert revenue received in USD to EUR to cover European operational costs. Or client wants to convert revenue received in USD to EUR to pay for a piece of equipment purchased in Europe. We would consider both of these transactions to be third party payments if the name on the beneficiary bank account was different from the company name on our account opening documents. Purpose of the trade is currency conversion.
 - C. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert funds from EUR to CAD for one of their clients. Purpose of the trade is currency conversion.
 - D. Client remits funds from an International bank to [REDACTED] send funds to client, or a third party, paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [REDACTED] Response – Client wants to convert funds from EUR to USD for one of their clients. Purpose of the trade is currency conversion.
 - E. Client remits funds from Canada to [REDACTED] to be used as margin for trading purposes.

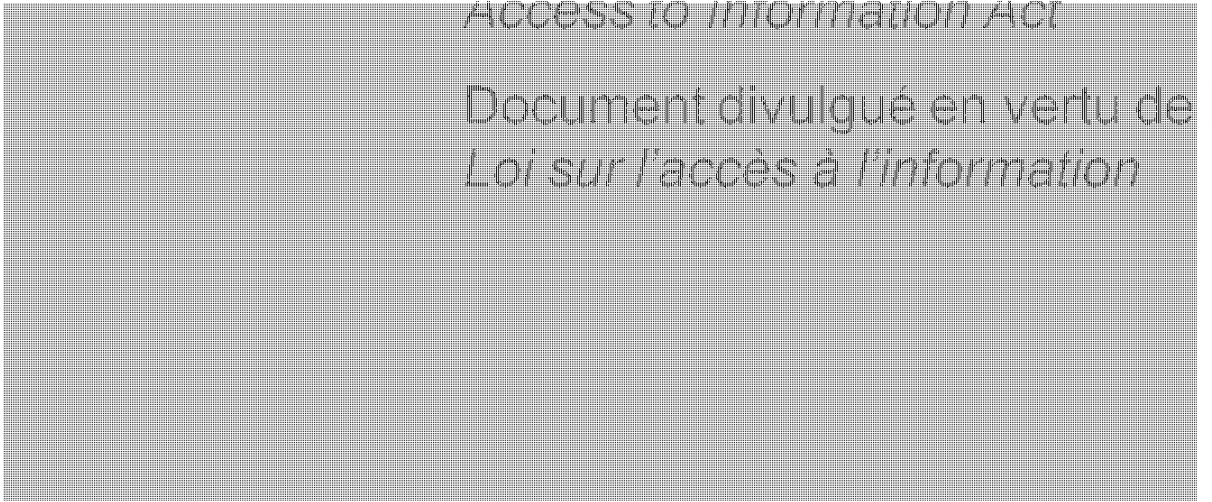
- F. Client remits funds from an International bank to [redacted] to be used as margin for trading purposes.
- G. [redacted] send funds from Canada to client at a Canadian bank – return of margin.
- H. [redacted] send funds from an International bank to client at a Canadian bank – return of margin.
- I. [redacted] send funds from Canada to client at an International bank – return of margin.
- J. [redacted] send funds from an International bank to client at an International bank – return of margin.
- K. Client remits funds from Canada to [redacted] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [redacted] Response – Client wants to convert USD to CAD and have the CAD sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.
- L. Client remits funds from Canada to [redacted] send funds to a lawyer in trust paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [redacted] Response – Client wants to convert USD to EUR and have the EUR sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.
- M. Client remits funds from an International bank to [redacted] send funds to a lawyer in trust paid to a Canadian bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [redacted] Response – Client wants to convert EUR to CAD and have the CAD sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.
- N. Client remits funds from an International bank to [redacted] send funds to a lawyer paid to an International bank. These wires are to settle a spot or forward transaction. (Please provide a description of the purpose of the trade/trade transaction as well as an example) [redacted] Response – Client wants to convert EUR to USD and have the USD sent to a lawyer in trust to purchase a property. Purpose of the trade is currency conversion.

[redacted] have both corporations and MSB's as clients. There have been instances when [redacted] have made a third party payment on behalf of an MSB. My intention is that such a situation has been covered by scenarios A through D.

To the best of my knowledge, on a couple of occasions over the past 5 years, [redacted] have conducted a trade for a client and that client has asked [redacted] to make an outgoing wire to a lawyer in trust – typically to close a real estate deal. These situations have been summarized in scenarios K through N.

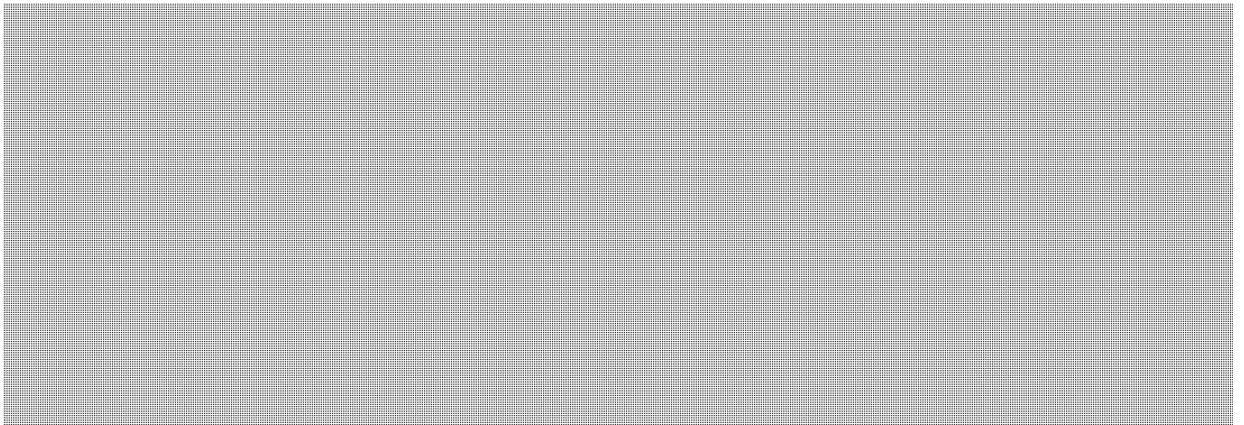
2. Full statement of facts – For scenarios A through D inclusive the **flow of the instructions** would be as follows;

- I. [redacted]
- II. [redacted]
- III. [redacted]
- IV. [redacted]



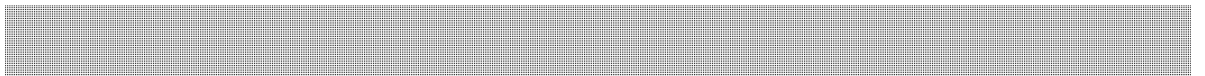
3. Full statement of facts – For scenarios E & F the **flow of the instructions** would be as follows;

- I.
- II.
- III.
- IV.



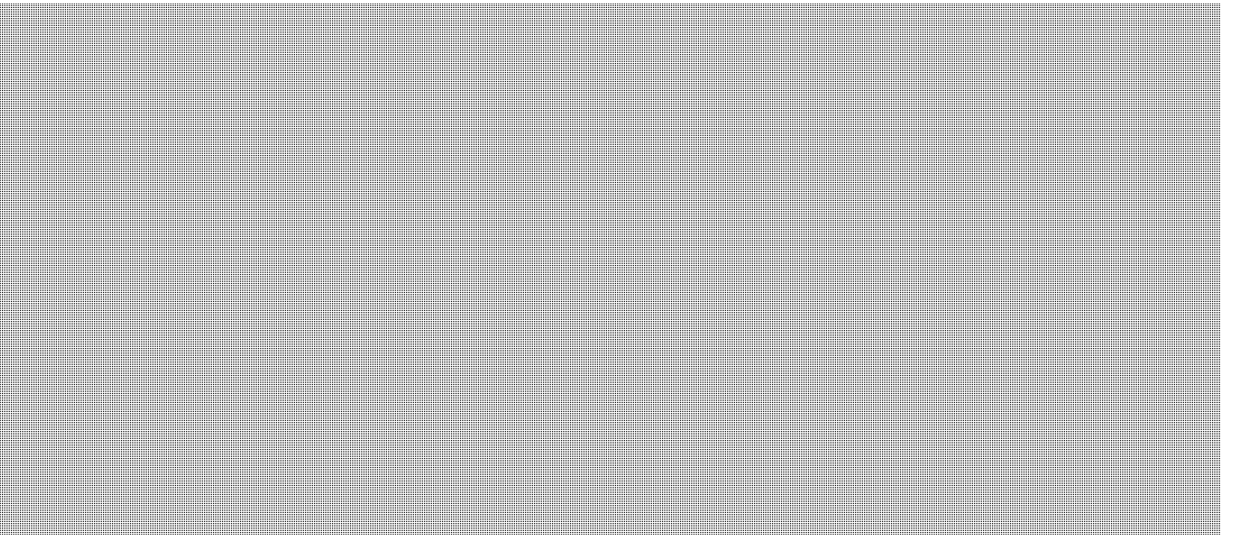
4. Full statement of facts – For scenarios G through J inclusive the **flow of the instructions** would be as follows;

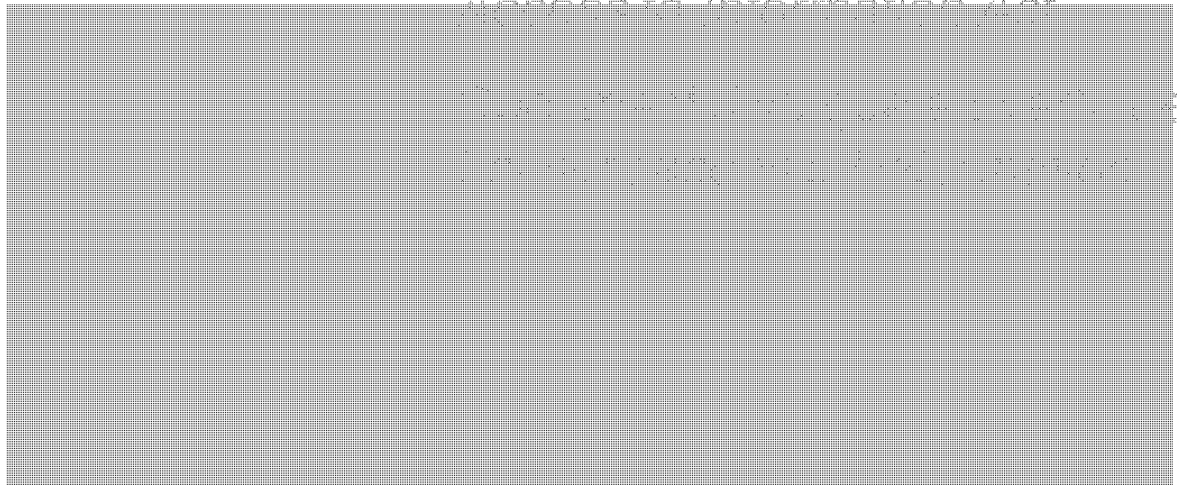
- I.



5. Full statement of facts – For scenarios K through N inclusive the **flow of the instructions** would be as follows;

- I.
- II.
- III.
- IV.

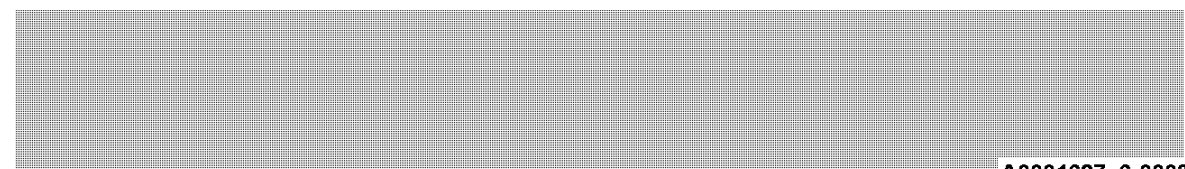




6. Full statement of facts – For scenarios A through D inclusive the **flow of funds** would be as follows;

- I. 
- II. 
- III. 
- IV. 

7. Full statement of facts – For scenarios E & F the **flow of funds** would be as follows;

- I. 

Access to Information Act

Document divulgué en vertu de la

Loi sur l'accès à l'information

II.
III.

8. Full statement of facts – For scenarios G through J inclusive the **flow of funds** would be as follows;

I.
II.
III.

9. Full statement of facts – For scenarios K through N inclusive the **flow of funds** would be as follows;

I.
II.
III.
IV.

I have sent a courier package with the applicable pages from our AML P&P's regarding the Education and Compliance Training that we provide our employees.

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

Thanks

s.16(1)(c)
s.19(1)
s.20(1)(b)

From: Martineau, Nathalie [mailto:Nathalie.Martineau@fintrac-canafe.gc.ca]
Sent: Thursday, March 12, 2015 12:41 PM
To: [REDACTED]
Cc: Kelly, Kimberly; Douglas, Lisa
Subject: EFT (Wire) Scenarios and request for statement of facts

Good morning [REDACTED]

During our examination last Friday, we had identified that [REDACTED] does in fact (a) send out of Canada, at the request of clients, electronic funds transfers (EFTs) of \$10,000 or more in the course of a single transaction or under the 24 hour rule, and (b) receive from outside of Canada electronic funds transfers, sent at the request of clients, of \$10,000 or more in the course of a single transaction or under the 24 hour rule (see PCMLTFR ss. 28.(1)(b) and ss. 28.(1)(c)).

It was previously understood by [REDACTED] that the organization was absolving themselves of their reporting requirements as they were providing the sender's name and address (for outgoing EFTs) to a Canadian Financial Institution, who was ultimately sending the instructions outside of Canada (see PCMLTFR ss. 28.(3)). However, during our onsite visit, it was confirmed that the 'sender's name and address' provided to the Canadian Financial Institutions was in fact [REDACTED] name and address. In addition, it was confirmed that, for incoming EFTs, the Canadian Financial Institution receiving the EFT from a person or entity outside of Canada, for a beneficiary in Canada, is in fact not receiving the name and address of that ultimate beneficiary, but the name and address of [REDACTED]

Please note that an EFT is defined as "the transmission – through any electronic, magnetic or optical device, telephone instrument or computer – of instructions for the transfer of funds, other than the transfer of funds within Canada."

The letter from FINTRAC to the organization on January 29, 2015 requested that the organization make certain documents and records available for review at the location being examined by either having copies ready in advance, or by providing access to the originals.

These records included a request for all records for the remittance or transmission of **\$1,000 or more up to \$9,999.99 CAD equivalent** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive. These records also included a request for all records for the remittance or transmission of **\$10,000 CAD equivalent or more** (incoming and outgoing records to be separated) for the period of [REDACTED] inclusive.

As these records were not prepared in advance of FINTRAC's arrival onsite, we requested a list of all EFTs **\$1,000 or more up to \$9,999.99 CAD equivalent** as well as a list of all EFTs **\$10,000 CAD equivalent or more**, incoming and outgoing to be separated. From this list, we selected a sample of [REDACTED] outgoing EFTs over \$10,000.00 CAD equivalent, and a sample of [REDACTED] incoming EFTs over \$10,000.00 CAD equivalent, for which we requested the original records, including the client's profile information and the wire instructions.

During the process of compiling this list, you sought clarification on what would constitute an EFT, and what would not. For example, you explained that certain EFTs appeared straightforward, where a client would be providing instructions to [REDACTED] to pay off a supplier or pay an invoice in a foreign currency to a beneficiary in a foreign country (via an outgoing wire). However, certain scenarios presented were not as straightforward. For example, you explained that you hold money for clients in a margin account, and clients will pay into this margin (by way of an incoming wire) to cover the losses incurred by [REDACTED] if [REDACTED] covers a trade for the client at a loss. Because some of these scenarios were a bit more ambiguous, I requested that, for each applicable transaction in the scope period, you list out the various scenarios that apply, and that you provide a full statement of facts for each scenario. Please find details of this request below.

Request for Information

Please provide the following information via e-mail:


- 1) Please provide a list of all scenarios that apply all EFT transactions \$10,000 CAD equivalent or more (incoming and outgoing wires) during the examination scope period. In other words, please ensure that each transaction present on the list provided during the examination falls under a scenario described in your reply.
- 2) For each scenario that applies, please provide a full statement of facts, including the following:
 - a. A complete and detailed description of the flow of the **instructions** for the transfer from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).
 - b. A complete and detailed description of the flow of **funds** for the transfer, from beginning to end, including information on all relevant parties (individuals or entities) to the transaction (including any intermediaries).

In addition to the above, we are still awaiting the copies of the original records (including client profile information and full wire instructions from the client and to the Canadian Financial Institution) for the [REDACTED] EFTs sampled during the examination. We are likewise still awaiting the additional copies of the policies and procedures that relate to the compliance training program, as well as the FX records made available to us towards the end of the day last Friday.

Best Regards,

Nathalie Martineau

Senior Regional Compliance Officer | Agente principale de conformité régionale
Major Reporters and Compliance Analytics | Entités déclarantes majeures et activités d'analyse de la conformité
Nathalie.Martineau@fintrac-canafe.gc.ca
Telephone | Téléphone 416-973-2013

 Financial Transactions and Reports Analysis Centre of Canada / Centre d'analyse des opérations et déclarations financières du Canada
200 King Street West, Toronto, ON, M5H 3T4 | 200 Rue King Ouest, Toronto, ON M5H 3T4
Facsimile | Télécopieur 416-952-0134
Government of Canada | Gouvernement du Canada

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Transactions and Reports Analysis Centre (FINTRAC) in Canada.

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