



FINTRAC

Financial Transactions and Reports
Analysis Centre of Canada

May 7, 2001



Historical Overview

- International Context
 - G-7 Financial Action Task Force (FATF) established international standards
 - In 1996, the Solicitor General committed to introduce a new anti-money laundering regime in Canada
 - In 1998, the Prime Minister and other G-8 Heads of State agreed to establish Financial Intelligence Units (FIUs)



Historical Overview

- Previous legislation
 - Mandatory record keeping requirements for deposit-taking institutions
 - Voluntary suspicious transactions reporting
 - System felt to be inconsistent and did not meet international requirements



Historical Overview

- Proceeds of Crime (Money Laundering) Act
 - Introduced in the House of Commons on December 15, 1999
 - Received Royal Assent on June 29, 2000
 - Broadens reach of previous system and implements mandatory reporting of suspicious and certain prescribed transactions



Key Principles of the Act

- Detect and deter money laundering
- Provide vital tools to law enforcement
- Strike a balance between privacy rights and enforcement needs
- Fulfill Canada's international commitments in the fight against transnational crime



PC(ML) Act

- Part 1, Record Keeping and Reporting Requirements
- Part 2, Cross Border Reporting
- Part 3, Creation of FINTRAC
- Part 4, Regulations
- Part 5, Offences and Punishments



Record Keeping and Reporting

- Act expanded to cover wider group of reporting entities
- Regulated entities will be required to report prescribed and suspicious transactions
- Failure to report can result in fines or jail terms
- Comprehensive record keeping provisions



Reporting Entities

- Financial entities
- Life Insurance companies, brokers and agents
- Securities dealers
- Foreign exchange dealers
- Money services businesses
- Lawyers
- Accountants
- Real estate brokers or sales representatives
- Casinos
- Agents of the Crown which sell money orders



Suspicious Transactions

- s. 7 of the Act requires all reporting entities to report to the Centre every financial transaction where there are reasonable grounds to suspect that the transaction is related to money laundering
- Guideline #2 was developed to help entities identify suspicious transactions



Prescribed Transactions

- Any transaction that involves cash in an amount of \$10,000 or more
- Customer initiated international wire transfers in an amount of \$10,000 or more
- Payment in respect of a foreign currency exchange transaction of more than the posted exchange rate or transaction fees
- Any transaction of \$3,000 or more where an individual receives payment in casino cheques made out to third parties or without a specified payee



Voluntary Information

- The Act enables FINTRAC to receive and use information that is voluntarily provided to the Centre from the public, reporting entities, other FIUs, and law enforcement
- Information must be related to a suspicion of money laundering



Cross Border Reporting

- Requires the reporting of cross-border movements of large amount of currency and monetary instruments to Canada Customs
- Definition of monetary instruments to be determined by regulation
- Regulations pertaining to Part 2 of the Act are expected to be pre-published later this year



Regulations

- Pre-published in the Canada Gazette February 17, 2001
- 90-day consultation period
- Regulations will be phased in
 - Form and manner of reporting, and reporting of suspicious transactions – late Summer/early Fall
 - International wire transfers – Winter 2001/02
 - Large cash transactions and compliance regime requirements – Spring 2002



Guidelines

- Stakeholders identified a need for guidelines – 4 were released with the pre-publication of the Regulations:
 - Background Information on Money Laundering
 - Suspicious Transaction Reporting
 - Submitting Reports to FINTRAC
 - Implementation of a Compliance Regime
- Centre will continue to seek feedback on the guidelines



Offences and Punishments

- Failure to meet record keeping requirements: up to \$500,000 and/or 5 years
- Failure to report suspicious transactions: up to \$2 million and/or 5 years
- Disclosing the fact that a suspicious transaction was made with intent to prejudice a criminal investigation: up to 2 years
- Failure to report a prescribed transaction: up to \$500,000 for the first offence, \$1 million for subsequent offences



FINTRAC

- Independent agency
- Its mandate is to collect, analyze and disclose information in order to assist in the detection, prevention and deterrence of money laundering
- Headquartered in Ottawa, with regional offices in Toronto, Montreal and Vancouver



Role of the Centre

- Central repository for information about suspected money laundering activities. Its role will be to:
 - Receive reports from reporting entities
 - Analyze reported information
 - Ensure compliance with reporting requirements
 - Disclose suspicions of money laundering to enforcement agencies
 - Advise government on the nature and scope of money laundering
 - Promote public awareness and provide feedback to reporting entities



Receiving Reports

- Reporting entities are required, where possible, to report electronically
- Three reporting mechanisms available:
 - SSL website
 - PKI encrypted website
 - PKI encrypted batch file transfer



Analyzing Information

- The information will be housed in a highly secure computer facility to ensure data integrity and privacy
- Will use state of the art technology to sift out unusual patterns of activities
- Analysts will then provide the “human factor”



Disclosure

- The Centre may only disclose information where there is a reasonable suspicion that it is relevant to an investigation or prosecution of a money laundering offence
- Information disclosed will be “tombstone” information centered around one individual or account
- To acquire further information, such as the Centre’s analysis, the legislation requires that law enforcement acquire a Production Order



Compliance

- Centre has responsibility to ensure compliance
- To comply with the Act, reporting entities must meet all their record keeping, client identification, and reporting obligations, in addition, they must implement a compliance regime with 4 elements:



Compliance Regime

1. Appointment of the Compliance Officer
2. Internal Compliance Policies and Procedures
3. Review of the Compliance Policies and Procedures
4. Ongoing Compliance Training for Employees



Appointment of the Compliance Officer

- Have authority and resources to discharge responsibility
- A senior level officer
- Reports to Senior Management or the Board of Directors
- Owner or Chief Operating Officer of the company



Internal Compliance Policies and Procedures

- Include legislative and regulatory requirements
- Identifying reportable transactions
- Completing and filing reports
- Exceptions
- Record keeping
- Ascertaining identity



Review of the Compliance Policies and Procedures

- Handling of large cash transactions and reporting process
- Process for identifying and reporting suspicious transactions
- Validity of exceptions granted
- Test record keeping system



Ongoing Compliance Training for Employees

- Background information on money laundering
- Legislative and regulatory requirements and related liabilities
- Policies and procedures
- Elements covered in the training program



For more information, please consult our
website:

www.fintrac.gc.ca