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Criminal non-compliance offences

From: Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

Information for law enforcement bodies and agencies on disclosures FINTRAC makes to assist in investigating or prosecuting non-compliance offences (criminal charges) under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the Act).

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FINTRAC's non-compliance disclosures

FINTRAC assists law enforcement by providing non-compliance disclosures when it suspects on reasonable grounds that the information would be relevant to investigating or prosecuting non-compliance offences under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

Non-compliance information is disclosed to law enforcement by way of a report that is called a non-compliance disclosure.

Non-compliance disclosures may provide evidence of non-compliance offences and can be used in court. For example, if a law enforcement body or agency establishes that a transaction that must be reported to FINTRAC was conducted by a reporting entity, FINTRAC will confirm whether the transaction was reported or if an offence was committed under the Act.

Information a non-compliance disclosure contains

Non-compliance disclosures may include **any** information of which FINTRAC has become aware in the course of exercising its compliance powers, including some of the following elements:

- examination details
- money services businesses registration information (such as ownership, bank accounts or business operations)
- financial transactions reported by reporting entities

This compliance information may not be available elsewhere.

FINTRAC's threshold to disclose non-compliance information

FINTRAC may disclose, under its legislative authority set out at subsection 65(1) of the Act, information to law enforcement when it suspects on reasonable grounds that the information would be relevant to investigating or prosecuting a non-compliance offence under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

FINTRAC may provide a non-compliance disclosure when it **proactively** identifies non-compliance by a person or entity it regulates, or when the Centre receives voluntary information from law enforcement on non-compliance.

Non-compliance offences under the Act

All reporting entities subject to the Act and associated Regulations must comply with all the obligations outlined therein. This includes implementing a compliance program, verifying clients identity, keeping records, and reporting certain types of financial transactions to FINTRAC. Money services businesses must also register with FINTRAC.

For more information:

- Who must report to FINTRAC
- Financial transactions reported to FINTRAC
- Money services businesses

Failure to comply with these obligations may result in either:

- an administrative monetary penalty
- criminal charges under the Act

The offences and punishment pertaining to criminal charges under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act are set out in Part 5 of the Act, and include:

- Subsection 74(1): General offences, including the failure to register as a money services business, to verify clients identity, and to keep prescribed records
- Subsections 74(2) and 77(2): Ministerial Directive offences
- Subsection 75(1): Reporting offences for suspicious transactions
- Subsection 77(1): Reporting offences for electronic funds transfers, large cash transactions, large virtual currency transactions, and casino disbursements
- Section 77.1: Money services business registration information offences for knowingly providing false or misleading statements or

information to FINTRAC
- Subsection 77.2(1): Threats and retaliation against employees offences
- Subsection 77.3 (1): Structuring financial transactions offences for electronic funds transfers, large cash transactions, large virtual currency transactions and casino disbursements
- Section 77.4: Registration offence for knowingly engaging in a money services business activity without being registered with FINTRAC

Every person or entity that is guilty of an offence is liable:

- on summary conviction, to a fine of not more than $250,000 or $1,000,000 and/or to imprisonment for a term of not more than two years less a day, or
- on conviction on indictment, to a fine of not more than $500,000 or $2,000,000 and/or to imprisonment for a term of not more than five years.

How to submit voluntary information about non-compliance with the Act

You may request a voluntary information record form for non-compliance investigations through our secure email address: noncompliance-nonconformite@fintrac-canafe.gc.ca.

Information to provide in your form

Please include the following information in your voluntary information record form:

- the type of reporting entity suspected to be in non-compliance with the Act and associated Regulations
- any information that would be relevant to investigating or prosecuting the non-compliance offences, for example:
  - the type of services a person or an entity is offering
  - the suspected non-compliance
  - details of any financial transactions conducted

Note: FINTRAC will only respond to emails bearing the appropriate police or disclosure recipient domain name.

For assistance

If you have any questions about FINTRAC’s non compliance disclosures, please contact us by email: noncompliance-nonconformite@fintrac-canafe.gc.ca.

Date Modified:
2024-09-13