

## FINTRAC Updates its Suspicious Transaction Reporting Guidance

Suhuyini Abudulai

April 22, 2020

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) has updated its suspicious transaction reporting guidance on What is a suspicious transaction report? and Reporting suspicious transactions to FINTRAC (collectively, the Guidance). The updated guidance reflects amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), of which we previously reported in our article, “Amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.” The Guidance comes into effect on June 1, 2020.

The 2019 amendments to the PCMLTFA changed the timing for the reporting of a suspicious transaction to FINTRAC to “as soon as practicable” from within 30 days after the day on which the reporting entity detects a fact respecting a financial transaction or an attempted financial transaction that constitutes reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering offence or a terrorist activity financing offence.

The update to the Guidance is to reflect this 2019 amendment. As of June 1, 2020, reporting entities must submit the suspicious transaction report (STR) to FINTRAC as soon as practicable after they have completed the measures that allow them to establish reasonable grounds to suspect a suspicious transaction.

### Highlights of the Guidance:

- In order to submit an STR to FINTRAC, the reporting entity will need to ensure that certain measures, as set out in the Guidance, have been completed to enable the reporting entity to reach grounds to suspect the commission of money laundering or terrorist financing.
- Reasonable grounds to suspect (RGS) is the required threshold for submitting an STR to FINTRAC. The Guidance details the differences between thresholds of suspicion and includes a diagram with an overview of the thresholds, which are simple suspicion, reasonable grounds to suspect, and reasonable grounds to believe. Briefly, as detailed in the Guidance:
  - Simple suspicion is a lower threshold, synonymous with a “gut instinct” or “hunch.”
  - RGS is a step above simple suspicion, meaning there is a possibility that a money laundering or terrorist financing offence has occurred. The reporting entity’s suspicion must be reasonable and not biased or prejudiced.

- Reasonable grounds to believe is a higher threshold than RGS and means that there are verified facts to support the probability that a money laundering or terrorist financing offence has occurred. At this threshold, the submission of the STR should be expedited and the reporting entity must take additional measures (e.g., assessing related transactions).
- The Guidance provides that “as soon as practicable” should be interpreted to mean that the reporting entity has completed the measures that have enabled the reporting entity to determine that the reporting entity has reached the RGS threshold, at which juncture the preparation and submission of the STR must be treated as a priority by the reporting entity.
- FINTRAC expects the reporting entity to not give “unreasonable priority” to other transaction monitoring tasks. FINTRAC may question any delayed reports and, per the Guidance, the greater the delay, the greater will be the need for the reporting entity to provide a suitable explanation for the delay.

In light of the COVID-19 pandemic, FINTRAC has stated that FINTRAC understands the challenges that persons and entities subject to the PCMLTFA face in situations where they are operating at a reduced capacity and FINTRAC will take a “reasonable and flexible” approach with respect to implementing the various amendments to the PCMLTFA, including the suspicious transaction reporting amendments. FINTRAC will also consider the impact of such challenges when assessing reporting entities’ compliance with their obligations identified in the PCMLTFA and its regulations.

---

*This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.*