

**Guideline 6F: Record Keeping and Client Identification
for Casinos**

Guideline 6F: Record Keeping and Client Identification for Casinos

June 2005

This replaces the previous version of *Guideline 6: Record Keeping and Client Identification for Casinos* issued in June 2002. The changes made to this version are indicated by a side bar to the right of the modified text.

Table of Contents

1 General	3
2 Record Keeping and Client Identification Obligations	4
3 Records To Be Kept	5
3.1 Large Cash Transaction Records	6
3.2 Large Cash Disbursement Records	7
3.3 Records to be Kept When Opening an Account	8
3.4 Extension of Credit Records	9
3.5 Foreign Currency Exchange Transaction Tickets	10
4 Client Identity	10
4.1 When and How Do You Have To Identify Clients?	10
4.2 Client Identity for Large Cash Transactions	11
4.3 Client Identity for Signature Cards	11
4.4 Client Identity for Large Cash Disbursement Records	12
4.5 Client Identity for Extension of Credit Records	12
4.6 Client Identity for Foreign Currency Exchange Transactions	12
4.7 How to Identify an Individual	12
4.8 Client Identity for Corporations or Other Entities	14
4.9 General Exceptions to Client Identification	15
5 Third Party Determination and Related Records	15
5.1 Third Party Determination	15
5.2 Third Party Records	16
6 How Should Records Be Kept?	17
7 Penalties for Non-Compliance	18
8 Comments?	18
9 How to Contact FINTRAC	18

1 General

The objective of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* is to help detect and deter money laundering and the financing of terrorist activities. It is also to facilitate investigations and prosecutions of money laundering and terrorist activity financing offences. This includes implementation of reporting, record keeping, client identification and compliance regime requirements for casinos .

A casino means one that is authorized by a Canadian provincial, territorial or federal government to do business and that conducts its business in a permanent establishment. It only includes those where roulette or card games are played in the establishment, or where there is a slot machine. For these purposes, a slot machine does not include a video lottery terminal.

Registered charities may be authorized to carry on business temporarily as a casino for charitable purposes. If this type of business is carried out in the establishment of a casino for no more than two consecutive days at a time under the supervision of the casino, the activities are considered to be the supervising casino's. In this case, the supervising casino is responsible for the reporting, record keeping, client identification and compliance regime requirements related to the charity casino.

If you are a casino, this guideline has been prepared to help you meet your record keeping and client identification obligations. It uses plain language to explain the most common situations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* as well as the related Regulations. It is provided as general information only. It is not legal advice, and is not intended to replace the Act and Regulations.

Record keeping and client identification obligations for other types of reporting persons or entities are explained by sector in other versions of this guideline (financial entities, life insurance companies, brokers and agents, securities dealers, foreign exchange dealers, money services businesses, agents of the Crown that sell or redeem money orders, accountants and real estate brokers and representatives).

For more information about money laundering and terrorist financing, or other requirements under the Act and Regulations applicable to you, see the guidelines in this series:

- *Guideline 1: Backgrounder* explains money laundering, terrorist financing, and their international nature. It also provides an outline of the legislative requirements as well as an overview of FINTRAC's mandate and responsibilities.
- *Guideline 2: Suspicious Transactions* explains how to report a suspicious transaction. It also provides guidance on how to identify a suspicious transaction, including general and industry-specific indicators that may help when conducting or evaluating transactions.

- *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* explains when and how to submit suspicious transaction reports. There are two different versions of Guideline 3, by reporting method.
- *Guideline 4: Implementation of a Compliance Regime* explains the requirement for reporting persons and entities to implement a regime to ensure compliance with their obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and associated Regulations.
- *Guideline 5: Submitting Terrorist Property Reports to FINTRAC* explains when and how to submit terrorist property reports.
- *Guideline 6: Record Keeping and Client Identification* explains the requirement for reporting persons and entities to identify their clients and keep records. There are eight different versions of *Guideline 6*, by sector.
- *Guideline 7: Submitting Large Cash Transaction Reports to FINTRAC* explains when and how to submit large cash transaction reports. There are two different versions of *Guideline 7*, by reporting method.
- *Guideline 8: Submitting Electronic Funds Transfer Reports to FINTRAC* explains when and how to submit EFT reports.
- *Guideline 9: Submitting Alternative to Large Cash Transaction Reports to FINTRAC* explains when and how financial entities can choose the alternative to large cash transaction reports. This is only applicable to financial entities.

If you need more help after you read this or other guidelines, call FINTRAC’s national toll-free enquiries line at 1-866-346-8722.

Throughout this guideline, several references are provided to additional information that may be available on external Web sites. FINTRAC is not responsible for the accuracy, reliability or currency of the information contained on those external Web sites. The links provided are based on information available at the time of publishing of this guideline.

Throughout this guideline, any references to dollar amounts (such as \$10,000) refer to the amount in Canadian dollars or its equivalent in foreign currency. Also, any references to the term “securities dealer” means a person or entity authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services.

2 Record Keeping and Client Identification Obligations

As a casino, you have to do the following:

- When you conduct a large cash transaction, your record keeping and client identification obligations are as follows:
 - Keep a large cash transaction record (see Section 3);
 - Identify the individual (see Section 4); and
 - Make a third party determination and keep related records (see Section 5).

- When you pay out a large cash disbursement, your record keeping and client identification obligations are as follows:
 - Keep a large cash disbursement record (see Section 3);
 - Identify the individual (see Section 4); and
- When you open an account, your record keeping and client identification obligations are as follows:
 - Keep signature cards, account operating agreements, deposit slips, debit or credit memos and other records (see Section 3);
 - Identify the client(s) (see Section 4); and
 - Make a third party determination and keep related records (see Section 5).
- When you extend credit to a client of \$3,000 or more, your record keeping and client identification obligations are as follows:
 - Keep an extension of credit record (see Section 3); and
 - Identify the individual (see Section 4).
- When you conduct a foreign currency transaction of \$3,000 or more, your record keeping and client identification obligations are as follows:
 - Keep a transaction ticket (see Section 3); and
 - Identify the individual (see Section 4).

There are some exceptions and these are explained throughout each section.

The use of personal information in Canadian commercial activities is protected by the *Personal Information Protection and Electronic Documents Act*, or by substantially similar provincial legislation. You have to inform individuals concerning the collection of personal information about them. However, you do not have to inform individuals when you include personal information about them in any of the reports that you are required to make to FINTRAC. You can get more information about your responsibilities in this area from the following:

- The office of the Privacy Commissioner of Canada (http://www.privcom.gc.ca/information/guide_e.asp); or
- Industry Canada (http://privacyforbusiness.ic.gc.ca/epic/internet/inpfb-cee.nsf/en/h_hc00000e.html).

3 Records To Be Kept

As a casino, you have to keep the following records:

- Large cash transaction records;
- Large cash disbursement records;
- Certain records about client accounts;
- Extension of credit records; and
- Foreign currency exchange transaction tickets.

Details about each of these types of records are provided in Sections 3.1 through 3.5.

This guideline describes your record keeping obligations under Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Your policies and procedures may cover situations other than the ones described in this guideline, and you may require additional records to be kept for purposes other than your requirements under this legislation. For example, the retention period for your records may vary for purposes other than what is described in this guideline.

3.1 Large Cash Transaction Records

This is a record for every amount of cash of \$10,000 or more that you receive from a client in a single transaction. For example, if your client deposits \$10,000 in cash to an account, you have to keep a large cash transaction record. In addition to this record, a large cash transaction will also require a report to FINTRAC, as explained in *Guideline 7: Submitting Large Cash Transaction Reports to FINTRAC*.

If you know that two or more cash transactions of less than \$10,000 each were made within a 24-hour period (i.e., 24 consecutive hours), by or on behalf of the same client, these are considered to be a single large cash transaction if they add up to \$10,000 or more. In this case, you would have to keep a large cash transaction record, and report the transaction to FINTRAC as explained above.

The transactions that you must keep a large cash transaction record for include the following:

- the sale of chips, tokens or plaques;
- front cash deposits;
- safekeeping deposits;
- the repayment of any form of credit, including repayment by markers or counter cheques;
- bets of currency; and
- sales of your casino's cheques.

You do **not** have to keep a large cash transaction record or make a large cash transaction report to FINTRAC if the cash is received from a financial entity. In this context, a financial entity means any of the following:

- a bank (i.e., one that is listed in Schedule I or II of the *Bank Act*) or an authorized foreign bank with respect to its operations in Canada;
- a credit union or a caisse populaire;
- a trust and loan company; or
- an agent of the Crown that accepts deposit liabilities.

Contents of a large cash transaction record

For any large cash transaction, the information you have to keep in a large cash transaction record includes the following:

- the amount and currency of the cash received;
- the name of the individual from whom you received the cash and that individual's address and principal business or occupation;
- the date of the transaction;
- the purpose, details and type of transaction (for example, the cash was used to buy chips, etc.), including whether any other individuals or entities were involved in the transaction;
- how the cash was received (for example, in person, by mail, by armoured car, or any other way); and
- if an account was affected by the transaction, include the following:
 - the number and type of any such account;
 - the full name of the client that holds the account; and
 - the currency in which the account's transactions are conducted.

If any of this information is readily available in other records that you have to keep (as described below), it does not have to be kept again as part of the large cash transaction record.

In the case of a deposit, the large cash transaction record also has to include the time of the deposit.

If you have to identify the individual as explained in Section 4, the large cash transaction record also has to contain the following information:

- the individual's date of birth; and
- the type of document used to confirm the individual's identity, the document's reference number and its place of issue.

If you are a supervising casino for a registered charity conducting business as a casino for two consecutive days or less, you are responsible for any large cash transaction records pertaining to the charity's casino activities.

3.2 Large Cash Disbursement Records

This is a record for every amount of cash of \$10,000 or more that you pay out in the following transactions:

- the redemption of chips, tokens or plaques;
- front cash withdrawals;
- safekeeping withdrawals;
- advances on any form of credit, including advances by markers or counter cheques;
- payments on bets, including slot jackpots;
- payments to clients of funds received for credit to that client or any other client;

- cashing of cheques or other negotiable instruments; and
- reimbursements to clients of travel and entertainment expenses.

A large cash disbursement record has to set out the following information:

- the name of the individual to whom the disbursement is made;
- that individual's address and principal business or occupation; and
- the date and what kind of disbursement it is.

If this information is readily available in other records that you have to keep (as described in this section), it does not have to be kept again as part of the large cash disbursement record.

Unless you find the transaction suspicious, there is no reporting requirement for a large cash disbursement. Because it is money you pay out, it is not included in a large cash transaction. A large cash transaction includes only cash you receive.

If you are a supervising casino for a registered charity conducting business as a casino for two consecutive days or less, you are responsible for any large cash disbursement records pertaining to the charity's casino activities.

3.3 Records to be Kept When Opening an Account

These records include those required when you open an account, such as signature cards, account operating agreements, deposit slips, debit and credit memos, copies of official corporate records (binding provisions) and other information as described below.

Signature cards

When you open an account, you have to keep a signature card for each account holder. A signature card means any record that is signed by an individual authorized to give instructions for the account.

If you have to identify the individual as explained in Section 4, the signature card also has to contain the following information:

- the individual's date of birth; and
- the type of document used to identify the individual, its reference number and its place of issue.

If you did not use such a document but identified the individual based on a cleared cheque (as explained in Section 4.7), the signature card has to contain the financial entity and account number of the account on which the cheque was drawn. Information about an individual's financial entity account does not have to be recorded unless a cleared cheque was used to identify a client who was not physically present when the record was created.

Account operating agreements

An account operating agreement is any document that is received or created in the normal course of business and outlines the agreement between you and your client about the account's operation.

If you have to identify the individual as explained in Section 4, the account operating agreement for that individual also has to contain the following information:

- the individual's date of birth; and
- the type of document used to identify the individual, its reference number and its place of issue.

If you did not use such a document but identified the individual based on a cleared cheque (as explained in Section 4.7), the account operating agreement has to contain the financial entity and account number of the account on which the cheque was drawn. Information about an individual's financial entity account does not have to be recorded unless a cleared cheque was used to identify a client who was not physically present when the record was created.

Deposit slips

You have to keep a deposit slip for every deposit made to an account. A deposit slip means a record that sets out the date of a deposit, the amount of the deposit, and any part of it that was made in cash. A deposit slip also sets out the holder of the account in whose name the deposit is made and the number of the account.

Debit or credit memos

You have to keep any debit or credit memo that you create or receive regarding an account in the normal course of business.

Accounts for corporations

If the account is opened for a corporation, you have to keep a copy of the part of the official corporate records showing the provisions that relate to the power to bind the corporation regarding the account. This could be the articles of incorporation that set out those duly authorized to sign on behalf of the corporation, such as an officer, the comptroller, etc. If there were changes subsequent to the articles, then the board resolution stating the change would be included in this type of record.

Accounts for an individuals or entities other than corporations

If the account is opened for an individual or any entity that is not a corporation, you have to keep a record of the name, address and principal business or occupation of that individual or entity.

3.4 Extension of Credit Records

You have to keep an extension of credit record for every extension of credit to a client of \$3,000 or more. This record has to indicate the following information:

- the name of the client;

- the client's address and principal business or occupation;
- the terms and conditions of the extension of credit; and
- the date and amount of the extension of credit.

If you have to identify the individual as explained in Section 4, the extension of credit record also has to contain the following information:

- the individual's date of birth; and
- the type of document used to confirm the individual's identity, its reference number and its place of issue.

3.5 Foreign Currency Exchange Transaction Tickets

For every foreign currency exchange transaction of \$3,000 or more that you conduct, you have to keep a transaction ticket. A transaction ticket means a record that sets out the following information:

- the date, amount and currency of the purchase or sale;
- the method, amount and currency of the payment made or received; and
- the name and address of the individual who carried out the transaction.

If you have to identify the individual as explained in Section 4, the transaction ticket also has to contain the following information:

- the individual's date of birth; and
- the type of document used to confirm the individual's identity, its reference number and its place of issue.

4 Client Identity

4.1 When and How Do You Have To Identify Clients?

As a casino, you have client identification obligations. You have to take the following measures to identify individuals or entities, subject to the general exceptions outlined in Section 4.9.

This guideline describes your client identification obligations under Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Your policies and procedures may cover requirements other than the ones described in this guideline, and you may need additional identification for purposes other than your requirements under this legislation.

Sections 4.2 to 4.9 explain the need to identify individuals when an event triggers the requirement. Any individuals that you have not identified according to these rules must be identified if any of the following situations occur on or after June 12, 2002.

4.2 Client Identity for Large Cash Transactions

You have to identify any individual with whom you conduct a large cash transaction, at the time of the transaction, if it is one for which you have to keep a large cash transaction record, as described in Section 3.1. If the transaction is a deposit to a business account, you do not have to identify the individual conducting it.

See Section 4.7 to find out how to identify an individual for large cash transactions.

4.3 Client Identity for Signature Cards

You have to identify any individual who signs a signature card for an account that you open before any transaction (other than the initial deposit) is carried out. In the case of a business account, you do not have to identify any more than three individuals who are authorized to give instructions for the account.

See Section 4.7 to find out how to identify an individual for signature cards.

The identification requirement related to a signature card does not apply if you already have an account with that individual.

In addition, this identification requirement does not apply if you have reason to believe that the account holder is a public body or a very large corporation. In this context, a public body means any of the following or their agent:

- a provincial or federal department or Crown agency;
- an incorporated municipal body (including an incorporated city, town, village, metropolitan authority, district, county, etc.); or
- a hospital authority. A hospital authority means an organization that operates a public hospital and that is designated to be a hospital authority for GST/HST purposes. For more information on the designation of hospital authorities, refer to GST/HST Memoranda Series, Chapter 25.2, *Designation of Hospital Authorities* available from the following Web site: <http://www.cra-arc.gc.ca/E/pub/gm/25-2/25-2-e.pdf>

Also in this context, a very large corporation is one that you believe 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 certain stock exchanges outside Canada, and the corporation also has to operate in a country that is a member of the Financial Action Task Force on Money Laundering.

For information about which stock exchanges outside Canada on which the stock of a large corporation could be traded, refer to section 3201 of the *Income Tax Regulations* (Part XXXII, Prescribed Stock Exchanges And Contingency Funds). You can access this at the following Web site: <http://laws.justice.gc.ca/en/I-3.3/C.R.C.-c.945/140202.html#section-3201>.

To find out which countries are members of the Financial Action Task Force, refer to the following Web site: http://www1.oecd.org/fatf/Members_en.htm.

4.4 Client Identity for Large Cash Disbursement Records

You have to identify any individual who conducts any of the transactions described in Section 3.2 that require a large cash disbursement record. You have to do this at the time of the transaction.

See Section 4.7 to find out how to identify an individual for large cash disbursements.

4.5 Client Identity for Extension of Credit Records

You have to identify any individual to whom you extend credit of \$3,000 or more for whom you have to keep an extension of credit record (as described in Section 3.4). You have to do this at the time of the transaction.

See Section 4.7 to find out how to identify an individual for extensions of credit.

4.6 Client Identity for Foreign Currency Exchange Transactions

You have to identify any individual who conducts a foreign currency exchange transaction of \$3,000 or more at the time of the transaction.

See Section 4.7 to find out how to identify an individual for foreign currency exchange transactions.

4.7 How to Identify an Individual

To identify an individual, refer to the individual's birth certificate, driver's licence, passport, record of landing, permanent resident card or other similar document. Examples of other similar documents include an old age security card, a certificate of Indian status, or a card with the individual's signature and photograph on it issued by any of the following:

- the Insurance Corporation of British Columbia;
- Alberta Registries;
- Saskatchewan Government Insurance;
- the Department of Service Nova Scotia and Municipal Relations;
- the Department of Transportation and Public Works of the Province of Prince Edward Island;
- Service New Brunswick;
- the Department of Government Services and Lands of the Province of Newfoundland and Labrador;
- the Department of Transportation of the Northwest Territories; or

- the Department of Community Government and Transportation of the Territory of Nunavut.

You can refer to an individual's provincial health card, but only if it is not prohibited by provincial or territorial legislation. For example, you cannot refer to an individual's provincial health card from Ontario, Manitoba or Prince Edward Island since health cards cannot be used for this purpose in these provinces. As another example, in Quebec, you cannot request to see a client's health card, but you may accept it if they want to use it for identification purposes. If you have questions about the use of health cards for identification, please contact the appropriate provincial issuer for more information.

A social insurance number (SIN) card can be used to verify the identity of a client, but the SIN (i.e. the number itself) is not to be provided to FINTRAC on any type of report. The office of the Privacy Commissioner (<http://www.privcom.gc.ca>) has produced a fact sheet concerning best practices for the use of SINs. Please consult it for more information on this topic (http://www.privcom.gc.ca/fs-fi/02_05_d_21_e.asp).

For a document to be acceptable for identification purposes, it must have a unique identifier number. Also, the document must have been issued by a provincial, territorial or federal government. For example, a birth or baptismal certificate issued by a church would not be acceptable for this purpose. Also, an identification card issued by an employer for an employee (i.e. an employee identification card) is not acceptable.

The document also has to be a valid one. In other words, an expired driver's licence would not be acceptable.

Valid foreign identification, if equivalent to an acceptable type of Canadian identification document, would also be acceptable for the purposes explained in this guideline. For example, a valid foreign passport is acceptable.

When you refer to a document to identify an individual, it has to be an original, not a copy of the document. In cases where it is not possible for you to view the original yourself, you may choose to use an agent to verify the original identification document on your behalf. Even if you use an agent, you are responsible for making sure the identification requirements are met. If you do this, you should enter into a written agreement with the agent outlining what you expect the agent to do for you.

Individual not physically present

If the individual signing a signature card is not physically present when an account is opened, you can confirm that a cheque drawn on the individual's account with a financial entity has been cleared. This means a cheque that was written by the individual, cashed by the payee and cleared through the individual's account. It does not include pre-authorized payments as these are not cheques written by the individual.

As explained in Section 3.1, a financial entity means a bank or an authorized foreign bank with respect to its operations in Canada, a credit union, a caisse populaire, a trust and loan company, or an agent of the Crown that accepts deposit liabilities.

In this situation, if you are not able to confirm the information about a cleared cheque, you must identify the individual using a document, as explained in the rest of this section.

In the case of an identification requirement triggered by a large cash transaction, a large cash disbursement, an extension of credit or a foreign currency exchange transaction, you can only identify the individual using a document as explained in the rest of this section. A cleared cheque is not acceptable to identify an individual in these situations.

4.8 Client Identity for Corporations or Other Entities

You have to confirm the existence of any corporation or other entity for which you open an account, before any transaction other than the initial deposit. In the case of a corporation, you also have to determine the corporation's name, address and the names of its directors.

Corporations

To confirm the existence of a corporation as well as the corporation's name and address, refer to the following documents:

- the corporation's certificate of corporate status;
- a record that has to be filed annually under provincial securities legislation; or
- any other record that confirms the corporation's existence. Examples of these include such other records as the corporation's published annual report signed by an independent audit firm, or a letter or a notice of assessment for the corporation from a municipal, provincial, territorial or federal government.

You also have to confirm the names of the corporation's directors. To do this, you may need to see the list of the corporation's directors submitted with the application for incorporation. In the case of a corporation that is a securities dealer, you do not need to ascertain the name of the corporation's directors.

The record you use to confirm a corporation's existence can be paper or an electronic version. Although such information may be available orally (such as by phone), it is not acceptable for these purposes, as you have to refer to a record. If the is in paper format, you have to keep the record or a copy of it.

If the record is an electronic version, you have to keep a record of the corporation's registration number, the type and source of the record. An electronic version of a record has to be from a public source. For example, you can get information about a corporation's name and address and the names of its directors from Industry Canada's Strategis on line corporations database at http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/corpdire/dataOnline/corpnse. As another example, you may also get this type of information if you subscribe to a corporation searching and registration service.

Entities other than corporations

In the case of an entity other than a corporation, refer to a partnership agreement, articles of association or any other similar record that confirms the entity's existence. The record you use to confirm the existence of an entity can be paper or an electronic version.

Although such information may be available orally (such as by phone), it is not acceptable for these purposes, as you have to refer to a record. If the record is in paper format, you have to keep the record or a copy of it.

If the record is an electronic version, you have to keep a record of the entity's registration number, the type and source of the record. An electronic version of a record has to be from a public source.

4.9 General Exceptions to Client Identification

In addition to the exceptions explained throughout Section 4, the following general exceptions apply to client identification requirements.

Once you have confirmed the identity of an individual as explained in this guideline, you do not have to confirm their identity again if you recognize the individual at the time of a future event that would otherwise trigger the identification requirement.

Once you have confirmed the existence of a corporation and confirmed its name, address and the names of its directors, you are not required to confirm that same information in the future.

Once you have confirmed the existence of an entity other than a corporation as explained in this guideline, you are not required to confirm that same information in the future.

5 Third Party Determination and Related Records

5.1 Third Party Determination

You have to make a third party determination when you have to keep any of the following records:

- **Large cash transaction record**
Whenever you have to keep a large cash transaction record, you have to take reasonable measures to determine whether the individual who gives you the cash is acting on the instructions of a third party.

In this context, a third party is an individual or entity other than the individual who conducts the transaction.

- **Signature card or an account operating agreement (when opening accounts)**

Whenever you open an account and are required to keep a signature card or an account operating agreement as explained in Section 3.3, you have to take reasonable measures to determine whether the account is to be used by or on behalf of a third party.

In this context, a third party is an individual or entity, other than the account holder or those authorized to give instructions about the account, who directs what happens with the account.

When you are determining whether a “third party” is involved, it is not about who “owns” the money, but rather about who gives instructions to deal with the money. To determine who the third party is, the point to remember is whether the individual in front of you is acting on someone else’s instructions. If so, that someone else is the third party.

In making a third party determination when employees are acting on behalf of their employers, they are considered to be acting on behalf of a third party. The only exception to this is when an employee deposits cash to the employer’s account. In that case, the employee is not considered to be acting on behalf of a third party.

What constitutes reasonable measures will vary in accordance with the context in which they occur, and therefore could differ from one situation to the next. However, reasonable measures would include retrieving the information already contained in your files or elsewhere within your business environment, or obtaining the information directly from the client. If a suspicious transaction report is involved, you cannot tip off the client that you are submitting a report. In this case, reasonable measures may not involve obtaining information from the client if you feel this would tip them off that a suspicious transaction report is being submitted to FINTRAC.

You do **not** have to make any third party determination about an account if the account holder is a financial entity or a securities dealer engaged in dealing in securities in Canada.

5.2 Third Party Records

If you determine that there is in fact a third party, as explained above, you have to keep a record of the following information:

- the third party’s name, address and principal business or occupation;
- the incorporation number and place of incorporation if the third party is a corporation; and
- in the case of a large cash transaction, the nature of the relationship between the third party and the individual who gives you the cash; or
- in the case of a signature card or an account operating agreement, the nature of the relationship between the third party and the account holder.

For examples of third party relationships, see field 18 of Part G in the large cash transaction report.

If you are not able to determine that there is in fact a third party, but you have reasonable grounds to suspect that there are instructions of a third party involved, you have to keep a record to indicate the following:

- in the case of a large cash transaction, whether, according to the individual giving the cash, the transaction is being conducted on behalf of a third party; or
- in the case of an account, whether, according to the individual authorized to act for the account, the account will be used by or on behalf of a third party.

This record must also indicate details of why you suspect the individual is acting on a third party's instructions.

You do not have to keep the third party record described above for an account if the following conditions are met:

- the account is opened by a legal counsel, an accountant or a real estate broker or sales representative; and
- you have reasonable grounds to believe that the account is to be used only for their clients.

If an account is for or on behalf of future and unknown clients, employees, etc., of the individual or entity opening the account, you should keep a record indicating that the account is to be used by or for third parties who are not known at the time of account opening.

6 How Should Records Be Kept?

You should maintain an effective record-keeping system to enable FINTRAC to have access to the records in a timely fashion. Your records have to be kept in such a way that they can be provided to FINTRAC within 30 days of a request to examine them.

For the requirements explained in this guideline, you can keep records in a machine-readable or electronic form, as long as a paper copy can be readily produced. Also, for records that are kept electronically, an electronic signature of the individual who must sign the record has to be retained. An electronic signature means an electronic image of the signature and does not include a personal identification number (PIN).

You are not required to keep a copy of the reports you make to FINTRAC, but you may choose to do so. It is recommended that you keep the information that FINTRAC sends you in the acknowledgement message about each report processed. This provides the date and time the report was received along with its FINTRAC-generated identification number.

Timeframe for keeping records

In the case of signature cards, account operating agreements, and client credit files, these records have to be kept for five years from the day of closing of the account to which they relate. In the case of records to confirm the existence of an entity (including a corporation), they have to be kept for five years from the day the last business transaction was conducted.

In the case of all other records, the records must be kept for a period of at least five years following the date they were created.

Employees or contractors who keep records for you

Your employees who keep records (as described in Section 3) for you are not required to keep those records after the end of their employment with you. The same is true for individuals in a contractual relationship with you, after the end of that contractual relationship. This means that you have to get and keep the records that were kept for you by any employee or contractor before the end of that individual's employment or contract with you.

7 Penalties for Non-Compliance

Failure to comply with your record keeping requirements can lead to criminal charges against you. Conviction of failure to retain records could lead to up to five years imprisonment, to a fine of \$500,000, or both.

8 Comments?

These guidelines will be reviewed on a periodic basis. If you have any comments or suggestions to help improve them, please send your comments to the mailing address provided below, or by email to guidelines@fintrac.gc.ca.

9 How to Contact FINTRAC

For further information on FINTRAC and its activities, reporting and other obligations, please go to FINTRAC's website (<http://www.fintrac.gc.ca>) or contact FINTRAC:

Financial Transactions and Reports Analysis Centre of Canada
234 Laurier Avenue West, 24th floor
Ottawa, Ontario
Canada K1P 1H7

Toll-free: 1-866-346-8722