

**Guideline 6G: Record Keeping and Client Identification  
for Financial Entities**

# Guideline 6G: Record Keeping and Client Identification for Financial Entities

**June 2005**

This replaces the previous version of *Guideline 6: Record Keeping and Client Identification for Financial Entities* 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

<b>1 General .....</b>	<b>3</b>
<b>2 Record Keeping and Client Identification Obligations .....</b>	<b>4</b>
<b>3 Records To Be Kept .....</b>	<b>5</b>
<b>3.1 Large Cash Transaction Records .....</b>	<b>6</b>
<b>3.2 Records to be Kept When Opening an Account .....</b>	<b>7</b>
<b>3.3 Certain Records Created in the Normal Course of Business.....</b>	<b>8</b>
<b>3.4 Certain Records About the Operation of an Account .....</b>	<b>9</b>
<b>3.5 Foreign Currency Exchange Transaction Tickets .....</b>	<b>9</b>
<b>3.6 Transactions of \$3,000 or More with Non-Account Holders .....</b>	<b>10</b>
<b>3.7 Trust-Related Records.....</b>	<b>10</b>
<b>4 Client Identity.....</b>	<b>11</b>
<b>4.1 When and How Do You Have To Identify Clients? .....</b>	<b>11</b>
<b>4.2 Client Identity for Large Cash Transactions .....</b>	<b>11</b>
<b>4.3 Client Identity for Signature Cards .....</b>	<b>11</b>
<b>4.4 Client Identity for Electronic Funds Transfers.....</b>	<b>12</b>
<b>4.5 Client Identity for Foreign Currency Exchange Transactions.....</b>	<b>12</b>
<b>4.6 Client Identity for Settlers or Co-Trustees of a Trust.....</b>	<b>13</b>
<b>4.7 Client Identity for Non-Account Holders .....</b>	<b>13</b>
<b>4.8 How to Identify an Individual.....</b>	<b>14</b>
<b>4.9 Client Identity for Corporations and Other Entities.....</b>	<b>15</b>
<b>4.10 General Exceptions to Client Identification .....</b>	<b>17</b>
<b>5 Third Party Determination and Related Records.....</b>	<b>17</b>
<b>5.1 Third Party Determination .....</b>	<b>17</b>
<b>5.2 Third Party Records.....</b>	<b>18</b>
<b>6 How Should Records Be Kept?.....</b>	<b>19</b>
<b>7 Penalties for Non-Compliance .....</b>	<b>20</b>
<b>8 Comments? .....</b>	<b>20</b>
<b>9 How to Contact FINTRAC .....</b>	<b>21</b>

# 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 reporting, record keeping, client identification and compliance regime requirements for financial entities. Financial entities are banks (i.e., those listed in Schedule I or II of the *Bank Act*) or authorized foreign banks with respect to their operations in Canada, credit unions, caisses populaires, trust and loan companies and agents of the Crown that accept deposit liabilities.

If you are a financial entity, 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 (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, real estate brokers and representatives, and casinos).

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: Background* 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 financial entity, you have the following record keeping and client identification obligations.

- When you conduct a large cash transaction, your obligations are as follows:
  - Keep a large cash transaction record (see Section 3);
  - Identify clients (see Section 4); and
  - Make third party determinations and keep related records (see Section 5).
- When you open an account, your obligations are as follows:
  - Keep account opening records (see Section 3);
  - Identify clients (see Section 4); and
  - Make third party determinations and keep related records (see Section 5).
- When you create account operating agreements, debit or credit memos, or client credit files, in the normal course of business, you have to keep those records (see Section 3).
- For ongoing account operation, you have to keep certain records and client statements (see Section 3).

- When you conduct an electronic funds transfer of \$3,000 or more, you have to identify the client (see Section 4).
- When you conduct a foreign exchange transaction, your obligations are as follows:
  - Keep a foreign exchange transaction ticket (see Section 3); and
  - Identify the individual (see Section 4).
- When you conduct certain transactions of \$3,000 or more with non-account holders, your obligations are as follows:
  - Keep records (see Section 3); and
  - Identify the individual (see Section 4).
- If you are a trust company, you have additional obligations as follows:
  - Keep records about trusts (see Section 3); and
  - Identify the settlors or co-trustees (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](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](http://privacyforbusiness.ic.gc.ca/epic/internet/inpfb-cee.nsf/en/h_hc00000e.html)).

### **3 Records To Be Kept**

As a financial entity, you have to keep the following records:

- Large cash transaction records;
- Account opening records;
- Certain records created in the normal course of business;
- Certain records about the operation of an account;
- Foreign currency exchange transaction tickets;
- Certain records about transactions with non-account holders; and
- Trust related records (trust companies).

Details about each of these types of records are provided in Sections 3.1 through 3.7.

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.

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 another financial entity or a public body. In this context, a financial entity is one that is included in the description at the beginning of this guideline.

Also 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>.

#### **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 deposited, or the cash was used to buy traveller's cheques, 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.

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.

In the case of a deposit, the large cash transaction record also has to include the following:

- the name of your client in whose account the amount is deposited. If the amount was deposited to more than one client's account, the record has to include the names of each client; and
- the time of the deposit, if it was made during your normal business hours, or an indication of "night deposit" for any such deposit made outside your normal business hours.

### **3.2 Records to be Kept When Opening an Account**

These records include those required when you open an account, such as signature cards, copies of official corporate records (binding provisions) and other information.

#### **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 individual's date of birth as well as the following information:

- If you have to identify the individual using a document, the signature card also has to include the type of document used to confirm the individual's identity, its reference number and its place of issue; or

- If you did not use a document but used a cleared cheque to confirm the individual's identity, the signature card also has to include the financial entity and account number of the account on which the cheque was drawn.

### **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 individuals or entities other than corporations**

If the account is opened for an individual or an 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.

## **3.3 Certain Records Created in the Normal Course of Business**

You have to keep the following records that you create in the normal course of business with a client.

### **Account operating agreement**

An account operating agreement is any document you create in the normal course of business that 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 individual's date of birth as well as the following information:

- If you have to identify the individual using a document, the account operating agreement for that individual also has to contain the type of document used to confirm the individual's identity, its reference number and its place of issue; or
- If you do not use a document but use a cleared cheque to confirm the individual's identity, the account operating agreement for that individual also has to contain the name of the financial entity and the account number of the account on which the cheque was drawn.

### **Debit or credit memos**

You have to keep any debit or credit memo that you create or receive in the normal course of business regarding an account. This does not apply to debit memos that relate to another account at the same branch.

### **Client credit files**

A client credit file means a record you create in the normal course of business that relates to a credit arrangement with your client, such as a mortgage, loan, credit card or other



type of credit agreement. This includes your client's name, address and financial capacity as well as the terms of credit. It also includes your client's principal business or occupation, the name of the business (if any), and your client's business address or place of work address.

Client credit files include credit applications that were declined. This also includes cancelled credit applications unless the application was cancelled before it was considered by the financial entity.

### **3.4 Certain Records About the Operation of an Account**

You have to keep the following records relating to the operation of an account:

- a copy of every **account statement** that you send to your client. If the information in an account statement is readily available in other records that you have to keep (as described throughout Section 3), it does not have to be kept again.
- 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.
- every **cleared cheque** drawn on or deposited to an account. This does not apply to cheques if they are drawn on and deposited to accounts at the same branch. It does not apply either if you have electronic or microfilm records that are retained for at least five years and that can readily reproduce images of the cheques.

### **3.5 Foreign Currency Exchange Transaction Tickets**

For every foreign currency exchange transaction you conduct, regardless of the amount, 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; and
- the method, amount and currency of the payment made or received.

If the transaction was \$3,000 or more, the foreign currency exchange transaction ticket also has to set out 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 individual's date of birth as well as the following information:

- If you have to identify the individual using a document, the transaction ticket also has to contain the type of document used to confirm the individual's identity, its reference number and its place of issue; or
- If you did not use a document but used a cleared cheque to confirm the individual's identity, the transaction ticket also has to contain the financial entity and account number of the account on which the cheque was drawn.

### **3.6 Transactions of \$3,000 or More with Non-Account Holders**

You have to keep a record for every one of the following transactions that you conduct with a person or entity that is **not** an account holder:

- if you receive \$3,000 or more for the issuance of traveller's cheques, money orders or other similar negotiable instruments. In this case, keep a record of the date, the amount received and the name and address of the individual who carried out the transaction. This record also must indicate whether the amount was received in cash, cheques, traveller's cheques, money orders or other similar negotiable instruments;
- if you cash \$3,000 or more in money orders. In this case, keep a record of the name and address of the individual cashing the money order. This record also must indicate the name of the issuer of the money order; or
- if you remit or transmit \$3,000 or more by any means or through any individual, entity or electronic funds transfer network. In this case, keep a record of the name and address of the client who initiated the transaction.

### **3.7 Trust-Related Records**

If you are a trust company (i.e., the *Trust and Loan Companies Act* applies to you, or you are regulated by a provincial Act), in addition to the records explained throughout Section 3, you also have to keep the following records:

- a copy of the trust deed; and
- a record of the settlor's name, address and principal business or occupation.

If the trust is an institutional trust and the settlor is a corporation, in addition to the record keeping requirements described above 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 trust. An institutional trust is one that is established by a corporation, a partnership or other entity. It includes pension plan trusts, pension master trusts, supplemental pension plan trusts, mutual fund trusts, pooled fund trusts, registered retirement savings plan trusts, registered retirement income fund trusts, registered education savings plan trusts, group registered retirement savings plan trusts, deferred profit sharing plan trusts, employee profit sharing plan trusts, retirement compensation arrangement trusts, employee savings plan trusts, health and welfare trusts, unemployment benefit plan trusts, foreign insurance company trusts, foreign reinsurance trusts, reinsurance trusts, real estate investment trusts, environmental trusts and trusts established in respect of endowments, foundations and registered charities.

## **4 Client Identity**

### **4.1 When and How Do You Have To Identify Clients?**

As a financial entity, 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 4.10.

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. For example, you may have to request an individual's social insurance number for income tax purposes.

Sections 4.2 to 4.10 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 (including a quick drop or night deposit) or through an automated banking machine, you do not have to identify the individual conducting it.

See Section 4.8 to find out how to identify an individual for a large cash transaction.

### **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 cases where a business account has more than three individuals authorized for it, you have to identify at least three of those individuals.

If the individual who signs a signature card is under 12 years old, identify the individual's father, mother or guardian.

If you open an account for an entity, there are identification requirements in addition to the one regarding signature cards. Refer to Section 4.9 for more information about this.

The identification requirement related to a signature card does not apply if you already have an account with that individual. Nor does it apply in respect of the following:

- an account for a federally or provincially regulated pension fund;

- an account for an employees profit sharing plan or a deferred profit sharing plan, unless the account is funded in whole or in part by contributions by a person or entity other than the employer; or
- an account for a dividend reinvestment plan sponsored by a corporation for its investors, unless the account is funded in whole or in part by a source other than the corporation.

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. For more information about what is considered a public body in this context, see Section 3.1.

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*. 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](http://www1.oecd.org/fatf/Members_en.htm).

See Section 4.8 to find out how to identify an individual for a signature card.

#### **4.4 Client Identity for Electronic Funds Transfers**

You have to identify any individual who requests an electronic funds transfer of \$3,000 or more at the time of the transaction. This does not apply if that individual has signed a signature card for an account with you or is authorized to act regarding such an account.

“Electronic funds transfer” means the transmission- through any electronic, magnetic or optical device, telephone instrument or computer- of instructions for the transfer of funds into or out of Canada. This does not include the transfer of funds within Canada. In the case of SWIFT electronic fund transfer messages, only SWIFT MT 100 and SWIFT MT 103 messages are included.

See Section 4.8 to find out how to identify an individual for an electronic funds transfer.

#### **4.5 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. This does not apply if that individual has signed a signature card for an account with you.

See Section 4.8 to find out how to identify an individual for a foreign currency exchange transaction.

## 4.6 Client Identity for Settlers or Co-Trustees of a Trust

### Identifying individuals

If you are a trust company, you have to identify any **individual** who is the settlor of a personal trust (other than a trust created by a will) or who is authorized to act as co-trustee of any trust. You have to do this within 15 days of becoming the trustee.

If an entity is authorized to act as a co-trustee of a trust, you also have to identify the individuals authorized to give instructions on behalf of the entity's activities as a co-trustee. This also has to be done with 15 days of becoming the trustee.

See Section 4.8 to find out how to identify an individual relating to a trust.

### Identifying entities

If you are a trust company, you have to confirm the existence of any **entity** that is the settlor of an institutional trust, or that is authorized to act as a co-trustee of any trust. You have to do this within 15 days of becoming the trustee. As explained at the beginning of this section, in cases where an entity is authorized to act as a co-trustee of any trust, you also have to identify the individuals authorized to give instructions for that entity's activities as co-trustee.

This identification requirement does not apply if the settlor of the trust is a federally or provincially regulated pension fund.

To find out how to confirm the existence of a **corporation**, read the information in Section 4.9, under the heading "Identifying corporations". To find out how to confirm the existence of an **entity other than a corporation**, read the information in Section 4.9 under the heading "Identifying entities other than corporations".

## 4.7 Client Identity for Non-Account Holders

You have to identify any individual who is **not** an account holder if you conduct any of the following transactions:

- you issue or redeem traveller's cheques, money orders or other similar negotiable instruments for \$3,000 or more; or
- you remit or transmit \$3,000 or more by any means or through any individual, entity or electronic funds transfer network.

If you are required to identify an individual in any of these cases, you have to do so at the time of the transaction.

See Section 4.8 to find out how to identify a non-account holder individual for this purpose.

## 4.8 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 record. 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](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 you have to identify an individual who is not physically present at the time an account is opened, you can confirm that a cheque drawn on the individual's account with another 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.

A cleared cheque is also acceptable for the identification of an individual who is not physically present if the requirement is triggered by an electronic funds transfer (see Section 4.4), a foreign currency exchange transaction (see Section 3.5) or a trust (see Section 4.6).

In any of these situations, 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 (see Section 4.2), or a transaction with a non-account holder (see Section 4.7), you can only identify the individual using a document as explained in the rest of this section. The cleared cheque option is not applicable.

## **4.9 Client Identity for Corporations and 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, is conducted. In the case of a corporation, you also have to determine the corporation's name, address and the names of its directors.

The identification requirement for a corporation or other entity does not apply to the opening of the following:

- an account for an employees profit sharing plan or a deferred profit sharing plan, unless the account is funded in whole or in part by contributions by a person or entity other than the employer; or

- an account for a dividend reinvestment plan sponsored by a corporation for its investors, unless the account is funded in whole or in part by a source other than the corporation.

If you are a trust company, you have to confirm the existence of any corporation or other entity that is the settlor of an institutional trust for which you have to keep records (as explained in Section 3.7). The same is true for any corporation or other entity that is a co-trustee. See Section 4.6 for more information.

### **Identifying 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. If you open an account for a corporation that is a securities dealer, you do not need to ascertain the name of the corporation's directors. This is also true if a corporation that is a securities dealer is the settlor of an institutional trust. However, if you are verifying the existence of a corporation that is a securities dealer because it is a co-trustee, names of the corporation's directors must be confirmed.

The record you use to confirm a corporation's existence can be a 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 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/corpns\\_se](http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/corpdire/dataOnline/corpns_se). As another example, you may also get this type of information if you subscribe to a corporation searching and registration service.

### **Identifying 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.

## **4.10 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 (as explained in Sections 4.8 and 4.9), 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 Sections 3.2 and 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. For example, if an account were opened in one individual's name for deposits that are directed by someone else, the other person or entity would be a third party. As another example, parents who decide to open an education savings account for their child would not be acting on the instructions of the child.

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 another 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 an account, 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.

### **Trust company**

If you are a trust company, you have to keep a record concerning a trust, as explained in Section 3.7. If you have to keep such a record for a personal trust (other than a trust created by a will), you also have to keep a record about each of the beneficiaries that are known to you at the time you become a trustee for the trust. The information required in this record is the name, address and principal business and occupation of each beneficiary known at that time.

## **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 you can readily produce a paper copy from it. For example, if you have a document imaging system, you do not have to produce the original document for these purposes, as long as you can print the imaged one.

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](mailto: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, 24<sup>th</sup> floor  
Ottawa, Ontario  
Canada K1P 1H7

Toll-free: 1-866-346-8722