



July 27, 2007

**TO:** All Banks  
Federally Regulated Trust and Loan Companies  
Federally Regulated Life Insurance Companies  
Federally Regulated Property & Casualty Insurance Companies (with respect to one item noted herein)

**CC:** Canadian Bankers Association  
Canadian Life and Health Insurance Association  
Credit Union Central of Canada  
Insurance Bureau of Canada  
Trust Companies Association of Canada

**RE: Coming into force of Bill C-25: Amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA); and Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (2007-1); and related matters**

---

On June 27, 2007, an Order in Council bringing into force certain amendments to the PCMLTFA and Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) was published in Part II of the Canada Gazette. The amendments can be viewed through the following link:

<http://canadagazette.gc.ca/partII/2007/20070627/pdf/g2-14113.pdf>

These amendments set out important changes to the PCMLTFA and the PCMLTFR which will affect the AML/ATF regimes of federally regulated financial institutions. The following is a summary of the changes, which come into force in stages as follows:

**Amendments that are in effect as of June 23, 2007:**

Financial institutions must take prescribed measures before entering into a correspondent banking relationship with a prescribed foreign entity, including: obtaining prescribed information; ensuring the entity is not a shell bank; obtaining the approval of senior management for the relationship; and setting out in writing the obligations of the parties in respect of the correspondent banking services.

.../2

**Amendments that will come into effect as of June 23, 2008:**

Provisions that:

- Require the reporting of suspicious attempted transactions to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC);
- Require taking reasonable measures to ascertain the identity of customers conducting a transaction that is the object of a suspicious transaction report;
- Financial institutions to which the PCMLTFA applies, that are required to make a disclosure under section 8 of the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism (RIUNRST) will also be required to make a report to FINTRAC;
- Prohibit the opening of accounts for customers whose identities cannot be established;
- Require measures to determine if a customer is a politically exposed foreign person (PEFP) and also require special measures when engaging in business relationships with PEFPs;
- Require enhanced monitoring of accounts of higher-risk customers;
- Require the inclusion and transmission of specific information with certain electronic funds transfers (EFTs), when the EFT network can carry the information;
- Require the implementation of certain policies and procedures, similar to those applicable to Canadian operations, in respect of branches and subsidiaries located in countries that are not members of the Financial Action Task Force (FATF);
- Introduce new identification methods for non-face-to-face transactions;
- Set out special provisions relating to credit card issuers; and
- Require financial institutions to obtain information on the beneficial owners of client entities.

**Amendments that will come into effect as of June 23, 2009:**

The requirement to transmit originator information in EFTs will no longer be subject to the technical capability of the EFT network.

**Update on OSFI's expectations with respect to implementation of AML/ATF measures**

The new regulations represent a significant milestone in the development of Canada's AML/ATF regime. OSFI will be taking these new measures into account when assessing financial institutions' AML/ATF compliance and risk management programs. It is our expectation that financial institutions will be assessing the need for changes to their policies and procedures in order to address the new requirements. During our assessment of financial institutions' compliance and risk management regimes we will be making enquiries with respect to action plans and timelines to meet the new standards.

The PCMLTFA sets out a framework for financial institutions' AML/ATF regimes; however, many of the changes to the PCMLTFA and regulations are designed to permit financial institutions to apply a risk-based approach to the implementation of their AML/ATF programs. This permits financial institutions to exercise reasonable business judgement with respect to their ML/TF risk and enables them to apply resources so that the higher risks receive an appropriate level of mitigation.

OSFI would like to draw financial institutions' attention to recent guidance on the risk-based approach published by the FATF. [Guidance On The Risk-Based Approach To Combating Money Laundering And Terrorist Financing](#) was developed with the active input of the private sector and financial institutions may find it helpful to refer to this document when evaluating their AML/ATF programs. The document can be found at:

<http://www.fatf-gafi.org/dataoecd/43/46/38960576.pdf> . [French link: to come when FATF publishes French version]

OSFI's Guideline B-8, Detecting and Deterring Money Laundering and Terrorist Financing, contains more detailed information on our expectations.

The regulatory changes, coupled with OSFI's accumulated experience in assessing financial institutions' AML/ATF risk management and compliance controls, have prompted us to review our expectations for the federally regulated financial sector going forward. This letter sets out a non-exhaustive list of matters that we commend to the attention of all financial institutions arising from the enactment of Bill C-25, and additional notes on topics where our input has been sought over the last several months.

### **Correspondent banking**

Starting immediately, standards governing the provision of correspondent banking services have come into effect. Financial institutions that provide correspondent banking services will need to ensure that these changes are implemented as soon as possible. Many financial institutions that are affected by this change have already put in place appropriate policies and procedures. It is OSFI's expectation that affected financial institutions will have the appropriate procedures and controls in place and available for OSFI's review.

### **Reporting to FINTRAC**

Starting in June 2008, financial institutions must be able to identify suspicious attempted transactions, and must also identify customers conducting a transaction that is the subject of a suspicious transaction report. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement this requirement by the date it comes into effect.

Changes have also been made to the large cash transaction reporting requirements and the terrorist property reporting requirements.

### **Identification of corporations and entities and their beneficial owners**

Starting in June 2008, financial institutions must take reasonable measures to obtain and, if obtained, retain prescribed information on all directors and persons who own or control, directly or indirectly, 25 per cent or more of a customer that is a corporation; and where such customer is an entity other than a corporation, prescribed information on owners and persons who control 25 per cent or more of the entity. Some financial institutions have already begun to implement measures designed to mitigate the risk of not knowing the beneficial owners of their customers. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement the new requirements by the date they come into effect.

Financial institutions (with the exception of life insurance companies) should ensure that, for customers which are corporations or other legal entities, they identify at least three signing officers (where there are more than three) in accordance with the requirements of the PCMLTFR. This applies in all business lines, except for credit card accounts.

### **Credit products (personal loans, mortgage loans, credit cards, corporate card programs)**

OSFI expects financial institutions to apply their AML/ATF regimes to credit products, including residential and commercial mortgages. With respect to credit card accounts, see **Credit Cards** below.

### **Non face-to-face customer identification**

Starting in June 2008, a broader and more flexible set of customer identification requirements will take effect which will apply in situations where financial institutions do not meet their customers face to face. Some financial institutions have already implemented measures designed to mitigate the heightened risk of not dealing with customers in person. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement the new requirements by the date they come into effect.

Generally, when financial institutions rely on introducers to identify their customers, OSFI's expectations are that:

- Financial institutions that rely on a member of the Investment Dealers Association or the Mutual Funds Dealers Association (or other entity subject to the PCMLTFA) to identify a customer must have a written agreement with such member to ensure the customer has been identified in accordance with the PCMLTFA. The financial institution may EITHER collect customer identification data from such introducer, OR be assured that such customer identification information will be forthcoming upon request;

- Financial institutions relying on introducers who are not subject to the PCMLTFA must collect customer identification information from such introducers if the introducer is responsible for identifying the customer;
- Methods of identifying customers in non face-to-face situations may not be used where an introducer meets a customer face to face; and
- Customer identification must be performed in accordance with the financial institution's policies.

### **Determination whether account will be used by a third party**

The PCMLTFA and regulations require financial institutions to take reasonable measures to determine whether a customer's account is to be used by or on behalf of a third party. This requirement applies in all business lines except that, starting in June 2008, it will no longer apply to credit card programs. If a third party is to use the account, financial institutions must collect the prescribed information about the identified third party.

### **Higher-risk customers**

Starting in June 2008, financial institutions must be able to identify their higher-risk customers, and apply enhanced monitoring to the financial activities of these customers and keep customer information up to date. Many financial institutions have already begun to do this or are in the process of doing so. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement this requirement by the date it comes into effect.

### **PEFPs**

Starting in June 2008, financial institutions must take reasonable measures to determine whether individual account holders or beneficiaries/originators of EFTs of \$100,000 or more are politically exposed foreign persons (PEFPs) (as defined in Bill C-25), and apply enhanced monitoring to the financial activities of these customers. Many financial institutions have already begun to do this or are in the process of doing so. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement this requirement by the date it comes into effect. For financial institutions that have operations outside Canada, it is OSFI's expectation that such institutions coordinate their customer identification procedures enterprise-wide.

### **Customer acceptance policy**

Starting in June 2008 no financial institution may open an account for a customer, in prescribed circumstances, if it cannot establish the identity of the customer in accordance with the measures prescribed in the PCMLTFR. Many financial institutions have already put customer acceptance policies in place, or are in the process of doing so, which anticipate this requirement. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement this requirement by the date it comes into effect.

### **Credit cards**

Starting in June 2008, for all credit card accounts, it will no longer be necessary for financial institutions to maintain a "client credit file". As a result, financial institutions will not be required by the PCMLTFA or PCMLTFR to have evidence of financial capacity in their files with respect to credit card accounts. This and the other record-keeping requirements for credit cards are covered under Section 14.1 of the amended Regulations.

For **corporate cards**, there will no longer be a requirement for any of the signing officers of the corporate or other entity, or the administrator of the corporate card program, to be identified.

Financial institutions should note, however, that in order to comply with the requirement to identify higher-risk customers (discussed above) it may be desirable to apply enhanced due diligence procedures, which could include financial capacity and related diligence, when dealing with higher-risk situations.

### **Internal audit**

Starting in June 2008, financial institutions will be required to institute and document a review of the policies and procedures, the risk assessment and the training program for the purpose of testing their effectiveness. Such review will be required to be carried out every two years by an internal or external auditor. OSFI's expectation is that financial institutions should consider carrying out such reviews at more frequent intervals for higher-risk products, customers and geographic locations.

OSFI also expects that the results of these reviews be summarized and presented to the Board or a Committee of the Board, or the Principal Officer or Chief Agent. OSFI also expects that, where the review of AML/ATF policies and procedures is embedded in the general work carried out by Internal Audit, findings with respect to the AML/ATF program be highlight and presented on a consolidated enterprise-wide basis.

## **Foreign subsidiaries and branches**

Starting in June 2008, financial institutions that have wholly owned subsidiaries that are located in countries that are not members of the FATF must ensure that such subsidiaries develop and apply customer identification and verification procedures, and have compliance programs, which are consistent with those required by the PCMLTFA.

Also starting in June 2008, financial institutions (except for branches of foreign life insurance companies and authorized foreign banks) that have branches in countries that are not members of the FATF must ensure that such branches develop and apply customer identification and verification procedures, and have compliance programs, which are consistent with those required by the PCMLTFA.

Financial institutions may consult the FATF web site to make a determination as to whether a country is a member of the FATF. The FATF web site is <http://www.fatf-gafi.org/>. It should be noted that two members of the FATF are entities (namely, the Gulf Cooperation Council and the European Commission); the member countries of these organizations are not all members of the FATF. Refer to the FATF web site for further information.

Many financial institutions have already begun to implement measures to implement these requirements, or are in the process of doing so. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement this requirement by the date it comes into effect.

## **Name searching required under the Criminal Code, and/or the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism (RIUNRST) and/or United Nations Al-Qaida and Taliban Regulations (UNAQTR)**

These require all Canadian financial institutions (**including property and casualty insurance companies**) to search their customer records for listed names on a continuous basis. OSFI expects financial institutions to be able to conduct this searching weekly, at a minimum. Some, particularly larger, financial institutions have instituted daily searching. The requirement to search for names is not and should not be linked to the requirement to report to OSFI (or a provincial regulator) monthly on the results of the searching.

Starting in June 2008, financial institutions to which the PCMLTFA applies, who are required to make a disclosure under section 83.1 of the Criminal Code or under section 8 of the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism (RIUNRST) will also be required to file a Terrorist Property Report with FINTRAC. It is OSFI's expectation that financial institutions will, to the extent necessary, start or continue the process of being able to implement this requirement by the date it comes into effect.

As always, OSFI expects federally regulated financial institutions to observe the relevant laws and regulations of all jurisdictions in which they operate.

For additional information or any enquires, please contact OSFI's Compliance Division.

Robert Hanna  
Acting Assistant Superintendent  
Regulation Sector