

FINTRAC: New guidance on filing suspicious transaction reports “as soon as practicable”

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The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) recently provided guidance on how the regulator will interpret the amendment to file suspicious transaction reports (STRs) “as soon as practicable”. The new threshold will trigger a need for more STR filings and doing so on a more expedited path, failing which reporting entities may find need to justify their delay or face penalties for non-compliance.

This new FINTRAC guidance comes into force on June 1, 2020, as part of the significant changes that were made to Canada’s anti-money laundering rules last year. For an overview of the changes introduced last year, please see BLG’s article [“Financial institution regulation - 2019 year in review”](#).

The Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2019 (Amending Regulations) has changed the timing of filing STRs from within 30 days after the day of detection, to the new requirement that STRs are to be sent to FINTRAC “as soon as practicable after [the reporting entity has] taken measures that enable them to establish that there are reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering offence or a terrorist activity financing offence”.

These measures will now include:

1. screening for and identifying suspicious transactions;
2. assessing the facts and context surrounding the suspicious transaction;
3. linking money laundering/terrorist financing indicators to the reporting entity’s (RE) assessment of the facts and context; and
4. explaining the RE’s grounds for suspicion in an STR, where the RE articulates the facts, context, and money laundering/terrorist financing indicators that allowed the RE to reach their grounds for suspicion.

After completing such measures and the RE has reasonable grounds to suspect a suspicious transaction has occurred, the RE must submit an STR to FINTRAC “as soon as practicable”. FINTRAC expects “as soon as practicable” to mean that the RE has completed the measures that allowed the RE to determine that they have reached the

“reasonable grounds to suspect” threshold, at which point completing and submitting the STR must be treated as a priority.

FINTRAC’s new guidance on reporting STRs, which comes into force on June 1, 2020, can be found online.

In addition, FINTRAC has updated its existing guidance on STRs, which comes into force on June 1, 2020, and includes further details on the reasonable grounds to suspect threshold, in contrast to the higher threshold of reasonable grounds to believe. The updated FINTRAC guidance on what constitutes an STR can be found online, which also comes into force on June 1, 2020.

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