Don’t get lost in the crowd – FINTRAC rules for the mortgage industry

August 30, 2024

A friendly reminder to all mortgage administrators, mortgage brokers and mortgage lenders of the upcoming requirement to comply with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act) as of **October 11, 2024**. The requirements include the implementation of an AML/terrorist financing compliance program, reporting of certain transactions such as suspicious transaction reports, sanctions evasion reports and terrorist property reports, specified record-keeping, KYC obligations, and following all ministerial directives related to AML and terrorist financing.

A compliance program is expected to include written policies and procedures as well as the appointment of a compliance officer, a risk assessment to document the risk of money laundering or terrorist financing activities, a written, ongoing training program for employees and documentation of a plan to review the compliance program to test its effectiveness at least every two years (the two-year AML effectiveness review).

Examples of records that must be kept (with the specified information) include:

- receipt of funds records when amounts are received in connection with a mortgage on a real property;
- mortgage loan records which include information on the financial capacity of the client and the terms of the loan;
- information records every time a mortgage loan is serviced, arranged, or provided; and
- copies of official corporate records of clients and third-party determination records.

The required records must be kept for at least 5 years.

We expect that, over time, FINTRAC will conduct compliance examinations with respect to whether firms are meeting the requirements under the Act. Additionally, FINTRAC can levy substantial administrative penalties for non-compliance.

If you require any assistance with setting up your compliance program or employee training or have any other questions about your obligations under the Act, please contact your usual lawyer at AUM Law.

By

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