

Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations

SOR/2001-317

Registration 28 August, 2001

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations

P.C. 2001-1500 28 August, 2001

Whereas, pursuant to subsection 73(2) of the *Proceeds of Crime (Money Laundering) Act*^a, a copy of the proposed *Proceeds of Crime (Money Laundering) Suspicious Transaction Reporting Regulations* was published, substantially in the form set out in the annexed Regulations, as part of the *Proceeds of Crime (Money Laundering) Regulations, 2000* in the *Canada Gazette*, Part I, on February 17, 2001 and a reasonable opportunity was thereby given to interested persons to make representations to the Minister of Finance with respect to the proposed Regulations;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Finance, pursuant to section 73 of the *Proceeds of Crime (Money Laundering) Act*^a, hereby makes the annexed *Proceeds of Crime (Money Laundering) Suspicious Transaction Reporting Regulations*.

^a S.C. 2000, c. 17

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING SUSPICIOUS TRANSACTION REPORTING REGULATIONS

[SOR/2002-185, s. 1]

INTERPRETATION

1. (1) For the purposes of the Act and in these Regulations, "casino" means a person or entity that is licensed, registered, permitted or otherwise authorized to do business under any of paragraphs 207(1)(a) to (g) of the *Criminal Code* and that conducts its business activities in a permanent establishment

(a) that the person or entity holds out to be a casino and in which roulette or card games are carried on; or

(b) where there is a slot machine, which, for the purposes of this definition, does not include a video lottery terminal.

It does not include a person or entity that is a registered charity as defined in subsection 248(1) of the *Income Tax Act* and is licensed, registered, permitted or otherwise authorized to carry on business temporarily for charitable purposes, if the business is carried out in the establishment of the casino for not more than two consecutive days at a time under the supervision of the casino.

(2) The definitions in this subsection apply in these Regulations.

"accountant" means a chartered accountant, a certified general accountant or a certified management accountant. (*comptable*)

"accounting firm" means an entity that is engaged in the business of providing accounting services to the public and has at least one partner, employee or administrator that is an accountant. (*cabinet d'expertise comptable*)

"Act" means the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. (*Loi*)

"cash" means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada and coins or bank notes of countries other than Canada. (*espèces*)

"cash" or "currency" [Repealed, SOR/2002-185, s. 2]

"CICA Handbook" means the handbook prepared and published by the Canadian Institute of Chartered Accountants, as amended from time to time. (*Manuel de l'ICCA*)

"electronic funds transfer" means the transmission -- through any electronic, magnetic or optical device, telephone instrument or computer -- of instructions for the transfer of funds, including a SWIFT MT 100 or MT 103 message. (*télévirement*)

"financial entity" means an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada or a bank to which that Act applies, a cooperative credit society, savings and credit union or *caisse populaire* that is regulated by a provincial Act, an association that is regulated by the *Cooperative Credit Associations Act*, a company to which the *Trust and Loan Companies Act* applies and a trust company and loan company regulated by a provincial Act. It includes a department or agent of Her Majesty in right of Canada or of a province where the department or agent is carrying out an activity referred to in section 8. (*entité financière*)

"funds" means cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate a person's or an entity's title or interest in them. (*fonds*)

"legal firm" [Repealed, SOR/2003-102, s. 1]

"life insurance broker or agent" means a person or entity that is registered or licensed under provincial legislation to carry on the business of arranging contracts of life insurance. (*représentant d'assurance-vie*)

"money services business" means a person or entity that is engaged in the business of remitting funds or transmitting funds by any means or through any person, entity or electronic funds transfer network, or of issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments. It includes a financial entity when it carries out one of those activities with a person or entity that is not an account holder. (*entreprise de transfert de fonds ou de vente de titres négociables*)

"real estate broker or sales representative" means a person or entity that is registered or licensed under provincial legislation in respect of the sale or purchase of real estate. (*courtier ou agent immobilier*)

"SWIFT" means the Society for Worldwide Interbank Financial Telecommunication. (*SWIFT*)

"trust company" means a company to which the *Trust and Loan Companies Act* applies or a trust company regulated by a provincial Act. (*société de fiducie*) SOR/2002-185, s. 2; SOR/2003-102, s. 1; SOR/2003-358, s. 1.

1.1 For the purposes of paragraph 5(i) of the Act, any business, temporarily conducted for charitable purposes in the establishment of a casino by a registered charity carried on for not more than two consecutive days at a time under the supervision of the casino, is considered to be an activity conducted by the supervising casino. SOR/2003-358, s. 2.

2. For the purposes of these Regulations, a person acting on behalf of their employer is considered to be acting on behalf of another person or entity except when the person is depositing cash into the employer's account. SOR/2002-185, s. 3.

APPLICATION OF PART 1 OF THE ACT

3. Part 1 of the Act applies to life insurance brokers or agents. SOR/2002-185, s. 3.

4. (1) Every money services business is subject to Part 1 of the Act when it engages in any of the following activities:

(a) remitting funds or transmitting funds by any means or through any person, entity or electronic funds transfer network; or

(b) issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments.

(2) For greater certainty, paragraph (1)(b) does not apply in respect of the redemption of any cheque payable to a named person or entity. SOR/2002-185, s. 3.

5. [Repealed, SOR/2003-102, s. 2]

6. (1) Subject to subsection (2), every accountant and every accounting firm is subject to Part 1 of the Act when they

(a) engage in any of the following activities on behalf of any person or entity, namely,

(i) receiving or paying funds,

(ii) purchasing or selling securities, real property or business assets or entities, or

(iii) transferring funds or securities by any means;

(b) give instructions on behalf of any person or entity in respect of any activity referred to in paragraph (a); or

(c) receive professional fees in respect of any activity referred to in paragraph (a) or in respect of any instructions referred to in paragraph (b).

(2) Subsection (1) does not apply in respect of an accountant when they engage in any of the activities referred to in paragraph (1)(a), (b) or (c) on behalf of their employer.

(3) For greater certainty, subsection (1) does not apply in respect of audit, review or compilation engagements carried out in accordance with the recommendations set out in the CICA Handbook. SOR/2002-185, s. 3.

7. Every real estate broker or sales representative is subject to Part 1 of the Act when they engage in any of the following activities on behalf of any person or entity in the course of a real estate transaction:

(a) receiving or paying funds;

(b) depositing or withdrawing funds; and

(c) transferring funds by any means.

8. Every department and agent of Her Majesty in right of Canada or of a province is subject to Part 1 of the Act when, in the course of providing financial services to the public, it

(a) accepts deposit liabilities; or

(b) sells or redeems money orders. SOR/2002-185, s. 4.

9. (1) Subject to section 11, a report under section 7 of the Act concerning a financial transaction in respect of which there are reasonable grounds to suspect that the transaction is related to the commission of a money laundering offence or a terrorist activity financing offence shall contain the information set out in Schedule 1.

(2) The report shall be sent to the Centre within 30 days after the person or entity or any of its employees or officers first detects a fact respecting a transaction that constitutes reasonable grounds to suspect that the transaction is related to the commission of a money laundering offence or a terrorist activity financing offence. SOR/2002-185, s. 4.

REPORT MADE UNDER SECTION 83.1 OF THE CRIMINAL CODE

10. Subject to section 11, a report made under section 7.1 of the Act shall be sent without delay to the Centre and shall contain the information set out in Schedule 2. SOR/2002-185, s. 4.

EXEMPTION

11. The requirement to report information set out in Schedule 1 or 2 does not apply to a person or entity in respect of information set out in an item of that Schedule that is not marked with an asterisk if, after taking reasonable measures to do so, the person or entity is unable to obtain the information. SOR/2002-185, s. 4.

SENDING

12. (1) The report referred to in section 9 shall be sent electronically in accordance with guidelines for report submissions that are prepared by the Centre if the sender has the technical capabilities to do so.

(2) The report referred to in section 9 shall be sent in paper format in accordance with guidelines for report submissions that are prepared by the Centre if the sender does not have the technical capabilities to send the report electronically.

(3) The report referred to in section 10 shall be sent in paper format in accordance with guidelines for report submissions that are prepared by the Centre. SOR/2002-185, s. 4.

PRESCRIBED INFORMATION

13. The prescribed information for the purposes of paragraphs 55(7)(e), 55.1(3)(e) and 56.1(5)(e) of the Act is

(a) the following information concerning the client, importer or exporter, or any person acting on their behalf, namely,

(i) their alias, if any,

- (ii) their date of birth,
 - (iii) their address,
 - (iv) their citizenship,
 - (v) their Record of Landing number, passport number or permanent resident card number, or all three numbers if applicable,
 - (vi) if the client, importer or exporter is a corporation, the date and jurisdiction of its incorporation and its incorporation number, and
 - (vii) the name and address of any person or entity on whose behalf the financial transaction, importation or exportation is conducted; and
- (b) in the case of a financial transaction, the following information, namely,
- (i) the transit and account numbers,
 - (ii) the full name of every account holder,
 - (iii) the transaction number, if any,
 - (iv) the time of the transaction,
 - (v) the type of transaction, and
 - (vi) the names of the parties to the transaction. SOR/2002-185, s. 4; SOR/2003-358, s. 3.

SCHEDULE 1
(Subsection 9(1) and section 11)
SUSPICIOUS TRANSACTION REPORT

PART A -- Information on Place of Business where Transaction Occurred

- 1.* Type of reporting person or entity, as described in paragraphs 5(a) to (h) and (k) to (m) of the Act, and, if reporting person or entity is referred to in paragraph (5)(i) or (j) of the Act, type of business, profession or activity of reporting person or entity, as described in sections 3 to 8 of these Regulations
- 2.* Identification number of place of business where transaction occurred (e.g., institution's identification number, licence number or registration number), if applicable
- 3.* Full name of reporting person or entity
- 4.* Full address of place of business where transaction occurred
- 5.* Name and telephone number of contact person

PART B -- Information on Transaction

- 1.* Date of transaction or night deposit indicator
2. Time of transaction
3. Posting date (if different from above)
- 4.* Purpose and details of the transaction, including type of funds, amount of transaction, currency of transaction, and, if applicable, name and number of each other institution and name and account number of each other person or entity

- 5.* Disposition of funds, amount of disposition, currency of disposition, and, if applicable, name and number of each other institution and name, account number and policy number of each other person or entity
- 6.* Method by which the transaction was conducted (in branch or office, ABM, armoured car, mail deposit, courier, telephone or other)
7. Identification number of person who first detected a fact respecting a suspicious transaction

PART C -- Account Information (if applicable)

- 1.* Account number
- 2.* Branch number or transit number
- 3.* Type of account (personal, business, trust or other)
- 4.* Full name of each account holder
- 5.* Type of currency of the account
6. Date account opened
7. Date account closed, if applicable
- 8.* Status of account (active, inactive or dormant)

PART D -- Information on Person Conducting Transaction

1. Person's full name
- 2.* Client number provided by reporting person or entity, if applicable
3. Person's full address
4. Person's country of residence
5. Person's personal telephone number
6. Person's citizenship
7. Person's type of identifier (e.g., driver's licence, birth certificate, provincial health insurance card -- if such use of the card is not prohibited by the applicable provincial law --, passport, Record of Landing or permanent resident card) and identifier number
8. Place of issue of person's identifier (province or state, country)

9. Person's date of birth
10. Person's occupation
11. Person's business telephone number
12. Person's employer
13. Employer's full business address
14. Employer's business telephone number

PART E -- Information on Entity on Whose Behalf Transaction is Conducted (if applicable)

1. Entity's full name
2. Full name of each person -- up to three -- who is authorized to bind the entity or act with respect to the account
3. Entity's type of business
4. Entity's full address
5. Entity's telephone number
6. Entity's incorporation number and place of issue, if applicable

PART F -- Information on Person on Whose Behalf Transaction is Conducted (if applicable)

1. Person's full name
2. Person's full address
3. Person's personal telephone number
4. Person's business telephone number
5. Person's citizenship
6. Person's type of identifier (e.g., driver's licence, birth certificate, provincial health insurance card -- if such use of the card is not prohibited by the applicable provincial law --, passport, Record of Landing or permanent resident card) and identifier number
7. Place of issue of person's identifier (province or state, country)
8. Person's date of birth

9. Person's country of residence
10. Person's occupation
11. Person's employer
12. Employer's full business address
13. Employer's business telephone number
14. Relationship of person conducting the transaction to the person on whose behalf the transaction is conducted

PART G -- Description of Suspicious Activity

- 1.* Detailed description of the grounds to suspect that the transaction is related to the commission of a money laundering offence or terrorist activity financing offence

PART H -- Action Taken (if applicable)

- 1.* Any other action taken as a result of suspicion

SOR/2002-185, s. 5.

SCHEDULE 2 (Sections 10 and 11) TERRORIST GROUP PROPERTY REPORT

Part A -- Information on the Person or Entity Filing this Report

- 1.* Type of reporting person or entity
- 2.* Reporting person or entity's identifier number (if applicable)
- 3.* Full name of reporting person or entity
- 4.* Full address of reporting person or entity
- 5.* Name and telephone number of contact person

Part B -- Reason for Filing this Report

- 1.* Reason for filing the report
2. How the reporting person or entity came to know that the property in question is owned or controlled by or on behalf of a terrorist group

3. Full name of terrorist group that owns or controls the property or that the property is owned or controlled on behalf of
4. Full address of terrorist group referred to in item 3
5. Phone number of terrorist group referred to in item 3
6. Full name of person or entity that owns or controls the property on behalf of the terrorist group (if applicable)
7. Full address of person or entity referred to in item 6
8. Phone number of person or entity referred to in item 6

Part C -- Information on the property

- 1.* Type of property
2. Type of property identifier
3. Property identifier number
- 4.* Approximate or actual value of property
5. Description of property

Part D -- Account Information (if applicable)

- 1.* Account number
- 2.* Branch or transit number
- 3.* Type of account (personal, business, trust or other)
- 4.* Type of currency of the account
- 5.* Full name of each account holder
6. Date account opened
7. Date account closed, if applicable
- 8.* Status of account (active, inactive or dormant)

Part E -- Information on the Transaction or Proposed Transaction (if applicable)

- 1.* Date of transaction or night deposit indicator

2. Time of transaction
3. Posting date (if different from above)
- 4.* Purpose and details of the transaction, including type of funds or assets involved, amount of transaction, currency of transaction, and, if applicable, name and number of each other institution and name and account number of each other person or entity
- 5.* Disposition of funds, amount of disposition, currency of disposition, and, if applicable, name and number of each other institution and name, account number and policy number of each other person or entity
- 6.* Method by which the transaction is conducted or proposed to be conducted (in branch or office, ABM, armoured car, mail deposit, courier, telephone or other)
7. Identification number of person who first detected a transaction with respect to property owned or controlled by or on behalf of a terrorist group

Part F -- Information on Person Conducting or Proposing to Conduct the Transaction (if applicable)

1. Person's full name
2. Person's alias, if any
3. Client number provided by reporting person or entity, if applicable
4. Person's full address
5. Person's country of residence
6. Person's citizenship
7. Person's personal telephone number
8. Person's type of identifier (e.g., driver's licence, birth certificate, provincial health insurance card -- if such use of the card is not prohibited by the applicable provincial law --, passport, Record of Landing or permanent resident card) and identifier number
9. Place of issue of person's identifier (province or state, country)
10. Person's date of birth
11. Person's occupation
12. Person's business telephone number
13. Person's employer

14. Employer's full business address

15. Employer's business phone number

Part G -- Information on Entity on whose Behalf the Transaction is Conducted or Proposed to be Conducted (if applicable)

1. Full name of entity

2. Full name of each person -- up to three -- who is authorized to bind the entity or act with respect to the account

3. Full address of entity

4. Telephone number of entity

5. Incorporation number and place of issue, if applicable

6. Entity's type of business

Part H -- Information on Person on whose Behalf Transaction is Conducted or Proposed to be Conducted (if applicable)

1. Person's full name

2. Person's alias, if any

3. Person's full address

4. Person's personal telephone number

5. Person's business telephone number

6. Person's type of identifier (e.g., driver's licence, birth certificate, provincial health insurance card -- if such use of the card is not prohibited by the applicable provincial law --, passport, Record of Landing or permanent resident card) and identifier number

7. Place of issue of person's identifier (province or state, country)

8. Person's date of birth

9. Person's country of residence

10. Person's citizenship

11. Person's occupation

12. Person's employer

13. Employer's full business address

14. Employer's business telephone number

15. Relationship of person conducting or proposing to conduct the transaction to the person on whose behalf the transaction is conducted

SOR/2002-185, s. 5.

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