

Cross-border Currency and Monetary Instruments Reporting Regulations

SOR/2002-412

PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

Her Excellency the Governor General in Council, on the recommendation of the Minister of Finance, pursuant to subsection 73(1)^a of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*^b, hereby makes the annexed *Cross-border Currency and Monetary Instruments Reporting Regulations*.

^a S.C. 2001, c. 41, s. 73

^b S.C. 2001, c. 17; S.C. 2001, c. 41, s. 48

Registration November 21, 2002

CROSS-BORDER CURRENCY AND MONETARY INSTRUMENTS REPORTING REGULATIONS

INTERPRETATION

1. (1) The following definitions apply in the Act and these Regulations.

"courier" means a commercial carrier that is engaged in scheduled international transportation of shipments of goods other than goods imported or exported as mail. (*messenger*)

"monetary instruments" means the following instruments in bearer form or in such other form as title to them passes on delivery, namely,

(a) securities, including stocks, bonds, debentures and treasury bills; and

(b) negotiable instruments, including bank drafts, cheques, promissory notes, travellers' cheques and money orders, other than warehouse receipts or bills of lading.

For greater certainty, this definition does not apply to securities or negotiable instruments that bear restrictive endorsements or a stamp for the purposes of clearing or are made payable to a named person and have not been endorsed. (*effets*)

(2) The following definitions apply in these Regulations.

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

"cargo ship" means a commercial vessel that is engaged in international transportation of shipments of goods other than goods imported or exported as mail. (*navire de charge*)

"commercial passenger conveyance" means a conveyance that is used to carry passengers who have paid for passage. (*moyen de transport commercial de passagers*)

"conveyance" means any vehicle, aircraft or water-borne craft, or other contrivance that is used to move persons, goods, currency or monetary instruments. (*moyen de transport*)

"cruise ship" means a commercial vessel that has sleeping facilities for over 70 persons who are not crew members but does not include a vessel engaged in passenger or cargo ferry service. (*navire de croisière*)

"emergency" means a medical emergency, fire, flood or other disaster that threatens life, property or the environment. (*urgence*)

"non-commercial passenger conveyance" means a conveyance that does not have aboard any person who has paid for passage and includes corporate aircraft, private aircraft and marine pleasure craft. (*moyen de transport non commercial de passagers*)

"transfer agent" means a person or entity appointed by a corporation to maintain records of stock, debenture and bond

owners, to cancel and issue certificates and to send out dividend cheques. (*agent de transfert*)

SOR/2003-358, s. 25.

REPORTING OF IMPORTATIONS AND EXPORTATIONS

MINIMUM VALUE OF CURRENCY OR MONETARY INSTRUMENTS

2. (1) For the purposes of reporting the importation or exportation of currency or monetary instruments of a certain value under subsection 12(1) of the Act, the prescribed amount is \$10,000.

(2) The prescribed amount is in Canadian dollars or its equivalent in a foreign currency, based on

(a) the official conversion rate of the Bank of Canada as published in the Bank of Canada's *Daily Memorandum of Exchange Rates* that is in effect at the time of importation or exportation; or

(b) if no official conversion rate is set out in that publication for that currency, the conversion rate that the person or entity would use for that currency in the normal course of business at the time of the importation or exportation.

GENERAL MANNER OF REPORTING

3. Subject to subsections 4(3) and (3.1) and section 8, a report with respect to the importation or exportation of currency or monetary instruments shall

(a) be made in writing;

(b) contain the information referred to

(i) in Schedule 1, in the case of a report made by the person described in paragraph 12(3)(a) of the Act, if that person is not transporting on behalf of an entity or other person,

(ii) in Schedule 2, in the case of a report made by the person described in paragraph 12(3)(a) of the Act, if that person is transporting on behalf of an entity or other person,

(iii) in Schedule 2, in the case of a report made by the person or entity described in paragraph 12(3)(b), (c) or (e) of the Act, and

(iv) in Schedule 3, in the case of a report made by the person described in paragraph 12(3)(d) of the Act;

(c) contain a declaration that the statements made in the report are true, accurate and complete; and

(d) be signed and dated by the person or entity described in paragraph 12(3)(a), (b), (c), (d) or (e) of the Act, as applicable.

SOR/2002-412, s. 19.

IMPORTATION REPORTING

4. (1) Subject to subsections (2) to (5) and section 9, a report with respect to currency or monetary instruments transported by a person arriving in Canada shall be submitted without delay by the person at the customs office located at the place of importation or, if it is not open for business at the time of importation, at the nearest customs office that is open for business at that time.

(2) A report with respect to currency or monetary instruments transported by a person arriving in Canada on board a commercial passenger conveyance who has as their destination another place in Canada at which there is a customs office may be submitted without delay by the person at that customs office or, if it is not open for business at the time of importation, at the nearest customs office that is open for business at that time, on condition that

(a) the person does not disembark from the conveyance at the place of arrival in Canada and the currency or monetary instruments are not removed from the conveyance at that place, other than to be transferred under customs control directly to a commercial passenger conveyance for departure to the other place in Canada or directly to a holding area designated as such for the purposes of the *Presentation of Persons (Customs) Regulations*; and

(b) if the person and currency or monetary instruments are transferred under customs control directly to a designated holding area, the person does not leave and the currency or monetary instruments are not removed from that area, other than to board or to be loaded on board a commercial passenger conveyance for departure to the other place in Canada.

(3) A report with respect to currency or monetary instruments transported by a person arriving in Canada on board a non-commercial passenger conveyance at a customs office where, under the *Customs Act*, customs reporting may be done by radio or telephone may be submitted by radio or telephone to an officer by that person or the person in charge of the conveyance at that location, on condition that

(a) when the person informs the officer of their arrival for the purposes of section 11 of the *Customs Act*, they provide the information referred to in Schedule 1, 2 or 3, as applicable; and

(b) on the officer's request, they present themselves and make available for examination the currency or monetary instruments at the time and place specified by the officer.

(3.1) A report with respect to currency or monetary instruments transported by a person arriving in Canada on board a non-commercial passenger conveyance, at a customs office where the person is authorized in accordance with the *Presentation of Persons (2003) Regulations* to present in an alternative manner, may be submitted to an officer by telephone, by that person or the person in charge of the conveyance before arriving in Canada, on condition that

(a) when the person informs the officer of their arrival for the purposes of section 11 of the *Customs Act*, they provide the information referred to in Schedule 1, 2 or 3, as applicable; and

(b) on the officer's request, they present themselves and make available for examination the currency or monetary instruments on arrival in Canada at the time and place specified by the officer.

(4) A report with respect to currency or monetary instruments transported by a freight train crew member arriving in Canada on board the freight train shall be submitted without delay by the crew member at the customs office specified by the officer when the crew member presents himself or herself in accordance with section 11 of the *Customs Act*.

(5) A report with respect to currency or monetary instruments that are transported by courier into Canada on board an aircraft and that have as their destination another place in Canada at which there is a customs office, shall be submitted at the customs office located at the airport of destination shown on the air waybill, on condition that

(a) the currency or monetary instruments are not removed from the aircraft at the place of arrival, other than to be transferred under customs control directly to a holding area designated as such for the purposes of the *Presentation of Persons (Customs) Regulations*; and

(b) if the currency or monetary instruments are transferred under customs control directly to a designated holding area, they are not removed from that area, other than to be loaded on board an aircraft for departure to the other place in Canada.

SOR/2002-412, s. 20.

5. Subject to section 10, a report made by an exporter with respect to the importation of currency or monetary instruments by mail shall be made by

(a) including inside the mail item an importation report with respect to the currency or monetary instruments; and

(b) affixing the customs declaration form required by the *Universal Postal Convention*, as amended from time to time, to the outside of the mail item and indicating that it contains currency or monetary instruments.

6. A report made with respect to the importation of currency or monetary instruments that have been retained under section 14 of the Act shall be submitted by the person or entity to whom the notice was given at the customs office indicated on the notice.

7. A report with respect to the importation of currency or monetary instruments, other than one referred to in sections 4 to 6, shall be submitted without delay at the customs office that is open for business at the time of the importation and that is nearest to the place of importation.

8. In an emergency, the person in charge of a conveyance who must unload currency or monetary instruments from the conveyance before being able to make or submit an importation report in accordance with these Regulations may submit the importation report by telephone or other expedient means and, as soon as possible after that, shall make or submit a report in accordance with these Regulations.

EXCEPTIONS TO IMPORTATION REPORTING

9. (1) Subject to subsections (2) and (3), currency or monetary instruments transported by a person arriving in Canada on board a commercial passenger conveyance who has as their destination a place outside Canada are not required to be reported under subsection 12(1) of the Act, on condition that

(a) the person does not disembark from the conveyance in Canada and the currency or monetary instruments are not removed from the conveyance in Canada other than to be transferred under customs control directly to a commercial passenger conveyance for departure to the place outside Canada or directly to a holding area designated as such for the purposes of the *Presentation of Persons (Customs) Regulations*; and

(b) if the person and currency or monetary instruments are transferred under customs control directly to a designated holding area, the person does not leave and the currency or monetary instruments are not removed from that area other than to board or be loaded on board a commercial passenger conveyance for departure to the place outside Canada.

(2) Subject to subsection (3), currency or monetary instruments that are transported by courier into Canada on board a conveyance and that have as their destination a place outside Canada are not required to be reported under subsection 12(1) of the Act, on condition that

(a) the currency or monetary instruments are not removed from the conveyance at the place of arrival, other than to be transferred under customs control directly to a holding area designated as such for the purposes of the *Presentation of Persons (Customs) Regulations*; and

(b) if the currency or monetary instruments are transferred under customs control directly to a designated holding area, they are not removed from that area, other than to be loaded on board a conveyance for departure to the place outside of Canada.

(3) Currency or monetary instruments that are transported into Canada on board a cruise ship or cargo ship and that have as their destination a place outside Canada are not required to be reported under subsection 12(1) of the Act, on condition that the currency or monetary instruments are not removed from the cruise ship or cargo ship while it is in Canada.

SOR/2003-358, s. 26.

10. A person or entity is not required to make a report under subsection 12(1) of the Act with respect to the importation of currency or monetary instruments that are mailed from a location outside Canada to a destination outside Canada but that transit through Canada in the course of post, on condition that they will not leave the course of post until after they have left Canada.

EXPORTATION REPORTING

11. A report with respect to currency or monetary instruments transported by a person departing from Canada shall be submitted without delay by the person at the customs office located at the place of exportation or, if it is not open for business at the time of exportation, at the nearest customs office that is open for business at that time.

12. A report required to be made by an exporter with respect to the exportation by mail of currency or monetary instruments shall be made by

(a) including an exportation report inside the mail item; and

(b) mailing or submitting, at or before the time when the currency or monetary instruments are mailed, a copy of the exportation report to the customs office that is located nearest to the point at which the item was mailed.

13. A report made with respect to the exportation of currency or monetary instruments that have been retained under section 14 of the Act shall be submitted by the person or entity to whom the notice was given at the customs office indicated on the notice.

14. A report with respect to the exportation of currency or monetary instruments, other than one referred to in sections 11 to 13, shall be submitted without delay at the customs office that is open for business at the time of exportation and that is nearest to the place of exportation.

EXCEPTION APPLICABLE TO THE BANK OF CANADA

15. A person or entity is not required to make a report under subsection 12(1) of the Act with respect to the importation or exportation of currency by or on behalf of the Bank of Canada for the purposes of the distribution, processing, or testing of banknotes intended for circulation in Canada.

EXEMPTION APPLICABLE TO IMPORTED SHARES

15.1 A person or entity is not required to make a report under subsection 12(1) of the Act with respect to stocks, bonds and debentures imported into Canada by courier or as mail if the importer is a financial entity or a securities dealer as defined in subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* or a transfer agent.

SOR/2003-358, s. 27.

RETENTION

16. (1) For the purposes of subsection 14(1) of the Act, an officer shall give the person or entity written notice in person or, if the person is not present, shall send the notice by registered mail to the person's latest known address.

(2) For the purposes of subsection 14(2) of the Act, the notice is to be given within 60 days after the day on which the currency or monetary instruments are imported or exported, as the case may be.

17. The prescribed retention period, for the purposes of subsection 14(1) of Act, is

(a) in the case of importation or exportation by courier or as mail, 30 days after the day on which the retention notice is given or sent; and

(b) in any other case, seven days after the day on which the retention notice is given or sent.

PENALTIES

18. For the purposes of subsection 18(2) of the Act, the prescribed amount of the penalty is

(a) \$250, in the case of a person or entity who

(i) has not concealed the currency or monetary instruments,

(ii) has made a full disclosure of the facts concerning the currency or monetary instruments on their discovery, and

(iii) has no previous seizures under the Act;

(b) \$2,500, in the case of a person or entity who

- (i) has concealed the currency or monetary instruments, other than by means of using a false compartment in a conveyance, or who has made a false statement with respect to the currency or monetary instruments, or
 - (ii) has a previous seizure under the Act, other than in respect of any type of concealment or for making false statements with respect to the currency or monetary instruments; and
- (c) \$5,000, in the case of a person or entity who
- (i) has concealed the currency or monetary instruments by using a false compartment in a conveyance, or
 - (ii) has a previous seizure under the Act for any type of concealment or for making a false statement with respect to the currency or monetary instruments.

[19. to 23. Amending]

COMING INTO FORCE

24. (1) Subject to subsection (2), these Regulations come into force on January 6, 2003.

(2) Sections 19 to 23 come into force on the day on which the *Presentation of Persons (2003) Regulations* come into force.

SCHEDULE 1

(Subparagraph 3(b)(i) and paragraphs 4(3)(a) and (3.1)(a))

INFORMATION TO BE GIVEN BY PERSON DESCRIBED IN PARAGRAPH 12(3)(a) OF ACT, IF NOT TRANSPORTING ON BEHALF OF ENTITY OR OTHER PERSON

PART A — Information on Person Described in Paragraph 12(3)(a) of Act

1. Person's full name
2. Person's full permanent address
3. Person's citizenship
4. Person's date of birth
5. Person's personal telephone number
6. Type of document confirming person's identity (e.g., driver's licence, birth certificate, certificate of Indian status, passport, Record of Landing or permanent resident card) and the number of that document
7. Place of issue of document confirming person's identity (province or state, country)

PART B — Information on Importation or Exportation

- 0.1 Indication of whether it is an importation or exportation
1. Departure point of person making the report (country, city)
 2. Person's arrival point (country, city)

PART C — Information on Currency or Monetary Instruments Being Imported or Exported

1. Currency name
2. Country
3. Amount
4. Monetary instruments (type, amount, issuer, date, serial or other identifying number)

SOR/2002-412, s. 21; SOR/2003-358, s. 28.

SCHEDULE 2

(Subparagraphs 3(b)(ii) and (iii) and paragraphs 4(3)(a) and (3.1)(a))

INFORMATION TO BE GIVEN BY PERSON DESCRIBED IN PARAGRAPH 12(3)(a) OF ACT (IF TRANSPORTING ON BEHALF OF ENTITY OR OTHER PERSON) OR BY PERSON OR ENTITY DESCRIBED IN PARAGRAPH 12(3)(b), (c) OR (e) OF ACT

PART A — Information on Person on Whose Behalf Person Described in Paragraph 12(3)(a) of Act is Transporting or on Person Described in Paragraph 12(3)(b), (c) or (e) of Act, If Applicable

1. Person's full name

2. Person's full permanent address
3. Person's citizenship
4. Person's date of birth
5. Person's personal telephone number
6. Type of document confirming person's identity (e.g., driver's licence, birth certificate, certificate of Indian status, passport, Record of Landing or permanent resident card) and the number of that document
7. Place of issue of document confirming person's identity (province or state, country)

PART B — Information on Entity on Whose Behalf Person Described in Paragraph 12(3)(a) of Act is Transporting or on Entity Described in Paragraph 12(3)(b) or (c) of Act, If Applicable

1. Full name of entity
2. Full permanent address of entity
3. Telephone number of entity
4. Type of activity of entity
5. Name and title of contact person of entity

PART C — Information on Importation or Exportation

- 0.1 Indication of whether it is an importation or exportation
1. Date of shipment
 2. Method of shipment (courier, mail or other)
 3. Full name and permanent address of person or entity shipped to
 4. Full name of courier, if applicable
 5. Full permanent address of courier, if applicable
 6. Telephone number of courier, if applicable
 7. Name and title of contact person of courier, if applicable

PART D — Information on Person Described in Paragraph 12(3)(a) of Act or on Person Acting on Behalf of Person or Entity Described in Paragraph 12(3)(b), (c) or (e) of Act, If Applicable

1. Person's full name
2. Person's full permanent address
3. Person's citizenship
4. Person's date of birth
5. Person's personal telephone number
6. Type of document confirming person's identity (e.g., driver's licence, birth certificate, certificate of Indian status, passport, Record of Landing or permanent resident card) and the number of that document
7. Place of issue of document confirming person's identity (province or state, country)

PART E — Information on Currency or Monetary Instruments Being Imported or Exported

1. Currency name
2. Country
3. Amount
4. Monetary instruments (type, amount, issuer, date, serial or other identifying number)

SOR/2002-412, s. 22; SOR/2003-358, s. 29.

SCHEDULE 3

(Subparagraph 3(b)(iv) and paragraphs 4(3)(a) and (3.1)(a))

INFORMATION TO BE GIVEN BY PERSON DESCRIBED IN PARAGRAPH 12(3)(d) OF ACT

PART A — Information on Person Described in Paragraph 12(3)(d) of Act

1. Person's full name
2. Person's full permanent address

3. Person's citizenship
4. Person's date of birth
5. Person's personal telephone number
6. Type of document confirming person's identity (e.g., driver's licence, birth certificate, certificate of Indian status, passport, Record of Landing or permanent resident card) and the number of that document
7. Place of issue of document confirming person's identity (province or state, country)
8. Full name of person's employer
9. Full permanent address of person's employer
10. Telephone number of person's employer
11. Name and title of employer's contact person

PART B — Information on Shipments of Currency or Monetary Instruments

0.1 Indication of whether it is an importation or exportation

1. Name of importer or exporter
2. Total value of currency or monetary instruments

SOR/2002-412, s. 23; SOR/2003-358, s. 30.

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