Model Compliance Manual:
Proceeds of Crime
(Money Laundering) Act
Revision Notes for Version 2.1 – October 29, 2001:

In discussions of compliance reporting, there are references to fields marked with asterisks. Fields marked with asterisks are generally mandatory for reporting purposes whereas fields without asterisks may not be mandatory. The reference in section 7.4.5.6. has been modified to clarify this.

References to “Appendix” or “Appendix 1” have been clarified. Appendix 1 refers to Appendix 1 in Guideline 3 of FINTRAC’s Guidelines.

Part D in the Appendix has been moved. This affects the location of other items in the Appendix within this document.

Section 7.7.1, in Client Communications, the introduction to the sample letter to clients has been changed to include the language used in the Ethics Committee’s opinion on advising clients about obligations under the legislation.

There are no other revisions to Version 1 or 2.

Revision Note for Version 2.2 – November 23, 2001:

Table heading numbers have been corrected on pages 25, 27 and 28.
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1 THE PURPOSE OF THE LAW SOCIETY OF BRITISH COLUMBIA’S MODEL COMPLIANCE MANUAL

1.1 Preparation of this Manual

The Law Society of British Columbia has prepared this *Model Compliance Manual* to assist lawyers and their staff understand their obligations under the *Proceeds of Crime (Money Laundering) Act* (the “Act”) and *Regulations* (the “Regulations”), and implement compliance regimes.

Release of this version of this *Manual* coincides with the coming into effect, on November 8, 2001, of the requirements for mandatory reporting of suspicious transactions. As further parts of the Act are proclaimed, and as further Regulations are passed, the Law Society of B.C. will update this *Manual* to reflect changes in the legislation.

For further information and greater detail about the legislation, you are strongly urged to read *A Guide to Managing a Lawyer’s Obligations under the Proceeds of Crime Legislation*, also prepared by the Law Society of B.C.

1.2 Assumptions

In preparing this *Model Compliance Manual* three assumptions have been made:

1. The hypothetical law firm using this *Manual* consists of three or more partners, one or more associates, and support staff performing accounting, secretarial, legal assistant and reception duties.

2. The hypothetical law firm expects to have a low volume of reportable transactions, that is, less than one report per week in a 12-week period, as set out in Guideline 3.

3. The responsible lawyer on a transaction, under the supervision of the Compliance Officer, is primarily responsible under the legislation for making decisions about reporting. While the legislation imposes obligations on both lawyers and their staff, ultimately the responsible lawyer is liable for failure to comply.

1.3 Adapting the Processes Outlined in this Manual to Suit a Particular Practice

The processes outlined in this *Manual*, based on these assumptions, can be adapted to suit other types of practices. Some firms may prefer to centralize both the decision-making and report-making functions and make the Compliance Officer responsible for both. Other firms may prefer to assign both the decision-making and report-making functions to the responsible lawyer alone. This second option may be more appropriate for a larger firm where involving the Compliance Officer in all decisions to report might prove cumbersome. This second
option may also be appropriate for a sole practitioner who makes use of someone outside the firm to be Compliance Officer.

What is important is that the obligations under the legislation to identify suspicious transactions and to report them are met while upholding solicitor-client responsibilities to the greatest extent possible under the legislation.

1.4 Additional Information for the Compliance Officer to Keep with the Firm’s Manual

The Compliance Officer will keep in a binder with the Manual customized for the firm the following reference materials:

- *A Guide to Managing a Lawyer’s Obligations under the Proceeds of Crime Legislation* (Law Society of British Columbia)


- *Guideline Introduction*

- *Guideline 1: Backgrounder*

- *Guideline 2: Suspicious Transaction Reporting*

- *Guideline 3: Submitting Reports to FINTRAC*

- *Professional Conduct Handbook*
2 BACKGROUND

2.1 The Role of Lawyers and Their Staff under the Legislation

The Act and the Regulations require lawyers and their staff to disclose information about their clients that lawyers are otherwise obliged by professional conduct rules to keep confidential.

The federal government intends this mandatory reporting scheme to assist in the detection and deterrence of money laundering, and to facilitate the investigation and prosecution of money laundering offences. Various individuals and entities, including lawyers and their staff, will be required to report specific detailed information about certain financial transactions to FINTRAC, a newly created government agency. FINTRAC will, in turn, analyze the reported information and may disclose suspicions of money laundering activity to police authorities and others as permitted by the legislation.

2.2 The Components of a Compliance Scheme

Although not all Regulations to the Act have been passed, s.71(1) of the draft Regulations released February 17, 2001 (the “February 17, 2001 draft Regulations”) require lawyers and the employees acting on their behalf, that is, their staff, to have a compliance regime in place. Section 71(2) of the February 17, 2001 draft Regulations provides that a compliance regime must include, as far as practicable, the following four elements.

- A Compliance Officer
- Compliance Policies and Procedures
- Review Policies and Procedures
- An Employee Training Program

2.3 Materials Consulted in Preparing this Manual

The Law Society of British Columbia has prepared this Model Compliance Manual with reference to the legislation and other materials, including materials prepared by FINTRAC. The FINTRAC materials include four Guidelines prepared to assist persons and entities subject to the legislation understand and meet their obligations under the legislation.
Guidelines prepared by FINTRAC

Guideline 1: Backgrounder (released February 17, 2001; revised and re-released September 12, 2001)

Guideline 2: Suspicious Transaction Reporting (released February 17, 2001; revised and re-released September 12, 2001)

Guideline 3: Submitting Reports to FINTRAC (released February 17, 2001; revised and re-released September 12, 2001)

Guideline 4: Implementation of a Compliance Regime (released February 17, 2001; withdrawn September 12, 2001)

Guideline 4 describes in detail what FINTRAC considers to be an effective compliance regime. In preparing this Model Compliance Manual much use has been made of the suggestions made in the now withdrawn Guideline 4. It is assumed that much of the material in the withdrawn Guideline 4 will appear in an updated Guideline 4. However, this Model Compliance Manual will be revised upon release of a new Guideline 4 to reflect any changes.

2.4 Making Use of this Manual

This Manual has been drafted as a generic source document for lawyers and their staff to use and adapt to their needs. It is anticipated that lawyers and their staff will download this Manual into their own computer systems and produce their own customized document.

There are some obvious places in this Manual that need to be customized. The following list sets out some, but not all, changes necessary for customizing this Manual.

Instructions for Customizing this Manual

In para. 3, insert the name of the lawyer or firm of lawyers using this Manual.

In para. 4.1.3, complete the information about duration and frequency of training sessions.

In para. 5.1, insert the name of the Compliance Officer and the Alternate Compliance Officer.

In Chart 1, adjust the organizational chain of implementation to meet the nature, size and complexity of the practice of the lawyer or firm of lawyers using this Manual.

The nature of the lawyer’s or law firm’s practice will determine which examples in Tables 2 and 3 of common indicators and indicators specific to legal counsel are relevant to it. Consider carefully each of the examples, especially those under the headings “Cash Transactions” and “Transactions Involving Accounts”, and select the appropriate examples for inclusion in the lawyer’s or law firm’s manual.
In para. 7.7.1, insert the date for commencement of notification to existing and new clients of obligations under the legislation.

In paras. 8.2 and 8.3, insert the name of the person who will conduct the review of policies and procedures.

The nature of the lawyer’s or law firm’s practice will also determine which fields in the Appendix of instructions for completing a suspicious transaction report are relevant to it. Consider carefully each of the fields and comments for each field and select the appropriate ones for inclusion in the lawyer’s or law firm’s manual. This Manual already includes in square brackets [] editorial comments about some of the fields.

2.5 Warning

Lawyers and their staff subject to the legislation who fail to comply with the obligation to implement a compliance regime are subject to onerous criminal charges and penalties.

Penalty for Failing to Implement a Compliance Regime

Under s.74 of the Act every person or entity that knowingly contravenes the regulations is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than $50,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than $500,000 or to imprisonment for a term of not more than five years, or both.

Other criminal charges and penalties are noted throughout this Manual.
3 THE COMPLIANCE MANUAL OF

3.1 Purpose of Manual

The purpose of this manual is to set out for [name of lawyer or firm of lawyers] the internal policies and procedures that [name of lawyer or firm of lawyers] has/have adopted in order to comply with the obligations imposed on lawyers and their staff by the Proceeds of Crime (Money Laundering) Act (the “Act”) and the Proceeds of Crime (Money Laundering) Act Regulations (the “Regulations”).

3.2 References and Abbreviations Used in this Manual

In assigning responsibility for tasks, this Manual makes use of the following references and abbreviations.

<table>
<thead>
<tr>
<th>References and Abbreviations Used in this Manual</th>
</tr>
</thead>
<tbody>
<tr>
<td>“CCMIR” means cross-border currency and monetary instrument reporting</td>
</tr>
<tr>
<td>“Compliance Officer” means the person assigned that responsibility, or who assumes that responsibility in the absence of the assigned Compliance Officer</td>
</tr>
<tr>
<td>“FATF” means Financial Action Task Force</td>
</tr>
<tr>
<td>“February 17, 2001 draft Regulations” means the Proceeds of Crime (Money Laundering) Regulations, 2000, released for consideration February 17, 2001</td>
</tr>
<tr>
<td>“FINTRAC” means Financial Transaction and Reports Analysis Centre of Canada created by s.41 of the Act</td>
</tr>
<tr>
<td>“Guide” means A Guide to Managing a Lawyer’s Obligations under the Proceeds of Crime Legislation</td>
</tr>
<tr>
<td>“Guidelines” means the Guidelines prepared by FINTRAC</td>
</tr>
<tr>
<td>“lawyers and staff” or “lawyers and their staff” means all lawyers and all their non-lawyer employees when responsibilities are generally applicable</td>
</tr>
<tr>
<td>“lawyers” means lawyers, whether partners, associates or other</td>
</tr>
<tr>
<td>“Log” means log of transactions and steps taken by FINTRAC</td>
</tr>
</tbody>
</table>

“responsible lawyer” means the lawyer responsible for a particular transaction

“staff” and “staff persons” means non-lawyer staff persons

4.1 Lawyer and Staff Training

4.1.1 All lawyers and staff will receive training

All lawyers and staff must become sufficiently familiar with compliance policies and procedures so as meet their obligations. Since all lawyers and staff handle client information, the potential exists for any lawyer or staff member to become aware of suspicious transactions in the course of doing his/her work.

4.1.2 The objective of training

The Compliance Officer will implement a program for the training of all lawyers and staff so that they will become aware of the requirements of the legislation and their responsibilities. The objective of the training will be to impart a general familiarity of the legislation, how each lawyer and staff member is directly affected, and the policies and procedures developed and described in this Model Compliance Manual.

4.1.3 Training schedule

The Compliance Officer will conduct [one-, two-, or other] hour training sessions every [week, two weeks, or other] over a [four, five, or other] week period during work hours or after hours and commencing as soon as possible. New lawyers who join the firm or new staff will receive training from the Compliance Officer before they begin to deal with clients. Lawyers who change the nature of their work, or staff who change their jobs within the firm, will receive training from the Compliance Officer as he/she determines is necessary.

4.1.4 Review sessions and further training

The Compliance Officer will conduct brief review sessions two or three times in the six months following initial training to ensure that all lawyers and staff understand and are following the policies and procedures. The Compliance Officer will conduct further training sessions after further implementation of the different components of the legislation, or changes in the legislation.

4.2 Elements Covered by the Training Program

Lawyer and staff training will cover:

- legislative and regulatory requirements and liabilities,
- policies and procedures developed for the firm as set out in this Model Compliance Manual, and
- background information on money laundering.
5 THE COMPLIANCE OFFICER

5.1 Appointment of a Compliance Officer

___________ is the Compliance Officer ("the Compliance Officer") for this firm. He/She will report to the partners at regular partners’ meetings on the progress of implementation and review of policies and procedures, and staff training. Lawyers and staff who have any questions about the compliance regime must speak to him/her. In the event of the Compliance Officer’s absence from the firm, __________ ("the Alternate Compliance Officer") will assume the responsibilities of the Compliance Officer. In the event of both _________’s and _________’s absence from the firm, any partner may assume the responsibilities of the Compliance Officer as necessary.

5.2 Role of the Compliance Officer

The Compliance Officer has overall responsibility for overseeing implementation of compliance regime policies and procedures, periodically reviewing those policies and procedures, and training lawyers and staff. In that capacity, he/she will be involved in the review of all transactions identified by other lawyers and staff as possibly requiring reporting under the legislation. The Compliance Officer and the lawyer responsible for the transaction (the “responsible lawyer”) will have primary responsibility for reviewing the available information and determining whether a transaction needs to be reported. Other lawyers may be involved in reviewing the available information and determining whether the transaction needs to be reported as explained below under the heading “Organizational Chain of Implementation”.

The Compliance Officer is responsible for maintaining the log of transactions and steps taken by FINTRAC (the “Log”). The Log is described in detail at §7.4.1 of this Manual.

Any lawyer or staff member who receives any correspondence from FINTRAC must direct the correspondence to the Compliance Officer.
6 BACKGROUND TO MONEY LAUNDERING LEGISLATION

The objective of the Act and Regulations is to help detect and deter money laundering and facilitate investigations and prosecutions of money laundering offences. To this end, the legislation implements reporting, record keeping and client identification requirements for entities and professionals, such as lawyers and their staff, that are susceptible to being used for money laundering.

Money laundering is the process by which “dirty money”, produced through criminal activity, is transformed into “clean money” the criminal origin of which is difficult to trace. The International Monetary Fund estimates global money laundering to be between two and five per cent of GDP or half a trillion dollars. Money laundering in Canada alone is estimated to be in the billions of dollars.

Although money laundering has become a large, global phenomenon that affects all countries in varying ways and degrees, jurisdictional boundaries have made international law enforcement difficult. Consequently, there have been a number of international initiatives to increase international cooperation and coordination in deterring, detecting and prosecuting money laundering. One of those initiatives is the Financial Action Task Force on Money Laundering (“FATF”), established by the G-7 countries in 1989. Canada is a member of FATF. FATF has outlined a basic framework for anti-money laundering efforts, covering the criminal justice system and law enforcement, the financial system and its regulation, and international cooperation. Adoption of the Act and Regulations by Canada is consistent with the FATF recommendations and with regulatory schemes in other industrialized countries.
7 COMPLIANCE POLICIES AND PROCEDURES

7.1 Seven Key Elements to Compliance Policies and Procedures

In order to meet the obligations under the legislation, this firm’s compliance policies and procedures cover the following seven elements or tasks:

1. Identification of reportable transactions
2. Completion and filing of reports
3. Reasonable measures to obtain information
4. Record keeping
5. Communication with clients
6. Management of compliance reviews by FINTRAC and searches and seizures by FINRAC or other authorities
7. Management of documents in the hands of third parties, such as, experts and agents

7.2 Organizational Chain of Implementation

7.2.1 Roles of Compliance Officer, responsible lawyer, other lawyers and staff

All persons contemplated by Chart 1 will be involved in the process of determining whether a transaction is suspicious and must be reported.

The Compliance Officer and the responsible lawyer have primary responsibility for determining whether a particular transaction is suspicious and needs to be reported. Therefore, if any lawyer or staff member becomes aware of information about a possible suspicious transaction, that lawyer or staff member must communicate that information to the responsible lawyer.

Chart 1 demonstrates the relay of information to the lawyer responsible for the transaction, depending on whether a lawyer or staff member first becomes aware of information about a possible suspicious transaction, so that the responsible lawyer, the Compliance Officer, and any other lawyer or staff person who needs to be involved, can decide whether to report the transaction.

In large firms if the Compliance Officer is also the lawyer responsible for the transaction, he/she may want to consult with the Alternate Compliance Officer in reviewing the available information and deciding whether to report the transaction.
7.2.2 Can the firm continue to act for the client?

The professional responsibility issues that arise if a report is made are problematic. While there is no requirement under the legislation to close a client’s account when a suspicious transaction report has been made or is being made, the responsible lawyer and the Compliance Officer, in consultation with any other lawyer or staff person who needs to be involved, should consider the future of the solicitor-client relationship with the client.

Somewhat similar professional responsibility issues arise if the responsible lawyer and the Compliance Officer determine that they are not obliged to make a report because the transaction did not complete. In these circumstances, the responsible lawyer and the Compliance Officer, in consultation with any other lawyer or staff person who needs to be involved, should still consider the future of the solicitor-client relationship with the client.
Chart 1 - Organizational Chain of Implementation

Staff person:
- Staff person detects a fact that constitutes reasonable grounds to suspect that a transaction is related to a money laundering offence.
- Staff person reports suspicions to responsible lawyer.

Responsible Lawyer:
- Responsible lawyer detects a fact that constitutes reasonable grounds to suspect that a transaction is related to a money laundering offence.
- Responsible lawyer advises firm Compliance Officer that potentially reportable transaction has been identified.
- Responsible lawyer, Compliance Officer and any other staff or lawyer involved review the facts and grounds.
- Responsible lawyer and Compliance Officer review facts and decide if a report must be made.
- Information for report is gathered, and privileged information is identified.
- Responsible lawyer and Compliance Officer ensure report is properly completed and submitted to FINTRAC on time.

Lawyer other than responsible Lawyer:
- Lawyer detects a fact that constitutes reasonable grounds to suspect that a transaction is related to a money laundering offence.
- Lawyer reports suspicions to responsible lawyer.
- Reasons for decision not to report are documented.
7.3 Identification of Reportable Transactions

7.3.1 Obligation to report suspicious transactions commences November 8, 2001

Lawyers and staff will be involved in preparing and filing reports about “suspicious transactions”, commencing November 8, 2001, and about “prescribed” or “large cash transactions” and “cross-border currency and monetary instrument transactions” when the legislation respecting those two kinds of transactions comes into effect.

7.3.2 Obligation to report large cash transactions and cross-border currency and monetary instrument transactions not yet in effect

Subject to confirmation of implementation of the legislation by the Compliance Officer, this firm will begin preparing reports on the above three transactions at times set out in Table 1:

<table>
<thead>
<tr>
<th>Timetable for Implementation of Reporting Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suspicious Transactions</td>
</tr>
<tr>
<td>Large Cash Transactions</td>
</tr>
<tr>
<td>Cross-Border Currency and Monetary Instruments Reporting</td>
</tr>
</tbody>
</table>

References—Act, ss.7 (suspicious transactions), 9 (prescribed or large cash transactions), and 12 (cross-border currency and monetary instrument transactions)

7.3.3 Suspicious transactions

7.3.3.1 Three separate steps to be taken in deciding whether a suspicious transaction must be reported

7.3.3.1.1 Has the obligation to report a suspicious transaction been triggered?

Only when lawyers and staff engage in the following activities on behalf of a client, or when lawyers and staff give instructions in relation to these activities, are their obligations to report suspicious transactions triggered:

<table>
<thead>
<tr>
<th>Activities that Trigger Obligation to Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>• receiving or paying funds, other than those received or paid in respect of professional fees, disbursements, expenses or bail;</td>
</tr>
<tr>
<td>• purchasing or selling securities, real properties or business assets or entities; and</td>
</tr>
<tr>
<td>• transferring funds or securities by any means.</td>
</tr>
</tbody>
</table>
References—*Act*, ss.1 (definition of “legal counsel”), 5(i), (j) and (m), and 73(1)(a) and (b), and *Regulations*, ss.2(b) and 5

Chart 2 demonstrates graphically the process for assessing whether the reporting obligation has been triggered.
7.3.3.1.2 *Has the transaction completed?*

The requirement to report a suspicious transaction applies only to a completed transaction. If the client, the lawyer or the firm, decides not to complete the transaction, there is no obligation to report.

7.3.3.1.3 *Is the transaction suspicious?*

The more difficult question to answer is whether the transaction is suspicious within the meaning of the legislation. Answering this question is dealt with immediately below in §§7.3.3.2 through 7.3.3.5.

Chart 3 demonstrates graphically the process for assessing whether the transaction is suspicious.
7.3.3.2 The assessment of whether a transaction is suspicious

In assessing whether a transaction is suspicious, lawyers will follow the guideline described in Guideline 2: Suspicious Transaction Reporting, §2.2:

<table>
<thead>
<tr>
<th>Suspicious transactions are financial transaction that you, as a reporting person or entity have reasonable grounds to suspect are related to the commission of a money laundering offence.</th>
</tr>
</thead>
</table>

“Reasonable grounds to suspect” is determined by what is reasonable in your circumstances, such as normal business practices and systems within your industry.

In this firm, lawyers and staff, reviewing all information about a potentially suspicious transaction must consider:

- What a money laundering offence is
- Whether a suspicion is reasonably based
- General and specific indicators of suspicious transactions compiled by FINTRAC

7.3.3.3 What a money laundering offence is

Section 2 of the Act defines “money laundering offence” as follows:

<table>
<thead>
<tr>
<th>“money laundering offence” means an offence under subsection 462.31(1) of the Criminal Code, section 9 of the Controlled Drugs and Substances Act, section 126.2 of the Excise Act, section 163.2 of the Customs Act, section 5 of the Corruption of Foreign Public Officials Act or section 28 of the Crimes Against Humanity and War Crimes Act.</th>
</tr>
</thead>
</table>

Under s.462.31(1) of the Criminal Code, for example, a “money laundering offence” involves concealing or converting property or the proceeds of property (e.g. money), knowing or believing that the property or proceeds were derived from the commission of another offence, generally known as a “predicate offence” or an offence that is motivated by profit. Predicate offences include the following:

- illegal acts (apart from simple possession) in relation to various controlled drugs and substances
- bribery of judicial officials
- keeping a common bawdy house
- procuring juvenile prostitution
- theft
- extortion
• frauds on the government
• corrupting morals
• keeping a gaming or betting house
• betting, pool-selling and bookmaking
• child pornography
• breach of trust by a public officer
• forgery
• murder
• robbery
• secret commissions
• fraudulent manipulation of stock exchange transactions
• possessing or uttering counterfeit money
• fraud
• money increment schemes

A money laundering offence can also extend in some cases to property or proceeds derived from illegal activities that take place outside Canada.

7.3.3.4 Is a suspicion reasonably based?

Whether a suspicion is reasonably based depends on:

• the context in which the transaction arose
• how the transaction fits into the “bigger picture”
• what is known about the client.

Guideline 2: Suspicious Transaction Reporting, §3.1, provides a useful discussion of how to evaluate context, the bigger picture and client knowledge.

Transactions may give rise to reasonable grounds to suspect that they are related to money laundering regardless of the sum of money involved. There is no monetary threshold for making a report on a suspicious transaction. A suspicious transaction may involve several factors that may seem individually insignificant, but together may raise suspicion that the transaction is related to the commission of a money laundering offence. As a general guide, a transaction may be connected to money laundering when you think that it (or a group of transactions) raises questions or gives rise to discomfort, apprehension or mistrust.
The context in which the transaction occurs is a significant factor in assessing suspicion. This will vary from business to business, and from one client to another. As a reporting person or entity, or an employee of a reporting person or entity, you should evaluate transactions in terms of what seems appropriate and is within normal practices in your particular line of business. The fact that transactions do not appear to be in keeping with normal industry practices may be a relevant factor for determining whether there are reasonable grounds to suspect that the transactions are related to money laundering.

An assessment of suspicion should be based on a reasonable evaluation of relevant facts, including the knowledge of the customer’s business, financial history, background and behaviour. Remember that behaviour is suspicious, not people. Also, it could be the consideration of many factors—not just one factor—that will lead you to a conclusion that there are reasonable grounds to suspect that a transaction is related to the commission of a money laundering offence. All circumstances surrounding a transaction should be reviewed.

### 7.3.3.5 Common and specific indicators of suspicious transactions compiled by FINTRAC

In assessing whether a transaction is suspicious, review the examples of common indicators as well as the examples of indicators specific to “legal counsel”, developed by FINTRAC and set out in Guideline 2, §§4.1-4.8 and 5.8. FINTRAC developed these indicators to help reporting persons and entities assess whether they have reasonable grounds for suspicion. These indicators are reproduced in Table 2—Examples of Common Indicators, and in Table 3—Examples of Indicators Specific to Legal Counsel, with the addition of information about non-cooperative countries.

Taken together, the general and legal counsel-specific indicators help lawyers and staff identify suspicious transactions. Guideline 2 emphasizes that the “indicators” are not intended as a substitute for the reporting entity’s own assessment, which must be based on knowledge, experience and the specific circumstances of the financial transaction. A threshold of two or three indicators is not decisive. In some circumstances, one indicator may be sufficient to raise a suspicion; in other circumstances, no reasonable suspicion may arise even if there are multiple indicators. Identification of suspicious transactions is entirely subjective. Each situation must be assessed individually. While the suspicion standard does not require certainty, there should at least be reasonable grounds to suspect that the transaction is related to money laundering. In the event the responsible lawyer and the Compliance Officer conclude that a transaction is suspicious, a suspicious transaction report must be submitted to FINTRAC.
Table 2
Examples of Common Indicators
(§§ 4.1 to 4.8)

**General**
- Client admits or makes statements about involvement in criminal activities
- Client does not want correspondence sent to home address.
- Client appears to have accounts with several financial institutions in one area for no apparent reason.
- Client repeatedly uses an address but frequently changes the names involved.
- Client is accompanied and watched.
- Client shows uncommon curiosity about internal systems, controls and policies.
- Client has only vague knowledge of the amount of a deposit.
- Client presents confusing details about the transaction.
- Client over justifies or explains the transaction.
- Client is secretive and reluctant to meet in person.
- Client is nervous, not in keeping with the transaction.
- Client is involved in transactions that are suspicious but seems blind to being involved in money laundering activities.
- Client’s home or business telephone number has been disconnected or there is no such number when an attempt is made to contact client shortly after opening account.
- Client is involved in activity out-of-keeping for that individual or business.
- Client insists that a transaction be done quickly.
- Inconsistencies appear in the client’s presentation of the transaction.
- Client appears to have recently established a series of new relationships with different financial entities.
- Client attempts to develop close rapport with staff.
- Client uses aliases and a variety of similar but different addresses.
- Client uses a post office box or General Delivery address, or other type of mail drop address, instead of a street address when this is not the norm for that area.
- Client offers you money, gratuities or unusual favours for the provision of services that may appear unusual or suspicious.
Knowledge of Money Laundering Reporting

- Client attempts to convince employee not to complete any documentation required for the transaction.
- Client makes inquiries that would indicate a desire to avoid reporting.
- Client has unusual knowledge of the law in relation to suspicious transaction reporting.
- Client seems very conversant with money laundering issues.
- Client is quick to volunteer that funds are “clean” or “not being laundered”.

Identity Documents

- Client provides doubtful or vague information.
- Client produces seemingly false identification or identification that appears to be counterfeited, altered or inaccurate.
- Client refuses to produce personal identification documents.
- Client only submits copies of personal identification documents.
- Client wants to establish identity using something other than his or her personal identification documents.
- Client’s supporting documentation lacks important details such as a phone number.
- Client inordinately delays presenting corporate documents.
- All identification presented is foreign or cannot be checked for some reason.
- All identification documents presented appear new or have recent issue dates.

Cash Transactions

- Client starts conducting frequent cash transactions in large amounts when this has not been a normal activity for the client in the past.
- Client frequently exchanges small bills for large ones.
- Client uses notes in denominations that are unusual for the client, when the norm in that business is much smaller or much larger denominations.
- Client presents notes that are packed or wrapped in a way that is uncommon for the client.
- Client deposits musty or extremely dirty bills.
- Client makes cash transactions of consistently rounded-off large amounts (e.g., $20,000, $15,000, $9,900, $8,500, etc.).
- Client consistently makes cash transactions that are just under the reporting threshold.
• Client conducts a transaction for an amount that is unusual compared to amounts of past transactions.

• Client frequently purchases travellers cheques, foreign currency drafts or other negotiable instruments with cash when this appears to be outside of normal activity for the client.

• Client asks you to hold or transmit large sums of money or other assets when this type of activity is unusual for the client.

**Economic Purpose**

• Transaction seems to be inconsistent with the client’s apparent financial standing or usual pattern of activities.

• Transaction appears to be out of the ordinary course for industry practice or does not appear to be economically viable for the client.

• Transaction is unnecessarily complex for its stated purpose.

• Activity is inconsistent with what would be expected from declared business.

**Transactions Involving Accounts**

• Opening accounts when the client’s address is outside the local service area.

• Opening accounts in other people’s names.

• Opening accounts with names very close to other established business entities.

• Attempting to open or operating accounts under a false name.

• Account with a large number of small cash deposits and a small number of large cash withdrawals.

• Funds are being deposited into several accounts, consolidated into one and transferred outside the country.

• Client frequently uses many deposits locations outside of the home branch location.

• Client makes multiple transactions on the same day.

• Activity far exceeds activity projected at the time of opening of the account.

• Inactive or dormant account suddenly sees significant activity.

• Unexplained transfers between the client’s products and accounts.

• Multiple deposits are made to a client’s account by third parties.

**Transactions Involving Areas Outside Canada**

• Client and other parties to the transaction have no apparent ties to Canada.
• Transaction crosses many international lines.
• Transaction involves a country where illicit drug production or exporting may be prevalent, or where there is no effective anti-money-laundering system.
• Transaction involves a country known for highly secretive banking and corporate law.
• Transaction involves a country known or suspected to facilitate money laundering activities.
• Use of a credit card issued by a foreign bank that does not operate in Canada by a client that does not live and work in the country of issue.

The Financial Action Task Force on Money Laundering, established by the G-7 nations in 1989, and of which Canada is a member, maintains a list of non-cooperative countries and territories, that is, countries and territories having critical deficiencies in their anti-money laundering systems or a demonstrated unwillingness to cooperate in anti-money laundering efforts.

The updated list as of September 7, 2001 is:

1. Cook Islands
2. Dominica
3. Egypt
4. Grenada
5. Guatemala
6. Hungary
7. Indonesia
8. Israel
9. Lebanon
10. Marshall Islands
11. Myanmar
12. Nauru
13. Nigeria
14. Niue
15. Philippines
16. Russia
17. St. Kitts and Nevis
18. St. Vincent and the Grenadines
19. Ukraine

More information on the countries to which these characteristics may apply can be found at the following Websites:

Financial Action Task Force on Money Laundering:
www.oecd.org/fatf
Transactions Related to Offshore Business Activity

Any person or entity that conducts transactions internationally should consider the following indicators:

- Accumulation of large balances, inconsistent with the known turnover of the client’s business, and subsequent transfers to overseas account or accounts.
- Frequent requests for traveller’s cheques, foreign currency drafts or other negotiable instruments.
- Loans secured by obligations from offshore banks.
- Loans to or from offshore companies.
- Offers of multimillion-dollar deposits from a confidential source to be sent from an offshore bank or somehow guaranteed by an offshore bank.
- Transactions involving an offshore “shell” bank whose name may be very similar to the name of a major legitimate institution.
- Unexplained electronic fund transfers by client on an in-and-out basis.
- Use of letter of credit and other methods of trade financing to move money between countries when such trade is inconsistent with client’s business.
- Use of a credit card issued by an off-shore bank.
Table 3
Indicators of Suspicious Transactions Specific to Legal Counsel (§5.8)

- Client appears to be living well beyond his or her means in light of his or her employment, profession or business.
- Client is conducting normal business transactions, but the transactions are not consistent with the nature of his or her employment, profession or business.
- Client is reluctant to discuss his or her financial affairs when this type of behaviour is inconsistent with the ordinary business practice of the client, or out of context with the nature of the transaction being conducted.
- Client requests anonymity.
- Clients seems unconcerned about legal fees on an aborted transaction.
- Client wants you to co-ordinate international transactions, including currency exchanges, or to co-ordinate cross-border movement of funds when this type of transaction is inconsistent with the ordinary business practice of the client.
- Client asks you to establish a nominee company or trust for deposits of funds in Canada or overseas when this type of transaction is inconsistent with the ordinary business practice of the client.
- Client makes unusual requests for placement of funds into trust account for safekeeping.
- Client refuses to discuss the business purpose of the transaction.
- Client seeks to obtain trust account information and is prepared to pay unusually high fees to use this information and account.
- Client offers to pay a much higher fee than is usually charged or than you quoted to get assistance on a transaction involving large sums.

7.3.3.6 Penalties for non-compliance with obligations to report suspicious transactions and protections for compliance

The penalties for lawyers and staff failing to meet the suspicious transaction reporting obligations are onerous. Generally, non-legal staff who report their suspicions to the responsible lawyer are immune from penalty.

**Failure to report:** Section 75(1) of the Act provides that failure to report a suspicious transaction can lead to up to five years’ imprisonment and/or a fine of $2,000,000.

**Limited immunity for employees:** Section 75(2) provides that “no employee of a person or entity shall be convicted of an offence under subsection (1) in respect of a transaction that they reported to their superior”.
Lawyers and staff who make a suspicious transaction report in good faith are protected from criminal and civil liability.

**Immunity for making a report:** Section 10 of the Act provides that “no criminal or civil proceedings lie against a person or an entity for making a report in good faith under section 7 or 9”.

Lawyers and staff must not inform anyone, including the client, about the contents of a suspicious transaction report or even that a report has been made, if it is a lawyer’s or staff person’s intention to harm or impair a criminal investigation. This prohibition applies whether or not a criminal investigation has begun.

**Prohibition on disclosing that report has been made or contents of report:** Section 8 of the Act provides that “No person or entity shall disclose that they have made a report under section 7, or disclose the contents of such a report, with the intent to prejudice a criminal investigation, whether or not a criminal investigation has begun.

### 7.3.4 “Prescribed” or “large cash transactions”

The provisions in the Act relating to “prescribed” or “large cash transactions” have not yet been proclaimed, nor have the related Regulations been passed. It is anticipated that these parts of the legislation will be implemented in late 2002 or early 2003. On or before that time, the Law Society of B.C. will update this Model Compliance Manual to assist lawyers and their staff in implementing a compliance regime to meet their additional obligations to report and record large cash transactions.

### 7.3.5 Cross-border currency and monetary instruments

The provisions in the Act relating to “cross-border currency and monetary instrument” reporting (“CCMIR”) have not yet been proclaimed, nor have the related Regulations been passed. It is anticipated that these parts of the legislation will be implemented in late 2001 or early 2002. On or before that time, the Law Society of B.C. will update this Model Compliance Manual to assist lawyers and their staff in implementing a compliance regime to meet their additional obligations.

### 7.4 Completion and Filing of Reports

#### 7.4.1 Maintenance of a log of transactions and steps taken by FINTRAC

For every potential suspicious transaction, the Compliance Officer will maintain a log of transactions and any steps taken by FINTRAC (the “Log”) in which he/she will store:

- a worksheet for each transaction noting the information gathered and considered in assessing whether or not to report it,
In addition, the Compliance Officer will store in the Log:

- a record of any compliance review undertaken by FINTRAC, and
- a record of any search and seizure made by FINTRAC, and any claim of solicitor-client privilege made.

The Compliance Officer will maintain the Log separate from client files, and will not put copies of any records in the Log in any client file. The Compliance Officer will keep the Log in a secure place and will prohibit access to anyone without his/her permission

### 7.4.2 Preparation of a transaction worksheet

For every potential suspicious transaction, the Compliance Officer will complete a worksheet in which he/she will record information gathered and considered in deciding whether or not to make a suspicious transactions report. In addition, the Compliance Officer will note any information considered to be possibly privileged, and will note whether or not the information was determined to be privileged.

### 7.4.3 Role of Compliance Officer and responsible lawyer

The Compliance Officer and the responsible lawyer must ensure that the required reports are completed and filed with FINTRAC. In discharging these responsibilities, they will have regard to:

- reporting timelines
- means of reporting
- information to be contained in reports

### 7.4.4 Stipulated reporting timelines

The Compliance Officer and the responsible lawyer will ensure that the reports are sent to FINTRAC in accordance with the schedule set out in Table 4 below.
Table 4  
Stipulated Reporting Timelines

<table>
<thead>
<tr>
<th>What to Report</th>
<th>When to Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suspicious transactions</td>
<td>30 days after the lawyer or staff member 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</td>
</tr>
</tbody>
</table>

If the Compliance Officer or responsible lawyer decides to report a transaction as being suspicious, he/she must ensure that the appropriate entry is made in the law firm’s and/or lawyer’s bring forward system so as to ensure the timely making of the report.

References—Regulations, s.10

7.4.5 Means of reporting to FINTRAC

7.4.5.1 Sending reports to FINTRAC electronically

Since this firm has the technical capabilities to do so, the Compliance Officer or the responsible lawyer must send the report of suspicious transactions, or supervise the sending of the report by a staff member, to FINTRAC electronically in accordance with the guidelines for report submissions set out in Guideline 3: Submitting Reports to FINTRAC.

As the firm anticipates making less than one report per week over a 12-week period, the threshold for low volume reporting under Guideline 3, the Compliance Officer or responsible lawyer will complete and send reports by accessing the FINTRAC website and following the instructions for making a report online. FINTRAC’s website address is: www.fintrac.gc.ca

In the event that the Compliance Officer determines that the firm sends more than one report per week in a 12-week period, he/she will amend the procedure for sending reports to make use of one of the other two options available for low volume, high frequency reporting or high volume, high frequency reporting available through FINTRAC, and as described in Guideline 3, §3.1.

7.4.5.2 Completion of reports

In completing reports available on the website, the Compliance Officer or the responsible lawyer must ensure that the instructions for completing each field of a suspicious transaction report set out in Guideline 3 are followed. The Compliance Officer or the responsible lawyer must ensure that the instructions are followed by reviewing the instructions himself/herself or supervising a staff member in doing that. The “Instructions for Completing a Suspicious Transaction Report” are set out below in the Appendix.
7.4.5.3 Retention of a copy of report sent to FINTRAC

Neither the legislation nor Guideline 3 describes how entities making use of the website reporting option should make and retain copies of reports made for their own records. In following the instructions for making a report over the website, the lawyer or staff person making the report will have to determine how he/she can make and retain a copy.

The Compliance Officer will not put the copy of the report in the client file, but will put the copy in the Log.

7.4.5.4 Acknowledgement of receipt of an electronic report

FINTRAC may send an acknowledgement message to the lawyer or firm that it has received a report. In that case, the Compliance Officer will not record the acknowledgement in the client file, but will keep and record the acknowledgement in the Log. That record will contain the following information:

- the date and time FINTRAC received the report, and
- the FINTRAC-generated identification number

7.4.5.5 Corrections

If FINTRAC determines that a report is incomplete, it may notify the lawyer or firm and request further information. In that case, the Compliance Officer will not record the notice and request in the client file, but will keep and record the notice and request in the Log. That record will contain the following information:

- the date and time FINTRAC received the report,
- the FINTRAC-generated identification number, and
- the information on the fields that require completion.

The Compliance Officer must ensure that the necessary information is provided to FINTRAC immediately, and ensure that a note is made in the Log that the report has been corrected as required.

7.4.5.6 Information included in reports

In completing reports, the Compliance Officer or the responsible lawyer must take reasonable measures to ensure that all the required fields are completed. If, after taking reasonable measures, the Compliance Officer or the responsible lawyer, as the case may be, is unable to obtain the information required to complete the fields not marked with an asterisk, he/she may leave those fields blank.
The Compliance Officer will note in the Log the reasonable measures taken.

References—Regulations, s.9(2) and Schedule

7.4.5.7 Paper reporting alternative

In the event this law firm does not have the technical capabilities to report electronically, the Compliance Officer or the responsible lawyer must ensure that paper reports, prepared on word processing equipment or typewriter, are sent by fax in accordance with the guidelines for report submissions set out in Guideline 3: Submitting Reports to FINTRAC. In addition to sending a paper report by fax, a copy marked “previously faxed” will be mailed as follows:

By fax: 1-866-226-2346

By mail to the following address:

Financial Transactions and Reports Analysis Centre of Canada
Station A
Ottawa, ON
Canada K1P 1H7

7.5 Reasonable measures to obtain information

The requirement to report information set out in the Schedule does not apply to the Compliance Officer or the responsible lawyer in respect of information set out in an item of the Schedule that is not marked with an asterisk if, after taking reasonable measures to do so, the Compliance Officer or the responsible lawyer is unable to obtain the information.

Neither the legislation nor the Guidelines describe what is meant by “reasonable measures.” There is ambiguity in Guideline 3 itself which in its instructions for completing a suspicious transaction report refers to making “reasonable efforts to get the information” rather than taking “reasonable measures.”

The Compliance Officer will note in the Log the reasonable measures taken.

References—Regulations, s.9(2) and Schedule

7.6 Record Keeping

The provisions in the Act relating to “prescribed” or “large cash transactions” have not yet been proclaimed, nor have the related Regulations been passed. It is anticipated that these parts of the legislation will be implemented in late 2002 or early 2003. On or before that time, the Law Society of B.C. will update this Model Compliance Manual to assist lawyers and their staff in implementing a compliance regime to meet their additional obligations to report and record large cash transactions.

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Version 2.2: November 23, 2001
7.7 Client Communication

7.7.1 Role of lawyers in advising new and existing clients about obligations under the legislation

The Ethics Committee of the Law Society gave the following opinion on September 6, 2001:

1. Lawyers have an obligation to comply with the PCMLA, but must be vigilant to ensure that the client’s interests, including the client’s right to confidentiality, are not compromised in any way that the legislation does not require.

2. When the PCMLA is proclaimed, lawyers should notify existing clients of the lawyer’s obligations under the legislation and should notify new clients of those obligations at the beginning of the representation, unless the matter for which the lawyer has been retained does not involve a transaction of the kind to which the PCMLA might apply.

As soon as possible, and preferably on or before November 8, 2001, each lawyer should notify each of his/her existing clients of the lawyer’s obligations under the legislation, unless the matter for which the lawyer has been retained does not involve a transaction of the kind to which the legislation might apply.

Lawyers should also notify each new client of those obligations at the beginning of the representation, unless the matter for which the lawyer is being retained is one which does not involve a transaction of the kind to which the legislation might apply.

The lawyer should provide the existing or new client with a letter in the following form or a form adapted for the lawyer’s client, and before acting further for the client, the lawyer will, if possible:

- discuss its contents with the new client, and
- obtain the client’s acknowledgement that the lawyer has communicated his/her obligations under the legislation to the client.
Sample Letter to Existing and New Clients

Date: ____________

Dear [Client’s Name]:

Re: The Proceeds of Crime (Money Laundering) Act

The federal government has enacted a new Proceeds of Crime (Money Laundering) Act (the “Act”), significantly expanding the scope of its existing legislation. The first parts of the legislation come into force on November 8, 2001. Of particular importance to this law firm, the Act imposes new obligations on our lawyers and staff to report and record some of our clients’ transactions.

Beginning on November 8, 2001, the legislation requires our firm to report “suspicious transactions” to an agency of the federal government, that is, financial transactions we reasonably suspect are related to the commission of a money laundering offence.

Furthermore, the new legislation prohibits lawyers and their staff from informing a client that a suspicious transaction report has been made, or from disclosing to a client the contents of a report.

Over the course of the next several months, we expect other provisions to come into force and impose further obligations on our firm to:

- report the importation or exportation of currency or monetary instruments of a value greater than an amount to be established,
- report large cash transactions of $10,000 or more, and
- keep a record of large cash transactions for five years.

You should also be aware that under provisions that are not yet in force, certain authorities will have the power to seize our mail or enter our firm’s premises.

- A new federal agency, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) will have the authority to enter this law firm, without a search warrant, to determine if we are complying with the Act. FINTRAC officials will be able to access our computer and data processing system, examine and copy file information and records, and reproduce any information or record.
- The Canadian Customs and Revenue Agency (CCRA) will have the authority to seize, retain and open mail that it reasonably believes contains $10,000 or more in cash or monetary instruments.

We emphasize that these powers to seize our mail or enter our firm’s premises are not yet in force. We anticipate, however, that these powers will be in force within the next several months.
The new legislation may require lawyers and their staff of this firm to disclose confidential client information.

As lawyers our professional rules of conduct oblige us to keep confidential all information about our clients’ business and affairs unless our clients authorize us to release the information, or we are required by law or a court to do so. The *Proceeds of Crime (Money Laundering) Act* is just such a law requiring us to disclose our client’s confidences.

Therefore, our obligations under this legislation are not optional. Although the *Act* does not require us to “disclose any communication that is subject to solicitor-client privilege,” you should be aware that not all client confidential information is protected by solicitor-client privilege.

If FINTRAC attempts to examine documents in our possession relating to you, we will assert solicitor-client privilege if we believe the documents are or may be protected by solicitor-client privilege. If we assert solicitor-client privilege in those circumstances and we do not receive your instructions to waive privilege, or if we cannot contact you, it may be necessary to make a court application to establish privilege over those documents. Please note that the legislation says that even when privilege is established in a court application, no court costs will be awarded to you against FINTRAC.

We encourage you to ask us any questions about the contents of this letter.

Yours very truly,

[OUR LAW FIRM’S NAME]

Per:
7.7.2 Withdrawal

After a suspicious transaction report has been made, if the lawyer determines that he/she is in an unresolvable conflict and decides that he/she cannot continue to act for the client, the lawyer is prohibited from disclosing the fact that a report has been made and from disclosing the contents of a report.

The Compliance Officer will note the fact of the withdrawal in the Log and the reasons for the withdrawal.

Nevertheless, the lawyer is obliged under Chapter 10, Rule 8 of the Professional Conduct Handbook to notify the client in writing of the reasons for withdrawal. Given the prohibition against disclosure, the lawyer cannot be specific in stating the reason for withdrawal.

The lawyer will consult with the Compliance Officer prior to withdrawing from acting for a client in these circumstances, and will advise the Compliance Officer in the event that the lawyer does so withdraw.

7.8 Management of Compliance Reviews by FINTRAC and Search and Seizures by FINTRAC or Other Authorities

7.8.1 Compliance reviews by FINTRAC

FINTRAC may periodically provide feedback to lawyers and staff to ensure the adequacy, completeness and timeliness of the information reported to FINTRAC.

Lawyers and staff will cooperate with FINTRAC and any person authorized by FINTRAC to the extent required by the Act and the Regulations.

To ensure that only information required by the Act and the Regulations is disclosed, lawyers and staff will strictly and carefully comply with the prescribed form and manner of transactions report and carefully evaluate each piece of reported information to determine if it is protected by solicitor-client privilege. Under the Act, lawyers and their staff are not required to disclose any communication that is subject to solicitor-client privilege. Lawyers and staff will review with the Compliance Officer any issues of possible solicitor-client privilege. If the lawyer and Compliance Officer lack sufficient expertise in the area of solicitor-client privilege to determine whether any piece of reported information is protected by solicitor-client privilege, they will consult with counsel who does have sufficient expertise.

The Compliance Officer will keep a record of any compliance reviews made by FINTRAC in the Log.

References—Act, ss.11, 40(e); Professional Conduct Handbook, chapter 5, Rules 1, 13 and 14
7.8.2 A compliance search and seizure

Under s.62 of the Act, a person authorized by FINTRAC has the power to enter this firm’s premises at any reasonable time, without a search warrant, to determine whether the lawyers and their staff are complying with the obligations to report and record transactions. In the course of a compliance search, lawyers and the staff of this firm must give the person authorized by FINTRAC:

- full use and access to the data on any computer or data processing system in the premises;
- the right to examine and reproduce any data in printout or other electronic form; and
- the right to use any copying equipment to make any required copies.

In addition, lawyers and staff must give or furnish the authorized person:

- all reasonable assistance to enable them to carry out their responsibilities, and
- any information with respect to the administration of the reporting and recording obligations that they may reasonably require.

If a person authorized by FINTRAC enters the firm’s premises, the lawyer and/or staff member who first becomes aware of that person’s entry will request identification from the authorized person, and will inform the Compliance Officer immediately that a person authorized by FINTRAC has entered the firm’s premises. The Compliance Officer is responsible for liaising with the person authorized by FINTRAC throughout the course of the compliance search.

Lawyers and staff will cooperate with FINTRAC and any person authorized by FINTRAC to the extent required by the Act and the Regulations, considering the obligations under the Professional Conduct Handbook.

Chapter 5, Rulings 13 and 14 of the Professional Conduct Handbook provides:

| 13. A lawyer who is required by law or by order of a court to disclose a client’s affairs shall not divulge more information than is necessary. |
| 14. A lawyer who is required, under the Criminal Code, the Income Tax Act or any other federal or provincial legislation, to produce or surrender a document or provide information which is or may be privileged shall, unless the client waives the privilege, claim a solicitor-client privilege in respect of the document. |

At its meeting of September 6, 2001, the Ethics Committee of the Law Society of BC gave the following opinion:
1. Lawyers have an obligation to comply with the Act, but must be vigilant to ensure that the client’s interests, including the right to confidentiality, are not compromised in any way that the legislation does not require.

2. When the Act is proclaimed, lawyers should notify existing clients of the lawyer’s obligations under the legislation and should notify new clients of those obligations at the beginning of the representation, unless the matter for which the lawyer has been retained does not involve a transaction of the kind to which the Act might apply.

The Compliance Officer will keep a record in the Log of any searches and seizures made and will record whether any claims of solicitor-client privilege were made.

7.8.3 Claiming privilege on seized client documents

Under s.64(2) of the Act, the person authorized by FINTRAC is not entitled to examine or make copies of documents “in the possession of a legal counsel who claims that a named client or former client of the legal counsel has a solicitor-client privilege in respect of the document”. If, in the course of conducting a search of the firm’s premises, the person authorized by FINTRAC is about to examine documents that any lawyer present or the Compliance Officer has reason to believe may be subject to a claim of solicitor-client privilege, the lawyer or the Compliance Officer must, first of all, assert solicitor-client privilege, and, secondly, take steps necessary to apply to court to establish privilege.

7.8.3.1 Step 1—Assert privilege

Any lawyer present at the compliance search or the Compliance Officer must claim solicitor-privilege, if he/she has reasonable grounds for believing a document is or may be privileged, by doing the following:

- Claim privilege over the client’s file and contact the client immediately. If the lawyer or the Compliance Officer is able to contact the client, determine whether he/she waives privilege. If the lawyer is not able to contact the client, the lawyer must claim privilege pending receipt of the client’s instructions.

- Remember that under s.64(9) of the Act the FINTRAC-authorized person must give a “reasonable opportunity” for a claim of solicitor-client privilege to be made. If the lawyer responsible for a file containing a particular document is not on the premises at the time of the compliance search, and the Compliance Officer has reasonable grounds to believe the document is or may be privileged, the Compliance Officer will ask the FINTRAC-appointed person to allow the Compliance Officer time to contact the responsible lawyer before the FINTRAC-authorized person examines or copies the document. If the FINTRAC-authorized persons refuses time for that purpose, the Compliance Officer must claim privilege pending receipt of the responsible lawyer’s instructions.

- Remember that the claim of privilege must be over all documents that are or may be privileged.
• Ensure that the FINTRAC-authorized person does not have an opportunity to review or examine the documents sought.

• Remember that any claim of privilege may be lost in the event the documents are reviewed by anyone other than members of the firm or by the client.

• Remember that there is an obligation under s.64(10) of the Act to communicate to the FINTRAC-authorized person the client’s latest known address so that the authorized person may endeavour to advise the client of the claim of privilege that has been made on their behalf and may by doing so give the client an opportunity to waive the privilege.

• In accordance with s.64(3) of the Act, place the document, together with any other document in respect of which a claim of privilege is made at the same time on behalf of the same client in a package and seal and identify the package, or, if agreeable to the FINTRAC-authorized person, allow the pages of the document to be initialed and numbered or otherwise suitably identified. Retain the sealed or marked document and ensure that it is preserved until it is produced to a judge as required under the Act and an order is issued in respect of the document.

### 7.8.3.2 Step 2—Bring application to establish privilege

In accordance with s.64(4) of the Act, if the client does not waive privilege over the documents, or if the client cannot be found, the lawyer who asserted the privilege must apply to a judge to fix a date and place, not later than 21 days after the date of the order fixing the date and place, for determining the question of privilege, and to require the production of the document to the judge at that time. On the application to consider the question of privilege, the judge may inspect the documents if he/she considers it necessary. If the judge decides that the documents are privileged, he/she will make an order for release of the documents to the lawyer. If the judge decides there is no privilege, he/she will make an order that the lawyer produce documents for examination or copying by the FINTRAC-authorized person (s.64(5) of the Act). In preparing to make this application and in making this application, the lawyer who asserted the privilege must do the following.

• Make the application within 14 days from the day on which the privilege was asserted, on three days’ notice to the Deputy Attorney General of Canada (s.64(4)(a) of the Act).

• Serve a copy of the order on the Deputy Attorney General of Canada (s.64(4)(b) of the Act).

• Apply at the appointed time and place for an order determining the question (s.64(4)(c)) of the Act).

• The application may be made by either the client or the lawyer (s.64(4) of the Act). However, if the client cannot be located, the lawyer is obliged to bring the application. The lawyer should consider whether he/she wishes to retain his/her own counsel for purposes of the application.
• If the lawyer is able to locate the client, the lawyer should advise the client that he or she ought to retain different counsel for the application under s.64(4).

7.8.4 Warning

Under s.74 of the Act failure to give a FINTRAC-appointed person all reasonable assistance to enable them to carry out their responsibilities and to furnish them with any information with respect to the administration of the reporting and recording obligations under the Act they reasonably require could result, upon conviction, to up to five years’ imprisonment and/or a fine of $500,000.

7.9 Management of Documents in the Hands of Third Parties

Any lawyer who has placed any client documents in the hands of a third party, such as an expert, must advise that individual that he or she should immediately contact the lawyer in the event of a FINTRAC compliance search and seizure, so that the lawyer may make a claim of solicitor-client privilege.

References—Act, s.64(9.1)
8 REVIEW OF POLICIES AND PROCEDURES

8.1 When Review of Policies and Procedures Will Take Place

In addition to reviewing the firm’s compliance policies and procedures annually or as otherwise directed by the Law Society of British Columbia or by FINTRAC, the firm will also review compliance policies and procedures in the following circumstances:

- when there are changes in legislation,
- when the Compliance Officer becomes aware that the firm has not been in compliance with the policies and procedures, and
- if any member of the firm provides legal services of a kind that he or she has not provided previously.

The Compliance Officer will monitor the legislation for changes triggering the need to review compliance policies and procedures. Any lawyer who begins to provide new legal services will advise the Compliance Officer.

8.2 ____________ Will Conduct Review

[Select the person responsible for conducting reviews—suggestions are a lawyer in the firm, the firm’s accountant, a lawyer from another firm, etc.] will conduct the annual review of this firm’s compliance policies and procedures.

8.3 The Objective of the Review

The objective of our firm’s review will be to assess whether the firm’s policies and procedures are in place, are being adhered to, and whether procedures and practices comply with the legislation. In undertaking the review, ____________ will:

- interview lawyers and staff handling transactions to determine their knowledge of the legislative requirements and policies and procedures in place,
- review the criteria and process for identifying and reporting suspicious transactions, and
- test the validity and reasonableness of exceptions made to reporting transactions.

___________ will document his/her review, and identify and report deficiencies to the Compliance Officer. The Compliance Officer, in turn, will report to the partners with a response indicating corrective actions and a timeline for implementing such actions. This information will be kept in the Log.
9 KEEPING CURRENT WITH CHANGES IN THE LEGISLATION AND POLICY

9.1 FINTRAC

Further information on FINTRAC and its activities is available on FINTRAC’s website at:
http://www.fintrac.gc.ca

or by contacting FINTRAC at:

Financial Transactions and Reports Analysis Centre of Canada
234 Laurier Ave. W.
Ottawa, Ontario K1P 1H7

Toll free: 1-866-346-8722

via e-mail at info@FINTRAC.gc.ca

Search the “What’s New” page on FINTRAC’s website for announcements about proposed legislation, amendments to legislation, and coming into force dates.

FINTRAC has published the following Guidelines:

Guideline 1: Backgrounder
Guideline 2: Suspicious Transaction Reporting
Guideline 3: Submitting Reports to FINTRAC

http://www.fintrac.gc.ca/publications/guide/guide_e.asp

9.2 Legislation


Check the currency statement at the top of the first page of the Act. A more current version of the legislation may be available on QUICKLAW’s Revised Statutes of Canada (RSC) database.

An Act to Amend the Proceeds of Crime (Money Laundering) Act, Bill S-16, 2001


Appendix

Instructions for Completing a Suspicious Transaction Report

The nature of the lawyer’s or law firm’s practice will determine which fields in the Appendix are relevant to it. Consider carefully each of the fields and comments for each field and select the appropriate ones for inclusion in the lawyer’s or law firm’s manual. This Manual already includes in square brackets [] editorial comments about some of the fields.

To download a copy of these instructions, go to:

www.fintrac.gc.ca/publications/guide/3-5_e.asp

The fields in this section refer to the numbered areas on the Suspicious Transaction Report form, whether you are reporting electronically or on paper. As explained in Section 2.2 (above), completing a paper report is only permitted if you do not have the capability to report electronically.

All fields of the report marked with an asterisk ( * ) must be completed. Some fields have both an asterisk and “where applicable” next to them. These must be completed if they are applicable to you or the transaction being reported. For all other fields, you have to make reasonable efforts to get the information. Reasonable efforts means that you tried to get the information requested on the report. If the information is available, you must provide it in the report. If the information was not available at the time of the transaction, and it is not contained in your records, the field may be left blank.

If you are reporting electronically, access the Suspicious Transaction Report form from the reporting area of FINTRAC’s Web site. You will be asked if you are submitting a new report, or if this is a change to a previously submitted report. In the case of a change, you will need to provide the date, time and FINTRAC-generated identification number for the previously submitted report.

If you cannot report electronically and have to use the paper form, enter the date and time when you begin completing it at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see Section 4 (above).

There are eight parts on the Suspicious Transaction Report form, but some are only to be completed if applicable. To report a suspicious transaction, follow the following five steps:

- **Step 1** — Complete Part A to provide information about you as the reporting entity.
- **Step 2** — Complete Part B1 to provide details about the transaction.
- **Step 3** — Complete Part B2 to provide details about the transaction’s disposition. If the transaction’s disposition was related to an account, also complete Part C. If the transaction’s disposition was on behalf of a business or corporation, also complete Part E, or if the transaction’s disposition was on behalf of an individual, complete Part F.
If there was more than one disposition for the transaction, repeat this step for each disposition.

- **Step 4** — Complete Part D to provide information about the individual conducting the transaction.

- **Step 5** — Complete Part G to explain the reason for your suspicion. Also, complete Part H to provide information about any action taken, if applicable.

If you have to include more than one transaction in your report, repeat steps 2, 3 and 4 for each one. If you are reporting on paper, you may need to use extra copies of Parts B1, B2, C, D, E or F to complete your report.

### Part A: Information about where transaction took place

This Part is for information about you, the reporting [lawyer] creating the report. If you have multiple branch or office locations, the information in this Part should be about the branch or office location where the transaction took place.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>*1</td>
<td>Reporting person or entity’s identifier number</td>
<td>This is your institution or license number, or other identification number. [Insert the Law Society number for the lawyer or lawyers making the report.]</td>
</tr>
<tr>
<td>*2</td>
<td>Reporting person or entity’s full name</td>
<td>Enter the full legal name of [the lawyer. Law firms are not reporting entities under the legislation, but you may wish to include the firm’s name].</td>
</tr>
<tr>
<td>*3-6</td>
<td>Reporting person or entity’s full address</td>
<td>Enter your civic address, town or city, province and postal code. If you have more than one location, this information should be about where the transaction took place.</td>
</tr>
<tr>
<td>*7-9</td>
<td>Contact name</td>
<td>Enter the name of the individual FINTRAC can contact for clarification about this report.</td>
</tr>
<tr>
<td>*10</td>
<td>Contact telephone number</td>
<td>Enter the telephone number of the individual FINTRAC can contact for clarification. Include the extension if applicable at field 10A.</td>
</tr>
<tr>
<td>*11</td>
<td>Type of reporting person or entity</td>
<td>Enter the type of [legal transaction] applicable to you. If you are involved in more than one [type of legal transaction], indicate the one applicable to the transaction being reported. If there is more than one activity for one or more transactions on the report, check only one box to indicate your principal type of activity, and provide additional details in Part G.</td>
</tr>
</tbody>
</table>
### Part B1: Information about transaction(s)

This Part is for information about the transaction(s) that led you to the suspicion of a connection to money laundering. Your suspicion could be based on a series of transactions. In that case, include in this report the information for each transaction that led to the suspicion.

If you are using the Web form and you need to enter more than one transaction, you will be able to get another set of transaction screens by indicating “next transaction.” Do this once you have finished entering all information for the first transaction at the end of Part D3.

If you are filing your report on paper and need to report more than one transaction, complete a separate Part B1 for each transaction. To do this, you can copy Part B1. Fill in the “Transaction ___ of ___” area at the top of Part B1 to distinguish between each transaction. When you provide the details of the transaction in Part D, the details of disposition in Part B2, as well as the additional details of disposition in Parts C, E, and F, as applicable, indicate to which transaction that information applies.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>*1–3</td>
<td>When the transaction took place</td>
<td>Enter the date (yyyy-mm-dd) and time (hh-mm) of the suspicious transaction. The time of transaction field can be left blank if it is not available after reasonable efforts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[The night deposit indicator field is not applicable.]</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The date of transaction field is mandatory, unless the transaction was outside normal business hours and the night deposit indicator is used.</td>
</tr>
<tr>
<td>4</td>
<td>Date of posting</td>
<td>Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided above.</td>
</tr>
<tr>
<td>*5</td>
<td>Type of funds</td>
<td>Check the appropriate box to show the type of funds involved in the transaction. For example, if your client brought in cash, “cash” is the type of funds, or if your client is cashing in a life insurance policy, “life insurance policy” is the description of funds. If the selections provided do not cover the particular transaction, indicate “Other” and provide details in field 5L.</td>
</tr>
<tr>
<td></td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>*6</td>
<td>Amount of transaction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Enter the total of funds involved in the transaction. This is the total amount received to start the transaction. What happens as a result of that amount will be explained in Part B2 as one or more dispositions. If this amount was not in Canadian funds, you do not have to convert it but you must provide the currency information in field 7.</td>
<td></td>
</tr>
<tr>
<td>*7</td>
<td>Currency</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Enter the currency of the transaction, even if it was in Canadian funds. See Appendix 1 at the end of this guideline for the currency codes to be used [this is a reference to Appendix 1 in Guideline 3].</td>
<td></td>
</tr>
<tr>
<td>*8–9</td>
<td>Other institution or person name, number and account number</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Provide the name (including the identification number if applicable) and account number of any other institution or person involved in the transaction, where applicable. If more than one other person or institution was involved, put the information about the others in Part G.</td>
<td></td>
</tr>
<tr>
<td>*10</td>
<td>Method transaction was conducted</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Check the appropriate box to indicate how the transaction was conducted. If the selections provided do not cover this particular transaction, indicate “Other” and provide details in field 10G.</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>ID number of the person initially identifying a suspicious transaction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Enter the identification number of the person who first identified the suspicious behaviour leading to the report. If that person does not have an ID number, this field may be left blank.</td>
<td></td>
</tr>
</tbody>
</table>
Part B2: Information about transaction disposition(s)

This Part is for information about the disposition of the transaction.

If the disposition was on behalf of the person conducting the transaction, check the “not applicable” box at the top of this Part. If the disposition was on behalf of a business or corporation, check that box and complete Part E to provide the information about the business or corporation. If the disposition was on behalf of another individual, check that box and complete Part F to provide the information about the individual.

There could be more than one disposition for a particular transaction. For example, your client could initiate a transaction in cash, send an electronic funds transfer (EFT) for part of it (disposition 1), order a bank draft for another part (disposition 2) and deposit the rest (disposition 3). In that case, make sure you include the information for each disposition. If you are including more than one transaction in this report, you must complete Part B2 for all dispositions for each transaction.

If you are using the Web form, and you need to enter more than one disposition for a particular transaction, you will be able to get another set of disposition screens by indicating “next disposition.” Do this once you have finished entering all information for the first disposition, at the end of Part C, E or F.

If you are filing your report on paper and you have to include more than one disposition, complete a separate Part B2 for each one. To do this, you can copy Part B2. Fill in the “Transaction ____ Disposition ____ of ____” area at the top of Part B2 to distinguish between each disposition. If you have to include more than one transaction in this report, indicate to which transaction the disposition information applies, based on the number you assigned the transaction in Part B1. When you provide the details of disposition in Parts C, E, and F, as applicable, also indicate to which disposition and which transaction that information applies.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>*12</td>
<td>Disposition of funds</td>
<td>This describes what happened to the funds involved in the transaction.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If the disposition of funds was a life insurance policy, check that box and provide the life insurance policy number in field 12H. If the selections provided do not cover this particular disposition, indicate “Other” and provide details in field 12L.</td>
</tr>
<tr>
<td>*13</td>
<td>Amount of disposition</td>
<td>Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you must provide the currency information in field 14.</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>*14</td>
<td>Currency</td>
<td>Enter the currency of the disposition, even if it was in Canadian funds. See Appendix at the end of this guideline for the currency codes to be used [this is a reference to Appendix 1 in Guideline 3].</td>
</tr>
<tr>
<td>*15–16</td>
<td>Other institution or person name, number and account number</td>
<td>Provide the name (including the identification number if applicable) and account number of any other institution or person involved in the disposition, where applicable. If more than one other person or institution was involved, put the information about the others in Part G.</td>
</tr>
</tbody>
</table>
Part C: Account information (where applicable)

[This Part may not be applicable to lawyers and their staff.]

This Part is for information about the account of the individual, business or trust on whose behalf the transaction’s disposition was conducted, if it was in fact related to an account. As explained earlier, it is possible to have more than one transaction per report, and more than one disposition per transaction. Provide the account information, where applicable, for each disposition included in the report.

If you are using the Web form, and you need to enter more than one disposition for a particular transaction, you will be able to get another set of disposition screens by indicating “next disposition.” Do this once you have finished entering all information for the first disposition, at the end of Part C, E or F.

If you are filing your report on paper and you have to include account information for more than one disposition, complete a separate Part C to provide information for each account involved. To do this, you can copy Part C. Fill in the “Transaction ____ Disposition ____” area at the top of Part C to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

If the account information is the same from one disposition to another on the report, indicate “same as previous” at the top of Part C.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>*1</td>
<td>Branch or transit number</td>
<td>Enter the branch number, transit number, or other appropriate identifying number of the entity where the relevant account is held, when applicable to the transaction.</td>
</tr>
<tr>
<td>*2</td>
<td>Account number</td>
<td>Enter the number of the relevant account.</td>
</tr>
<tr>
<td>*3</td>
<td>Type of account</td>
<td>Indicate the type of the relevant account. If the selections provided do not cover this particular transaction, indicate “Other” and provide details in field 3D.</td>
</tr>
<tr>
<td>*4</td>
<td>Type of currency</td>
<td>Enter the type of currency for the relevant Account. See Appendix 1 at the end of this guideline for the currency codes to be used [this is a reference to Appendix 1 in Guideline 3].</td>
</tr>
<tr>
<td>*5</td>
<td>Full name of account holders</td>
<td>Enter the full name of each account holder (up to three). If there are more than three, you need not provide more.</td>
</tr>
<tr>
<td>6</td>
<td>Date opened</td>
<td>Enter the date (yyyy-mm-dd) the account was opened.</td>
</tr>
<tr>
<td>7</td>
<td>Date closed</td>
<td>Enter the date (yyyy-mm-dd) the account was closed, if applicable.</td>
</tr>
</tbody>
</table>
**8**  Status of the account  
Indicate whether the account was active, inactive or dormant at the time of the transaction.

---

**Part D: Information about individual conducting transaction(s)**

This Part is for information about the individual who conducted the transaction. As explained earlier, it is possible to have more than one transaction per report. Provide this information for each transaction included in the report.

If you are using the Web form, and you need to enter more than one transaction, you will be able to get another set of transaction screens by indicating “next transaction.” Do this once you have finished entering all information for the first transaction, at the end of Part D3.

If you are filing your report on paper and need to report more than one transaction, complete a separate Part D for each transaction. To do this, you can copy Part D. Fill in the “Transaction ___” area at the top of Part D to distinguish between each transaction, based on the number you assigned the transaction in Part B1. If the individual who conducted the transaction is the same as the previous transaction, indicate “same as previous” at the top of Part D.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1–3</td>
<td>Individual’s full name</td>
<td>Enter the last name, first name and middle initial (if applicable) of the individual who conducted the transaction.</td>
</tr>
<tr>
<td>*4</td>
<td>Entity client number</td>
<td>Enter the client number you issued to the individual who conducted the transaction, if applicable.</td>
</tr>
<tr>
<td>5–9</td>
<td>Individual’s full address</td>
<td>Enter the civic address, town or city, province or state, country and postal code of the individual who conducted the transaction.</td>
</tr>
<tr>
<td>10</td>
<td>Country of residence</td>
<td>Enter the country of permanent residence of the individual who conducted the transaction.</td>
</tr>
<tr>
<td>11</td>
<td>Home telephone number</td>
<td>Enter the home telephone number of the individual who conducted the transaction. Include the extension if applicable at field 11A.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>12</strong></td>
<td>Individual’s identifier</td>
<td>Check the appropriate box to show the document used to identify the individual who conducted the transaction. Please note that a Social Insurance Number is not acceptable. Also, in some provinces, a health card cannot be used. If that is the case in your province, please make sure another identifier is used. If the selections provided do not cover the identifier used, indicate “Other” and provide details in field 12E.</td>
</tr>
<tr>
<td><strong>13</strong></td>
<td>ID number</td>
<td>Enter the number of the document described in field 12 that was used to identify the individual who conducted the transaction. Remember that a Social Insurance Number is not acceptable, and neither is a health card number in some provinces.</td>
</tr>
<tr>
<td><strong>14–15</strong></td>
<td>Place of issue</td>
<td>Enter the province or state and country of issue of the document used to identify the individual who conducted the transaction.</td>
</tr>
<tr>
<td><strong>16</strong></td>
<td>Date of birth</td>
<td>Enter the date (yyyy-mm-dd) of birth of the individual who conducted the transaction.</td>
</tr>
<tr>
<td><strong>17</strong></td>
<td>Individual’s occupation</td>
<td>Enter the occupation of the individual who conducted the transaction.</td>
</tr>
<tr>
<td><strong>18</strong></td>
<td>Individual’s business telephone number</td>
<td>Enter the business telephone number of the individual who conducted the transaction. Include the extension if applicable at field 18A.</td>
</tr>
<tr>
<td><strong>19</strong></td>
<td>Individual’s employer</td>
<td>Enter the name of the business, corporation or individual who is the employer of the individual who conducted the transaction.</td>
</tr>
<tr>
<td><strong>20–24</strong></td>
<td>Employer’s business address</td>
<td>Enter the civic address, town or city, province or state, country and postal code of the employer of the individual who conducted the transaction.</td>
</tr>
<tr>
<td><strong>25</strong></td>
<td>Employer’s business telephone number</td>
<td>Enter the business telephone number of the employer of the individual who conducted the transaction. Include the extension if applicable at field 25A.</td>
</tr>
</tbody>
</table>
Part E: Information about business or corporation on whose behalf transaction was conducted (where applicable)

This Part only applies if the transaction’s disposition was conducted on behalf of a third party other than an individual, as indicated in Part B2.

If you are using the Web form, and you need to enter more than one disposition for a particular transaction, you will be able to get another set of disposition screens by indicating “next disposition.” Do this once you have finished entering all information for the first disposition, at the end of Part C, E or F.

If you are filing your report on paper, complete a separate Part E for each disposition that was conducted on behalf of a business or corporation. To do this, you can copy Part E. Fill in the “Transaction ____ Disposition ____” area at the top of Part E to distinguish between each disposition, based on the number you assigned the disposition in Part B2. If the business or corporation information is the same from one disposition to another within a transaction, or from one transaction to another, indicate “same as previous” at the top of Part E.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Business or corporation name</td>
<td>Enter the full name of the business or corporation on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>2</td>
<td>Type of business</td>
<td>Describe the type of business or entity on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>3–7</td>
<td>Full address of business or corporation</td>
<td>Enter the civic address, town or city, province or state, country and postal code of the business or corporation on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>8</td>
<td>Business telephone number</td>
<td>Enter the telephone number of the business or corporation on whose behalf the transaction conducted. Include the extension, if applicable, at field 8A.</td>
</tr>
<tr>
<td>9–11</td>
<td>Incorporation information</td>
<td>Provide the incorporation number, or registration number when applicable, for the business or corporation on whose behalf the transaction was conducted. Also provide the province or state and country of the incorporation number’s place of issue.</td>
</tr>
<tr>
<td>12</td>
<td>Signing authority names</td>
<td>Provide the names of up to three individuals [representing the client] who have authority to conduction transactions through the account.</td>
</tr>
</tbody>
</table>
**Part F: Information about individual on whose behalf transaction was conducted (where applicable)**

This Part only applies when the transaction’s disposition is conducted on behalf of a third party that is an individual. It contains information regarding that individual. If the individual conducted the transaction’s disposition on his or her own behalf, this Part does not apply. In that case, information about the individual should be put in Part D. If the transaction’s disposition was conducted on behalf of a business or corporation, Part E should be completed.

If you are using the Web form, and you need to enter more than one disposition for a particular transaction, you will be able to get another set of disposition screens by indicating “next disposition.” Do this once you have finished entering all information for the first disposition, at the end of Part C, E or F.

If you are filing your report on paper, complete a separate Part F for each disposition that was conducted on behalf of an individual. To do this, you can copy Part F. Fill in the “Transaction ____ Disposition ____” area at the top of Part F to distinguish between each disposition, based on the number you assigned the disposition in Part B2. If you have to include more than one transaction in this report, indicate to which transaction the disposition information applies. If the individual information is the same from one disposition to another within a transaction, or from one transaction to another, indicate “same as previous” at the top of Part F.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1–3</td>
<td>Individual’s full name</td>
<td>Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>4–8</td>
<td>Individual’s full address</td>
<td>Enter the civic address, town or city, province or state, country and postal code of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>9</td>
<td>Home telephone number</td>
<td>Enter the home telephone number of the individual on whose behalf the transaction was conducted. Include the extension if applicable at field 9A.</td>
</tr>
<tr>
<td>10</td>
<td>Office telephone number</td>
<td>Enter the office telephone number of the individual on whose behalf the transaction was conducted. Include the extension if applicable at field 10A.</td>
</tr>
<tr>
<td>11</td>
<td>Date of birth</td>
<td>Enter the date of birth (yyyy-mm-dd) of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td></td>
<td>Field</td>
<td>Description</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>12</td>
<td>Individual’s identifier</td>
<td>Check the appropriate box to show document used to identify the individual on whose behalf the transaction was conducted. Please note that a Social Insurance Number is not acceptable. Also, in some provinces, a health card cannot be used. If that is the case in your province, please make sure another identifier is used. If the selections provided do not cover the identifier used, indicate “Other” and provide details in field 12E.</td>
</tr>
<tr>
<td>13</td>
<td>ID number</td>
<td>Enter the number of the document described in field 12 that was used to identify the individual on behalf of whom the transaction was conducted. Remember that a Social Insurance Number is not acceptable, and neither is a health card number in some provinces.</td>
</tr>
<tr>
<td>14</td>
<td>Country of residence</td>
<td>Enter the country of permanent residence of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>15–16</td>
<td>Place of issue</td>
<td>Enter the province or state and country of issue of the document used to identify the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>17</td>
<td>Individual’s occupation</td>
<td>Enter the occupation of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>18</td>
<td>Individual’s employer</td>
<td>Enter the name of the business, corporation or individual who is the employer of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>19–23</td>
<td>Employer’s address</td>
<td>Enter the civic address, town or city, province or state, country and postal code of the employer of the individual on whose behalf the transaction was conducted.</td>
</tr>
<tr>
<td>24</td>
<td>Employer’s telephone number</td>
<td>Enter the business telephone number of the employer of the individual on whose behalf the transaction was conducted. Include the extension if applicable at field 24A.</td>
</tr>
<tr>
<td>25</td>
<td>Relationship to individual</td>
<td>Check the appropriate box to indicate the relationship of the person conducting the transaction to the individual on whose behalf the transaction was conducted. If the selections provided do not cover the relationship, indicate “Other” and provide details in field 25J.</td>
</tr>
</tbody>
</table>
**Part G: Description of Suspicious Activity**

This Part is to provide details of why you suspected that the transaction or the series of transactions were related to money laundering.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>*G-1</td>
<td>Description of suspicious activity</td>
<td>Include a full description of the events that led to the suspicion of money laundering with as many details as possible.</td>
</tr>
</tbody>
</table>

**Part H: Action Taken (where applicable)**

This Part is for you to describe what action, if any, was taken by you, as a result of the suspicious transaction.

<table>
<thead>
<tr>
<th>No.</th>
<th>Field Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>*H-1</td>
<td>Action taken</td>
<td>Identify whether you have taken or will take any action as a result of the suspicious transaction, in addition to reporting to FINTRAC. For example, if you are also making a report to a law enforcement agency, indicate this in Part H. [For example, you may want to note if the lawyer or firm has withdrawn from acting for the client.]</td>
</tr>
</tbody>
</table>

Questions about this Manual may be sent to:

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Law Society of British Columbia  
Email: advisor@lsbc.org