

Important Announcement:

New Regulations Proceeds of Crime (Money Laundering) and Terrorist Financing Act

In December 2006, amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the "Act") received Royal Assent.

On June 27, 2007, new regulations under the Act (the "Regulations") were published in the Canada Gazette. These legislative and regulatory amendments are being phased in over a two year period to provide reporting entities with adequate time to revise policies and procedures, educate employees and to make any IT system changes necessary to meet the new compliance requirements. *Most changes will take effect in June 2008.*

Background

The purpose of the amendments is to bring Canadian legislation in line with 49 recommendations made by the Financial Action Task Force ("FATF").

The FATF is the international anti-money laundering standard setting body. An audit was completed in early 2007 of Canada's anti-money laundering regime by the FATF. The need to comply with international standards was in part the impetus for the current changes to the legislation and the amendments send a message to the international community that Canada is serious about combating money laundering and terrorist financing.

Consultation Process

The consultation process which led to the amendments to the Act and the new Regulations commenced in June 2005 with the issuance of a consultation paper by the government. The credit union system took part in this consultation process with system feedback aggregated by Canadian Central in its response to the consultation paper. This feedback and that of over 50 other stakeholders was reviewed by the Department of Finance and, in some cases, further consultation took place with individual stakeholders to deal with specific issues. Further regulations under the Act are expected later this year. Recently, draft regulations relating to the implementation of an administrative monetary penalties regime were published for consultation.

Course Update

Canadian Central will be working with *CUSOURCE*[®] Credit Union Knowledge Network to incorporate the new compliance requirements into the content of its anti-money laundering course; *Preventing and Detecting Money Laundering*. The timeframe for completion of the course revisions will be dictated by the availability of further finalized regulations and guidelines from the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). The intent is to have the revised course available to credit unions as soon after year-end as possible to provide adequate time to train employees in advance of the June 2008 compliance deadline. In the meantime, updates will be shared as more information becomes available.

New Regulation Summary

The new Regulations impose:

- New methods of ascertaining the identity of a person in a non-face-to-face environment including the use of third parties such as agents or credit bureaus;
- A new requirement to conduct an assessment of money laundering and terrorist financing risks associated with the different business activities of reporting entities to identify delivery channels, clients, products or geographic location that pose increased risk;
- A new obligation to obtain information on clients whenever there is reasonable grounds to suspect that either a transaction or an "attempted" transaction is linked to money laundering or terrorist financing; (Sector-specific guidelines on what constitutes a "suspicious attempted transaction" will be forthcoming.)
- New exemptions to client identification and record keeping requirements for low risk situations; (examples include members of a group plan if contributions are received via payroll deduction);
- A requirement to obtain information on the originator and beneficiary of certain electronic funds transfers (EFTs);
- New provisions for enhanced due diligence when dealing with Politically Exposed Persons (PEPs) and their family members;
- Enhanced due diligence requirements when setting up correspondent banking relationships in an effort to identify "shell banks".

The FINTRAC has indicated that it will be holding information sessions to facilitate greater understanding of the implications that the new Regulations have on reporting entities. These sessions will likely be held later in 2007.

Links to the Canada Gazette that contain the actual regulations are provided below for more detailed information:

Order in Council (SI/2007-64)

<http://canadagazette.gc.ca/partII/2007/20070627/pdf/g2-14113.pdf>

Regulations amending certain Regulations made under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (SOR 2007-122)

<http://canadagazette.gc.ca./partII/2007/20070627/pdf/g2-14113.pdf>

Please note this bulletin is a brief overview of the amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations. It is provided for informational purposes only and does not constitute legal advice.