

Advisory

New FINTRAC Obligations for Mortgage Brokers and Submortgage Brokers

Date: November 21, 2023
Distribution: All registrants under the Mortgage Brokers Act
Advisory Number: 2-043

PURPOSE

The purpose of this Advisory is to inform mortgage brokers registered in B.C. of new legal obligations under the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (“PCMLTFA”) coming into force on October 11, 2024.

Affected mortgage brokers include those responsible for mortgage origination, lenders responsible for underwriting the loan or supplying the funds, and administrators responsible for servicing the loan.

The Financial Transactions and Reports Analysis Centre of Canada (“FINTRAC”) is the federal agency responsible for administering the PCMLTFA. For clarity, BCFSa is B.C.’s financial services regulator, and the new federal FINTRAC requirements are separate from requirements under B.C.’s *Mortgage Brokers Act* and *Regulation*.

OVERVIEW OF NEW OBLIGATIONS

The amended regulations under the PCMLTFA, once in force, will require mortgage originators, administrators, and lenders to meet the following obligations:

- Develop a compliance program;
- Apply customer due diligence measures such as identity verification and beneficial ownership requirements;
- Establish record keeping measures such as storing client identification records;
- Report certain transactions to FINTRAC such as suspicious transaction reports, terrorist property reports, large cash (\$10,000 CAD or more) transaction reports; and
- Follow ministerial directives and transaction restrictions when funds go to or come from certain countries.

ADMINISTRATIVE MONETARY PENALTIES

In addition to these new obligations, corresponding Administrative Monetary Penalties (AMPs) will be added to the federal AMP Regulations. The range of the penalty will depend on the harm done by the violation and the reporting entity’s history of compliance.

- Minor violation: \$1 to \$1000 per violation;
- Serious violation: \$1 to \$100,000 per violation; and

- Very serious violation: \$1 to \$100,000 per violation for an individual and from \$1 to \$500,000 per violation for an entity.

CONSIDERATIONS FOR MORTGAGE BROKERS

Registered mortgage brokers should carefully review the amended regulations under the PCMLTFA to ensure they understand the scope and application of the federal requirements. If unsure, it is important to seek legal advice prior to the requirements coming into effect on October 11, 2024.

ADDITIONAL INFORMATION

FINTRAC has published [guidance and resources](#) to assist mortgage brokers, administrators, and lenders understand their new obligations and how to comply with them. Additional resources include:

- [Canada Gazette, Part 2, Volume 157, Number 21: Regulations Amending Certain Regulations Made Under the Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#)
- [Canada Gazette, Part 2, Volume 157, Number 21: Regulations Amending the Proceeds of Crime \(Money Laundering\) and Terrorist Financing Regulations and the Proceeds of Crime \(Money Laundering\) and Terrorist Financing Administrative Monetary Penalties Regulations](#)