

**Anti-Money Laundering & Counter Terrorist Financing  
(AML/CTF)  
Training Course**

**CREA – Module Four**

**Record Keeping and Client Identification Requirements**

## Learning Objectives:

Upon completion of this training module you will be able to:

- Identify the records your industry is required to complete under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PC(ML)TFA).
- Identify when a record must be completed and the timeframes for completion and keeping of records.
- Identify client identification, including business relationship.
- Identify third-party determination requirements.
- State the relevant penalties for non-compliance under the PCMLTFA.

## Client Identification Obligations:

Once you have confirmed the identity of an individual, you do not have to confirm their identity again if you recognize the individual (visually or by voice) at the time of a future event that would otherwise trigger the identification requirement.

However, if you have any doubts about the identification information previously collected, you will have to identify that individual again.



A client may be identified by using any one of the following methods:

Identification Method	Documents or information to review	Identification details that must match	Recordkeeping obligations
<b>Photo identification</b>	Photo identification issued by government	Name and photograph	<ul style="list-style-type: none"> <li>• Client identification information</li> <li>• Type of document</li> <li>• Document number</li> <li>• Issuing jurisdiction and country</li> <li>• Expiry date</li> <li>• Date of verification</li> </ul>
<b>Credit file</b>	Canadian credit file in existence for at least three years	Name, address and date of birth	<ul style="list-style-type: none"> <li>• Client identification information</li> <li>• Source of credit file</li> <li>• Reference number</li> <li>• Date of verification</li> </ul>
<b>Dual process</b>	Two original, valid and current documents or information from independent and reliable sources	Name, address and date of birth	<ul style="list-style-type: none"> <li>• Client identification information</li> <li>• The name of the two different sources used to identify your client</li> <li>• The type of information</li> <li>• Account or reference number</li> <li>• Date of verification</li> </ul>

## Photo Identification:

A client may be identified by using a provincial or federal government issued ID. The document must be current (not expired), valid (For a document to be acceptable for identification purposes, it must have a unique identifier number. Also, the document must have been issued by a provincial, territorial or federal government) and be an original (not a copy).

**A social insurance number (SIN) card CANNOT be used as of January 23rd, 2018**

## Photo Identification:

Any of the following documents may be used:

- Birth certificate
- Driver's licence
- Passport
- Record of landing
- Permanent resident card
- Similar record issued by a provincial or the federal government that includes the individual's signature and photograph
- Provincial health card, **except for** those issued by Ontario, Manitoba, Nova Scotia or Prince Edward Island
- Valid foreign identification, if equivalent to an acceptable type of Canadian identification document, would also be acceptable.

## Credit File:

The credit file must match the name, address and date of birth that the client has provided. Equifax Canada and TransUnion Canada are Canadian credit bureaus that provide credit file information for identification purposes. Make sure you complete section A.2 in the Individual Identification Information Record.

**You can identify an individual by referring to a Canadian credit file that has been in existence for at least three years.**

## Credit File:

To rely on a credit file search, **you** must conduct the search **at the time** you identify the individual's identity. For example, a previous credit file would not be acceptable. To be acceptable as a single source, the credit file must:

1. match the name, address and date of birth that the individual provided;
2. be from Canada; foreign credit files are not acceptable;
3. have been in existence for at least three years.

The individual does not need to be physically present at the time you confirm their identity.



## Dual Process:

This method involves referring to information from two different and reliable, independent sources. The information may be found in documents from these sources or may be information that these sources are able to provide.

**You must refer to original documents or information from two different, reliable sources to verify an individual's identity, and all the information must match the information provided by the individual.**

## Dual Process:

The dual process method to confirm an individual's identity requires that you refer to any two of the following:

- documents or information from a reliable source that contain the individual's name and date of birth;
- documents or information from a reliable source that contain the individual's name and address; or
- documents or information that contain the individual's name and confirms that they have a deposit, credit card or other loan account with a financial entity.

# Mandatory FINTRAC Training 2022

## Documents or information to verify name and address

### Issued by a Canadian government body

- Any card or statement issued by a Canadian government (federal, provincial, or municipal)
  - Canada Pension Plan (CPP) statement
  - Property tax assessment issued by a municipality
  - Provincially-issued vehicle registration
- Benefits statement
  - Federal, provincial, and municipal levels
- CRA documents:
  - Notice of assessment
  - Requirement to pay notice
  - Installment reminder / receipt
  - GST refund letter
  - Benefits statement

### Issued by other Canadian sources

- Utility bill (for example, electricity, water, teleco)
- Canada 411
- T4 statement
- Record of Employment
- Investment account statements (RRSP, GIC)
- Canadian credit file that has been in existence for at least 6 months
- Product from a Canadian credit bureau (containing two trade lines in existence for at least 6 months)

### Issued by a foreign government

- Travel visa

## Documents or information to verify name and date of birth

### Issued by a Canadian government body

- Any card or statement issued by a Canadian government body (federal, provincial, territorial or municipal)
  - Canada Pension Plan (CPP) statement of contributions
  - Original birth certificate
  - Marriage certificate or government-issued proof of marriage document (long-form which includes date of birth)
  - Divorce documentation
  - A permanent resident card
  - Citizenship certificate
  - Temporary driver's licence (non-photo)

### Issued by other Canadian sources

- Canadian credit file that has been in existence for at least 6 months
- Insurance documents (home, auto, life)
- Product from a Canadian credit bureau (containing two trade lines in existence for at least 6 months)

## Documents or information to verify name and confirm a financial account

Confirm that your client has a deposit account, credit card or loan account by means of :

- Credit card statement
- Bank statement
- Loan account statement (for example, mortgage)
- Cheque that has been processed (cleared, non-sufficient funds) by a financial institution
- Telephone call, email or letter from the financial entity holding the deposit account, credit card or loan account.
- Identification product from a Canadian credit bureau (containing two trade lines in existence for at least 6 months)
- Use of micro-deposits to confirm account

## Unrepresented Parties:

Agents must make reasonable efforts to ascertain the identity of unrepresented parties, but if unable to do so, they must record what measures they took to try and obtain the information, including why the measures were unsuccessful and the date the measures were taken. These measures can be recorded in CREA's template Client Information Records. Therefore, agents must complete a record for every unrepresented party to transactions they deal with, whether or not the identity of that person is actually verified.

One difference between verifying the identity of clients and verifying the identity of unrepresented parties is that agents **MUST** verify the identity of their own client.

Simply stating that efforts were made to obtain the information is unacceptable. Another difference is that FINTRAC has stated there is no obligation to determine whether an unrepresented party is acting on behalf of a third party.



**Buyers' agents should treat mere posting sellers as unrepresented and make reasonable efforts to ascertain the identity of the seller.**



## For real estate transactions. IF ...

- The parties in a real estate transaction are each represented by a different real estate broker or sales representative, you will have to identify the individual or confirm the existence of the entity that you represent in the transaction.
- Where an unrepresented individual refuses to provide identification, a REALTOR® must keep a record of that fact and consider sending a Suspicious Transaction Report to FINTRAC if there are reasonable grounds to suspect that the transaction involves property from the proceeds of crime, or terrorist activity.

## Business Relationship

The business relationship only includes transactions and related activities for which you have to **ascertain the identity of your client**.

You enter into a business relationship when you conduct two or more transactions in which you have to:

- ascertain the identity of the individual or entity; or
- confirm the existence of a corporation or other entity.

You should determine that a business relationship has been established as soon as reasonably practicable following the second transaction requiring that the client's identity be ascertained. As a best practice, this should be done **within 30 calendar days**.



## Business Relationship

**Monitoring** will vary depending on your risk assessment of your client. As part of your ongoing monitoring obligations, **you must monitor:**

- All of your business relationships.
- High risk business relationships more frequently, as well as update client identification information and adopt any other appropriate enhanced measures.



## Business Relationship - Suspicious Transactions

Remember that **all suspicious transactions and attempted transactions**, including transactions that are normally exempt from client identification requirements, require you to take reasonable measures to ascertain your client's identity.

If you have a client who conducts or attempts to conduct two or more suspicious transactions, **you have still entered into a business relationship** with that client, even if you are unable to ascertain the identity of that client.

This is because suspicious transactions require you to take reasonable measures to ascertain the identity of the client, and so two or more of these transactions will trigger a business relationship.

You must treat this business relationship as high risk, and undertake more frequent ongoing monitoring and updating of client identification information, as well as any other appropriate enhanced measures.

## Business Relationship - Ongoing Monitoring

Ongoing monitoring means that you have to monitor your business relationship with a client on a **periodic basis**. You have to perform ongoing monitoring of each business relationship in order to:

- detect suspicious transactions that have to be reported;
  - keep client identification, the purpose and intended nature of the business relationship up to date;
  - reassess the level of risk associated with the client's transactions and activities; and
- determine whether the transactions or activities are consistent with the
  - information previously obtained about the client, including the risk assessment of the client.



## Business Relationship Record:

You have to keep a record of the purpose and intended nature of the business relationship. You also have to review this information on a periodic basis and keep it up to date.

- This is done to ensure that you continue to understand your client's activities over time so that any changes can be used to assess or detect high risk transactions and activities.
- This may lead you to increase the frequency of ongoing monitoring, update their client identification information more frequently, and adopt any other appropriate enhanced measures.



## Business Relationship Record:

### Record Retention:

A business relationship is established when two transactions that require you to ascertain the identity of your client occur **within a maximum of five years from one another.**

If a period of five years passes from the last transaction that required you to ascertain the identity of your client, the business relationship with that client ceases.



## **Corporations:** Confirm the existence of the corporation within 30 days of the transaction associated to the specific record.

Documents to review	Identification details that must match	Record keeping obligations
<p>Documents that you can rely on to confirm the existence of a corporation:</p> <ul style="list-style-type: none"><li>• The corporation's certificate of corporate status;</li><li>• A record that has to be filed annually under provincial securities legislation;</li><li>• Any other record that confirms the corporation's existence, such as:<ul style="list-style-type: none"><li>○ the corporation's published annual report signed by an independent audit firm; or</li><li>○ a letter or a notice of assessment for the corporation from a municipal, provincial, territorial or federal government.</li></ul></li></ul>	<p>Name and address of the corporation</p> <p>Names of the Directors</p>	<p>If you referred to an electronic document you must record:</p> <ul style="list-style-type: none"><li>• The corporation's registration number;</li><li>• The type of document referred to; and</li><li>• The source of the electronic version of the document.</li></ul> <p>If you referred to a paper copy of a document you must keep the paper document, or a copy of it.</p>

**Once you have confirmed the existence of a corporation you do not have to do it again for future transactions.**



## Entities other than corporations: Confirm the existence of the entity within 30 days of the transaction associated to the specific record.

Documents to review	Identification details that must match	Record keeping obligations
<p>Documents that you can rely on to confirm the existence of an entity other than a corporation:</p> <ul style="list-style-type: none"> <li>• A partnership agreement;</li> <li>• Articles of association; or</li> <li>• Any other similar record that confirms the entity's existence.</li> </ul>	<p>Name and address of the entity.</p>	<p>If you referred to an electronic record you must record:</p> <ul style="list-style-type: none"> <li>• The entity's registration number;</li> <li>• The type of record referred to; and</li> <li>• The source of the electronic version of the record.</li> </ul> <p>If you referred to a paper document, you must keep the paper document, or a copy of it</p>

**Once you have confirmed the existence of an entity, you do not have to do it again for future transactions.**

## Additional Requirements when dealing with Corporation or Other entities:

- FINTRAC explicitly states the need to ID the individual who is conducting the transaction on behalf of the corporation. Complete only Sections A and B of the Individual Identification Information Record in order to ID the person and complete the entire Corporation/Entity Identification Information Record in order to ascertain the existence of the corporation.

## Additional Requirements when dealing with Corporation or Other entities:

- You are required to verify that the person you are dealing with has the authority to bind the corporate client, you would need to review the official corporate records. For example, a certificate of incumbency, the articles of incorporation, or the bylaws of the corporation that set out the officers duly authorized to sign on behalf of the corporation.

**Can a real estate broker or a sales representative be an agent or mandatory for the purpose of client identification? Can anyone be an agent or a mandatory (as long as an agreement is in place with the sales representative or real estate broker)?**

A real estate broker, a sales representative or any person can be an “agent” or a “mandatory” to identify a client in a domestic or international real estate transaction, as long as there is a written agreement in place to that effect with the sales representative or real estate broker, outlining what the real estate broker or sales representative expects the agent or mandatory to do for him.

**Can a real estate broker or a sales representative be an agent or mandatory for the purpose of client identification? Can anyone be an agent or a mandatory (as long as an agreement is in place with the sales representative or real estate broker)?**

The written agreement with the “agent” or “mandatory” needs to be in place prior to identifying the client.

The sales representative or real estate broker must also obtain from that agent or mandatory the customer identification information for their records:

- type of identification,
- identifier number of the identification document,
- issuing jurisdiction



## **If you use of an alternative individual (agent or mandatory) to identify any of your clients:**

You will have to enter into a written agreement or arrangement with them to do so.

You will have to obtain from this individual, the client information that was obtained according to the agreement or arrangement.

This will only be acceptable when this alternative individual (agent or mandatory) identifies an individual using an original identification document.



## Using an alternative individual (agent or mandatary) to identify any of your clients:

### For example:

Realtor Jones who works in Saskatoon is contacted by client M. Smith who lives in Halifax and wants to buy a home s/he saw as listed by Jones. To capture M Smiths' identification information, Jones can enter into a written agreement with another Realtor in Halifax to serve as the agent/mandatary and capture the identification information.

## Client Identification: Individuals not physically present

### Combination of Methods

To identify an individual, you have to use a combination of **two** of the following methods. In each of the two methods you use, the individual's information has to be consistent with what you have in your records. The information also has to be consistent from one method to the other. For example, if each of the methods you use has the name, address and date of birth information about the individual, all of it has to agree with what you have in your records.

#### Methods:

- Identification product or credit file method
- Attestation method
- Cleared cheque or deposit account method

**1. Identification product or credit file method** - You can use either of these methods but you cannot combine them:

- Refer to an independent and reliable identification product. It must be based on personal information as well as Canadian credit history about the individual of at least six months duration. This type of product can use a series of specific questions, based on an individual's credit file, to enable verification of client identity.
- With the individual's permission, refer to a credit file. The credit file must have been in existence for at least six months.

Products for either of these methods are available commercially, such as those used for credit ratings.



**2. Attestation Method:** Obtain an attestation that an original identification document for the individual has been seen by a commissioner of oaths or a guarantor. This attestation must be on a legible photocopy of the document and include the following information:

- the name, profession and address of the commissioner of oaths or the guarantor;
- the signature of the commissioner of oaths or the guarantor; and
- the type and number of the identifying document provided by the individual being identified.



**2. Attestation Method:** A guarantor has to be an individual engaged in one of the following professions in Canada:

- Dentist, a medical doctor or a chiropractor;
- Judge, a magistrate or a lawyer;
- Notary (in Quebec) or a notary public;
- Optometrist or a pharmacist;
- Accountant;
- Professional engineer; or
- Veterinarian.

**3. Cleared cheque or deposit account method:** You can use either of the following methods, but you cannot combine them.

- Confirm that a cheque drawn on a deposit account that the individual has with a financial entity has cleared. This means a cheque that was written by the individual, cashed by the payee and cleared through the individual's account. It does not include pre-authorized payments as these are not cheques written by the individual.
- Confirm that the individual has a deposit account with a financial entity. You could do this by viewing an original bank statement.

For either method, the account has to be with a financial entity. The account cannot be one that is exempt from identification requirements for the financial entity, such as a registered retirement savings plan or a reverse mortgage.

**Methods:** According to the methods used to identify the client you must include:

- A **cleared cheque**: the record has to include the name of the financial entity and the account number of the deposit account on which the cheque was drawn.
- A **deposit account** with a financial entity: the record has to include the date on which you made the confirmation as well as the name of the financial entity where the account is held and the number of the account.
- An **identification product** and the record has to include the name of the identification product, the name of the entity offering it, the search reference number and the date you used the product to identify the individual.
- Consult a credit file and the record has to include the name of the entity keeping the credit file and the date you consulted it.
- Use an **attestation signed by a commissioner of oaths** in Canada or a guarantor in Canada, you have to keep the attestation.



## Record Keeping Obligations:

When engaging in any of the following activities you are required to keep the following records:

**Large Cash Transaction  
Records**

**Receipt of Funds Records**

**Client Information Records**

**Suspicious Transaction  
Records**

**If you keep information in a record that is already available in any other record that you have kept, you do not have to keep that information again.**

## Introduction:

- Under the PC(ML)TFA Regulations, **as a real estate broker or real estate sales representative**, you are subject to keep certain records when you act as an agent in respect of the purchase or sale of real estate.
- Furthermore, you are required **to provide FINTRAC with any requested records within 30 calendar days of the request being made**. These records can be kept in a machine-readable or electronic form, as long as a paper copy can be produced upon request.
- These records can be kept in a machine-readable or electronic form, as long as a paper copy can be produced upon request.



## General Exceptions to Record Keeping:

You do not have to keep records if you conduct a transaction for a public body or a very large corporation.

A **public body** means any of the following or their agent:

- a Canadian provincial or federal department or Crown agency;
- an incorporated Canadian municipal body (including an incorporated city, town, village, metropolitan authority, district, county, etc.); or
- a hospital authority. A hospital authority means an organization that operates a public hospital and that is designated to be a hospital authority for GST/HST purposes.

## General Exceptions to Record Keeping:

You do not have to keep records if you conduct a transaction for a public body or a very large corporation.

A **very large corporation** is:

- One that has minimum net assets of \$75 million on its last audited balance sheet.
- The corporation's shares have to be traded on a Canadian stock exchange or on a stock exchange outside Canada that is designated by the Minister of Finance.
- The corporation also has to operate in a country that is a member of the Financial Action Task Force (FATF).



## Employees or contractors who keep records for you:

- Your employees who keep records for you are not required to keep those records after the end of their employment with you.
- The same is true for individuals in a contractual relationship with you, after the end of that contractual relationship.
- **This means** that you have to get and keep the records that were kept for you by any employee or contractor before the end of that individuals employment or contract with you.

## Penalties for Non-compliance:

Failure to record certain transaction records could result in criminal charges for you and your firm, which upon conviction could result in penalties of :

- **Up to five years in prison; and/or**
- **A fine of up to \$500,000.**



**Failure to keep records or identify clients can lead to an administrative monetary penalty.**

## **What happens to the retention of records when real estate brokers or sales representatives, usually an independent contractor, changes brokerages?**

This obligation does not apply to an individual who is an employee of a reporting entity, in which case the reporting entity has the obligations or to a real estate agent acting on behalf of a broker, in which case the broker has sole responsibility for everything except suspicious transaction reporting, which is the responsibility of both.

It is the responsibility of the broker to obtain and keep the records that were retained for the broker by any employee or contractor who acted on their behalf. In other words, a sales agent who acted on behalf of a broker as an independent contractor has to leave all records kept in accordance with the PCMLTFA with the broker he is leaving. The agent is not be required to keep those records after the end of his relationship with the broker.

## The Records

### 1. Large Cash Transactions



#### Obligations are:

- Keep a large cash transaction record
- Identify the individual who gives you the cash, at the time of the transaction
- Make a third party determination and keep related records

## The Records: 1. Large Cash Transactions

For every cash transaction(s) of \$10,000 CDN or more, a Large Cash Transaction Report must be made and a Large Cash Transaction Record kept.

For example, if your client brings you \$10,000 in cash for a deposit on the purchase of a house, you have to keep a large cash transaction record. In addition to this record, a large cash transaction will also require a report to FINTRAC

If you know that two or more cash transactions of less than \$10,000 each were made within a 24-hour period (i.e., 24 consecutive hours), by or on behalf of the same client, these are considered to be a single large cash transaction if they add up to \$10,000 or more.

**Note: You do not have to keep a large cash transaction record if the cash is received from a financial entity.**

## The Records: 1. Large Cash Transactions

### Subject Details Recorded

#### Cash • Amount

- Currency of the cash received
- How it was received (in person, mail, armoured car, etc.)

#### Transaction

- Date
- Purpose
- Details (were any other individuals or entities involved)
- Type (the cash was for a deposit on the purchase of a house)

If any of the information is readily available in other records that you have to keep, it does not have to be kept again as part of a large cash transaction record.



## The Records: 1. Large Cash Transactions

### Subject Details Recorded

#### Account

If the account was affected by the transaction, include:

- Number, Type
- Full name of the client that holds the account
- Currency in which the account's transactions are conducted (e.g., USD) this would also include the account into which you deposited the cash, such as the broker, lawyer or notary in-trust account

#### Individual

If the information is not readily obtainable from other records that you keep and retain you must obtain:

- Full name of individual from whom you received the cash, at the time of the transaction
- Address, Date of birth
- Nature of their principal business or occupation of individual whom you received the cash (e.g., retired realtor, bank manager)
- Type of document used to confirm the individual's identity, the reference number, and its place of issue

**Be as descriptive as possible regarding the business or occupation. Record information that clearly describes it, DO NOT use a general term such as retired, consultant, etc.**



## Third Party Determination:

You have to make a third party determination when you have to keep a large cash transaction record.

When determining whether a third party is involved, it is not about who “owns” the money, but rather about who gives instructions to deal with the money.

To determine who the third party is, the point to remember is whether the individual in front of you is acting on someone else’s instructions. If so, that someone is the third party.

**A person acting on behalf of their employer is considered to be acting on behalf of a third party *except* when the person is depositing cash into the employer’s business account.**



## What to Record in a Third-Party Situation:

If you discover that the individual is making the transaction for a third party, you must record the following information about the third party as part of the Large Cash Transaction Record form:

- Name, address, date of birth and principal business or occupation of the third party
- Incorporation number and place of incorporation (if the third party is a corporation)
- **If Federal:** <http://www.ic.gc.ca/epic/site/ic.nsf/en/00014e.html>
- **If Provincial:** check various provincial government web sites
- Nature of the relationship between the third party and the individual giving you the cash

If you're not able to determine whether the individual is a third party but you have reasonable grounds to suspect, you should record this, detailing your reasons for suspecting the person is acting on behalf of a third party.



## The Records

### 2. Receipt of Funds

Obligations are:

- Keep a receipt of funds record
- Meet business relationship obligations, if you have to identify the client
- When you have to keep a receipt of funds record, identify the individual who provides the funds and confirm the existence of the client (if it is an entity)



## The Records: 2. Receipt of Funds

Have a receipt of funds record of every amount (whether or not it is cash) you receive in the course of a single transaction, unless the amount is received from a financial entity or public body.

Record	Description/details
Contents ...	<ul style="list-style-type: none"><li>● Amount</li><li>● Currency of funds received</li><li>● If the funds were received in cash, how was it received (in person, mail, armoured car, courier, etc.)</li><li>● Date of the transaction</li><li>● Purpose ( for a deposit on the purchase of a house)</li><li>● Details (were any other individuals or entities involved)</li><li>● Type of transaction (deposit on an offer)</li></ul>

**If you have to keep a large cash transaction record, you DO NOT have to keep a receipt of funds record for the same transaction.**



## The Records: 2. Receipt of Funds

Record	Description/details
<b>Contents Account ...</b>	<p>If an account was affected by the transaction, include:</p> <ul style="list-style-type: none"><li>● Number and type of any such account</li><li>● Full name of the client that holds the account</li><li>● Currency in which the transaction are conducted (e.g., USD)</li><li>● Must include all accounts affected.</li><li>● If a <u>bank draft is received</u>, required to detail the account that that draft was purchased from</li></ul>

Account includes: e.g., a broker's in-trust account; or, if funds from a client were in the form of a cheque, this includes the account on which the cheque was drawn.



## The Records: 2. Receipt of Funds

### Record Description/details

Individual	<ul style="list-style-type: none"><li>● Name and address of the individual you received the funds from</li><li>● Date of birth</li><li>● Principal business or occupation</li></ul>
Entity	<ul style="list-style-type: none"><li>● Name / address</li><li>● Nature of their principal business</li></ul>
Corporation	<ul style="list-style-type: none"><li>● Keep a <u>copy of the official corporate records</u> that contains any provision relating to the power to bind the corporation with the real estate broker or sales representative.</li><li>● Confirm name, address and names of directors</li></ul>



**When a real estate broker or sales representative sells a home, and both parties are represented by a real estate broker or sales representatives, but the deposit goes directly to the seller (i.e. the buyer's agent does not see the cheque or the funds), who is required to keep the receipt of funds record?**

The receipt of funds record legislative requirement applies only when the real estate broker or sales representative **receives funds**. Therefore, if the real estate broker or sale representative does not receive any funds (cash or cheque), he does not have to keep a receipt of funds record.

In the scenario provided, the real estate broker or sales representative does not handle the cheque/funds, and the funds go directly to the seller, then there is no requirement for the real estate broker or sales representative to keep a receipt of funds record.



## The Records

### 3. Client Information Records for every sale or purchase of real estate

#### Obligations are:

- Keep a client information record
- Identify the client (including any unrepresented parties)
- Meet business relationship obligations, if you have to identify the client
- Determine if there is any third party involved in the transaction and keep a record about that determination

## The Records: 3. Client Information Records

Have a client information record of every purchase or sale of real estate and determine whether the client is acting for themselves or a third-party.

### Record Description/details

**Is about an individual ... At the time of the transaction**

**Is about an entity... The above plus ...**

**Is about a corporation ... Also ...**

- Client's name and address, Date of birth
- Nature of their principal business or occupation
- If there is more than one individual purchasing or selling, you have to keep a client information record about each individual.
- Name, address, nature of their principal business
- Confirm existence **within 30 days**
- Confirm existence and determine corporation name, address and names of directors **within 30 days**
- Keep a copy of the official corporate records that contains any provision relating to the power to bind the corporation (this does not apply if you have to keep a large cash transaction record about the purchase or sale of real estate)

## **When a real estate broker or sales representative sells a home or represents the buyer, who should the real estate broker or sales representative identify?**

For every transaction, you must identify the person conducting the transaction; and if that person is acting on behalf of an entity or a corporation, you must also confirm the existence of the entity or the corporation.

In the case of a corporation, you must obtain documentation that the person has the power to bind the corporation and you must also list the directors of the corporation and their addresses. However, you do not need to identify the directors.



## The Records

### 4. Suspicious Transaction Report

#### Obligations are:

- When you report a suspicious transaction to FINTRAC, you have to keep a copy of the report.

You have to take reasonable measures to identify an individual. This includes:

- using either of the options available to identify individuals who are not physically present; or
- asking the individual for an identification document and include name, type of document used, reference number and place of issue.

**Reasonable measures exclude any method that you believe would inform the individual that you are submitting a suspicious transaction report.**



## Case Study Example – Money Laundering

<b>Offence</b>	<b>Money laundering</b> <b>Fraud</b>
<b>Customer</b>	<b>Individual</b>
<b>Industry</b>	<b>Real Estate</b> <b>Banking</b>
<b>Channel</b>	<b>Face- to- Face</b>
<b>Jurisdiction</b>	<b>Domestic</b>
<b>Designated Service</b>	<b>Account and deposit-taking services</b>
<b>Suspicious Indicators</b>	<ul style="list-style-type: none"><li>- Client purchases and sells real estate above or below the market value while apparently unconcerned about the economic disadvantage of the transaction</li><li>- Large cash deposit</li></ul>

## Case Study continued – Money Laundering

- A vendor and purchaser colluded to transfer a property at an agreed price but then record the formal transaction price as significantly lower than the agreed price. The purchaser paid the difference between the two prices to the vendor in cash, which was not recorded on any of the formal conveyancing documents.
- The vendor deposited the cash into his bank account on a date close to the date on which the contracts for the sale of the property were exchanged, indicating to law enforcement officers that the cash actually formed part of the total sale price.
- Understating the official sale price of the property was an act of fraud allowing the offenders to avoid paying the required amount of duty on the property. It is also suspected that the cash involved in the transaction was the proceeds of other criminal activities, and that the transaction was an attempt to launder the illicit cash through the real estate sector.



## Timeframe for Keeping Records

In the case of client information records and records to confirm the existence of an entity (including a corporation), these records have to **be kept for five years from the day the last business transaction was conducted.**

In the case of a copy of a suspicious transaction report, the record has to **be kept for a period of at least five years following the date the report was made.**

All other records must be **kept for a period of at least five years following the date they were created.**



**I'm done Module 4, what do I do now?**

**Congratulations!**

You can now go to **Module 5: Suspicious Transaction Indicators.**

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