



MODULE 2: DEFINING ROLES AND RESPONSIBILITIES

LESSON 1 OF 6

Welcome

Introduction

Module 2 discusses the roles of the brokerage, managing broker, compliance officer, REALTOR®, staff, and auditor in establishing and maintaining compliance. Learners will consider the skills, knowledge, and experience required to make a compliance officer successful in their position and how those traits can be learned or acquired. The requirements for a brokerage's compliance program are also reviewed, including the documentation that must be maintained to remain compliant with the PCMLTFA and FINTRAC's expectations.

Learning Objectives

By the end of this module, learners will be able to:

1. list the five required elements of an anti-money laundering (AML) compliance program;
2. differentiate between the roles of the brokerage, managing broker, compliance officer, Realtors, staff, and auditor in creating and maintaining a compliance program;
3. describe some of the skills, experience, and knowledge that can help a compliance officer be successful in their position; and
4. identify who holds ultimate responsibility for PCMLTFA and FINTRAC compliance and the compliance program, even when duties have been delegated to other professionals within the brokerage.

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The Roles of the Brokerage and Managing Broker

The next few lessons will discuss the various roles of the brokerage, managing broker, compliance officer, Realtors, and staff. The infographic below is a high-level summary of the general responsibilities of each party to help learners navigate the following lessons.

DIFFERENT COMPLIANCE ROLES

- ◆ **BROKERAGE**
Holds ultimate responsibility for meeting compliance requirements and may delegate authority.
- ◆ **MANAGING BROKER**
Responsible for identifying and documenting the appointment of a compliance officer.
- ◆ **COMPLIANCE OFFICER**
Responsible for establishing, implementing, monitoring, and updating the compliance program.
- ◆ **STAFF**
Responsible for any duties delegated by the compliance officer. For example, receipt of funds.
- ◆ **REALTOR**
Responsible for reporting suspicious transactions, terrorist reports, and any other duties delegated by the brokerage.

The Brokerage

RESPONSIBILITY FOR THE COMPLIANCE PROGRAM

The brokerage, as an entity, holds ultimate responsibility for the brokerage's AML compliance program and meeting FINTRAC's compliance requirements. The brokerage's compliance program includes the:

- ◆ appointment of a compliance officer,
- ◆ development and application of written policies and procedures,
- ◆ implementation of a risk assessment and corresponding risk mitigation measures,
- ◆ creation and implementation of a written ongoing compliance training program, and
- ◆ completion of the two-year effectiveness review.

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While the brokerage may delegate responsibilities to other professionals within the brokerage (such as a managing broker, compliance officer, or other administrative staff), the brokerage is still ultimately responsible for the oversight of the program. This includes reviewing and approving the compliance program.

Therefore, the brokerage does have ultimate responsibility for ensuring the brokerage's Realtors and other staff comply with the PCMLTFA and FINTRAC.

RESPONSIBILITY FOR THE COMPLIANCE OFFICER

Assigning responsibility for the compliance program to a compliance officer allows the brokerage to build in-house expertise in money-laundering and terrorist-financing issues that could impact any of the brokerage's operations. The appointment of a compliance officer with the right skills, experience, and qualifications helps the brokerage ensure their staff are fulfilling their compliance obligations and are properly supported while doing so.

Ultimately, the brokerage is responsible for the performance of the compliance officer; therefore, choosing a professional with the right background and attitude can be a real asset.

A succession plan can help ensure there is continuity and a transfer of knowledge during the transition to a new compliance officer.

Supporting the compliance officer is also integral. The brokerage needs to ensure that the compliance officer has the "*necessary authority and access to resources in order to implement an effective compliance program and make any desired changes*" (FINTRAC). These resources may include, but are not limited to:

- ◆ people
- ◆ data management systems
- ◆ bandwidth
- ◆ budget

Sufficient access to resources assists a compliance officer in successfully implementing, administering, and maintaining the brokerage's compliance program. It is beneficial for all parties involved when the brokerage ensures that the compliance officer has the resources and support they need to be successful in their role.

When the compliance officer makes significant recommendations regarding the program, the brokerage is responsible for ensuring that these are reviewed and acted upon in a timely manner. The brokerage can delegate responsibility for ensuring the recommendations are implemented.

RESPONSIBILITY FOR THE EFFECTIVENESS REVIEW

The brokerage is also responsible for the two-year effectiveness review of the compliance program (which will be discussed at length in a later module).

The following must be reported to the brokerage (or whoever the brokerage designates, such as a manager or owner) within 30 days of the completion of the effectiveness review:

- ◆ FINDINGS

The findings of the review

- ◆ UPDATES

Any updates made to the brokerage's policies and procedures during the reporting period

- ◆ STATUS

The status of the implementation of the updates made to the policies and procedures

The findings of the review should include deficiencies, the corrective actions that the brokerage will implement, and an implementation timeline. It is good practice to document who reviewed the two-year effectiveness review and when.

STAYING UP TO DATE

The brokerage is also responsible for ensuring they understand the vulnerabilities particular to the real estate sector and their business. The brokerage and its compliance program benefit when the brokerage stays up to date on money laundering, fraud, and terrorist financing trends in the real estate sector and when the brokerage promotes curiosity and open communication regarding money laundering among brokerage staff and Realtors.

The Managing Broker

RESPONSIBILITY FOR THE COMPLIANCE PROGRAM

Many of the responsibilities of the brokerage can be delegated to the managing broker. The managing broker, when not also the compliance officer, is responsible for overseeing the AML compliance program at a high level. Managing brokers should receive and review status reports on the compliance program regularly.

Creating a self-assessment checklist is a good way to demonstrate that the brokerage is working to keep up to date, and it is a valuable resource to brokers of documenting that in the event of an examination.

This status report is part of the ongoing review of the AML compliance program and is usually conducted by those who are involved with the program. It is different than the two-year effectiveness review, which involves an auditor not typically involved with the administration of the compliance program.

RESPONSIBILITY FOR THE COMPLIANCE OFFICER

The managing broker plays a vital role in ensuring the success of the compliance officer. They are responsible for identifying and documenting the appointment of a compliance officer in accordance with FINTRAC's requirements. The following is a sample template for documenting the brokerage's compliance officer:

The Appointment of a Compliance Officer

Our Compliance Officer is responsible for our compliance regime. Our Compliance Officer has the authority and resources to effectively perform their duties. Though our Compliance Officer has the ability to delegate certain tasks to other employees, at their discretion, they are still ultimately responsible for maintaining the ongoing compliance regime. Our Compliance Officer is and this appointment is documented and approved by senior management.

The managing broker is responsible for ensuring they have the right person in the role of a compliance officer, someone who has the skills, knowledge, and experience to enhance the brokerage's culture of compliance. Some of the skills that a managing broker may look for in a compliance officer include good communication, conflict management, and leadership as well as good attention to detail.

As a best practice, the compliance officer of a larger brokerage should not be directly involved in the receipt, transfer, or payment of funds.

The compliance officer should also understand Canadian anti-money laundering and counter-terrorist financing requirements, the brokerage's business model, and any unique vulnerabilities applicable to the brokerage.

Like the brokerage, the managing broker is responsible for making sure that the compliance officer has all the resources they need to effectively run the compliance program.

An accessible managing broker is a great resource to their compliance officer, helping the compliance officer when anti-money laundering and counter-terrorist financing related questions arise.

As a best practice, the compliance officer should have the ability to report compliance related issues to, and meet with the managing broker and other senior managers at the brokerage, on a regular basis.

OTHER RESPONSIBILITIES

In many brokerages, the managing broker wears multiple hats. They may be responsible for many of the brokerage's responsibilities pertaining to anti-money laundering as well as their own role as managing broker. Many managing brokers are also compliance officers for their brokerage.

The managing broker may also delegate some of their responsibilities to another professional within the brokerage as needed. Whenever delegation occurs, there should be a clear definition of the roles and responsibilities of each party and these should be documented in writing and training provided.

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The Compliance Officer's Role

Summary of The Role

"The role of a compliance officer, sometimes called a compliance manager, is to make sure that a company is conducting its business in full compliance with all national and provincial laws and regulations that pertain to its particular industry, as well as professional standards, accepted business practices, and internal standards."

– [Robert Walters: The Role of The Compliance Officer](#)

Compliance isn't only about fulfilling regulatory requirements; it is also about good business and protecting the brokerage and its clients from the effects of money laundering and terrorist financing.

In short, the compliance officer is responsible for establishing, implementing, monitoring, and updating the AML compliance program with the support of the brokerage.

Depending on the size and structure of the brokerage, the compliance officer may be solely dedicated to the compliance program or have other responsibilities as well.

The compliance officer may delegate certain duties to others. For example, compliance officers may delegate:

- ◆ client identification to Realtors
- ◆ Receipt of funds to staff
- ◆ tracking "activities" as they pertain to relationships to staff

Realtors may be responsible for monitoring business relationships, but often the tracking of "when" the business relationship starts is delegated to staff.

The compliance officer is still responsible for the implementation and ongoing execution of the brokerage's compliance program.

Understanding FINTRAC's Requirements

An effective compliance officer must understand the legal requirements of a brokerage under the PCMLTFA and associated regulations (mentioned in Module 1). The implementation of the compliance program by the compliance officer includes:

- ◆ the development and application of written compliance policies and procedures,
- ◆ a risk assessment of the brokerage's business activities and relationships,

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- ◆ the development and maintenance of a compliance training program for brokerage staff and Realtors, and
- ◆ the initiation and documentation of an effectiveness review that tests the compliance program's overall effectiveness.

"Establishing and implementing a comprehensive and effective compliance program is the basis for meeting all of your reporting, record keeping, client identification, and know-your-client requirements under the PCMLTFA and associated Regulations."

– [FINTRAC](#)

As the legal requirements are constantly evolving based on new knowledge and technological advances, compliance officers should stay up to date on Canadian anti-money laundering and counter-terrorist financing requirements as well as ministerial directives as they apply to the brokerage.

Mastering FINTRAC's requirements and staying up to date on legislative changes may require training. Compliance officers can greatly benefit from more formal training, including continuing education, to acquire and maintain knowledge of compliance requirements regarding anti-money laundering and counter-terrorist financing in the real estate sector.

Compliance officers can monitor (or subscribe to) the following resources to stay up to date:

- ◆ Subscribe to the [FINTRAC RSS Feed](#)
- ◆ Subscribe to the [FINTRAC email list](#)
- ◆ Monitor the [FINTRAC website](#)

Understanding the Brokerage's Needs

Implementing an effective compliance program requires the compliance officer to understand:

- ◆ **HOW**
How the brokerage functions
- ◆ **WHAT**
What the brokerage's structure is and what the processes currently are in the brokerage
- ◆ **WHO**
Who is responsible for what aspect of each process

The compliance program created must reflect the size, structure, and complexity of the brokerage. It must also reflect the brokerage's risk level: the probability that the brokerage will be exposed to money laundering or terrorist financing.

The brokerage's risk level may be clearer when the compliance officer has a firm grasp of the real estate sector's money-laundering and terrorist-financing risks, vulnerabilities, and trends.

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Knowing how the real estate sector is weak to money laundering can help the compliance officer assess where their brokerage's vulnerabilities may be.

The compliance officer is also responsible for identifying areas where their knowledge is lacking and for seeking assistance in those areas. This may mean reaching out to the previous compliance officer or to the managing broker who trained them for more information.

Instituting Policies and Procedures

The compliance officer is responsible for instituting policies and procedures for:

- ◆ Reporting,
- ◆ Record keeping,
- ◆ Client identification,
- ◆ Risk assessment, and
- ◆ Risk mitigation.

When creating or reviewing the policies and procedures, a compliance officer may want to ask:

- ◆ Are the brokerage's policies and procedures well documented?
- ◆ Do the policies and procedures describe what we're doing to meet our obligations?
- ◆ Have they been updated in the last year?

It is best practice to review these policies and procedures on a regular basis to confirm that they are up to date and have been approved by senior management.

- ◆ **PROVIDE GUIDANCE**

When reviewing the policies and procedures, the compliance officer should ensure they provide enough guidance for Realtors.

- ◆ **ASSESS KNOWLEDGE**

Compliance officers can track when they are questioned by several Realtors on the same topic or if there is a reoccurring issue in properly completing the documentation. They can use this as a way to assess knowledge and provide additional support resources around the same.

- ◆ **GAUGE UNDERSTANDING**

The policies and procedures should be written clearly so that someone unfamiliar with the business could understand them.

Training and Supporting Brokerage Staff

While all stages of the compliance program are important, the training and supporting of Realtors and brokerage staff may be one of the most vital for establishing a culture of compliance and ensuring the success of the program.

The compliance officer should ensure that all staff, Realtors, managing brokers, and other relevant parties receive anti-money laundering and counter-terrorist financing training regularly. For example, a brokerage might set aside time at each monthly meeting to provide training on some aspect of compliance. In either case, the compliance officer needs to document the training, including what they trained on and who attended.

When entering into the compliance officer position, new officers may want to ask:

- ◆ Have the Realtors and staff been trained in the last year?
- ◆ Does the training cover all the obligations that apply to the brokerage?

A positive attitude and approach to compliance training can go a long way toward encouraging compliance among staff and Realtors. A compliance officer who can explain the brokerage's compliance program and the benefits of complying with the program increases the chances of the program's success.

EXTERNAL AND INTERNAL

The benefits of compliance are both external (e.g. fulfilling compliance obligations, brokerage requirements, responsibilities as a member of a great community) as well as internal (e.g. preserving the reputation of the profession and the brokerage, preserving personal reputation, aligning their actions with their ethics). Good compliance can also reduce the probability of an audit or monetary fines.

Responding to Risk

While the entire compliance program is designed to manage and mitigate the risks associated with money laundering and terrorist financing, the compliance officer is responsible for developing and maintaining a risk assessment as part of the program.

A risk assessment should include:

- ◆ Level of risk
 - Determining the level of risk that the brokerage will and will not accept.
- ◆ Brokerage risk level
 - Assessing the risks relevant to the brokerage and their risk level.
- ◆ Risk-reduction
 - Creating risk-reduction measures to address those risks.

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- ◆ Risk-based approach

Implementing the risk-based approach.

- ◆ Review

Reviewing the risk-based approach to ensure it is effective.

When reviewing whether the current risk assessment and mitigation strategies are sufficient for the brokerage, a compliance officer may wish to ask the following questions.

- ◆ Does the risk assessment describe the risk that the brokerage could be used for money laundering or terrorist financing?
- ◆ Are there risk ratings?
- ◆ Are the controls described?
- ◆ Do the controls make sense given the brokerage's risk tolerance level?

Risk assessments will be discussed further in Module 5.

There are more risks to a brokerage than just falling short of regulatory compliance requirements. There are legal risks, risks to reputation, monetary risks, and further social and economic risks to the brokerage and its staff should they take part, even unintentionally, in money laundering or terrorist financing.

Where a culture of compliance is embedded into the brokerage, it can help prevent the brokerage from being used for money laundering or terrorist financing.

Compliance officers are responsible for keeping up to date on trends, laws, and inherent risks relevant to their brokerage.

Keeping Records

The compliance officer oversees the brokerage's compliance documents and records. Therefore, they are responsible for developing and keeping up to date the/a:

- ◆ FINTRAC Office Policy,
- ◆ risk assessment,
- ◆ risk statement, and
- ◆ ongoing training program.

They are also responsible for ensuring that the two-year effectiveness review is conducted and for keeping a record of the review and any findings or recommendations.

It is vital that these records are complete and are specific to the brokerage.

The compliance officer should regularly review and update these documents as well as keep a record of all updates.

Terrorist Entities

Compliance officers should recommend that Realtors consult the Public Safety Canada list of [terrorist entities](#) to remain vigilant when entering into a new business relationship. Regulations make it an offence to deal in any way with a property if it is known that the property is owned or controlled by anyone on the list.

The compliance officer may delegate other types of record keeping such as:

1. Client Identification Records
2. Receipt of Funds Records
3. Large Cash Transaction Records

However, the compliance officer is responsible for ensuring these records are kept.

Lastly, the compliance officer needs to ensure that their own appointment is documented. The documenting of their appointment as the brokerage's compliance officer can be in the form of meeting minutes or a formal document, but it must be in writing.

Reporting

The compliance officer has two responsibilities when it comes to reporting: reporting to FINTRAC and reporting to brokerage leadership or the owner.

The compliance officer is responsible for ensuring that the suspicious transactions are being identified and reported to FINTRAC within the required time frames. Therefore, compliance officers oversee the following reports to FINTRAC:

1. Large Cash Transaction Reports
2. Suspicious Transactions Reports
3. Terrorist Property Reports

Remember: Large Cash Transaction Reports must be filed with FINTRAC within 15 days of the transaction.

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When filing a Terrorist Property Report with FINTRAC, the RCMP and the Canadian Security Intelligence Services must also be informed. This will be discussed in further detail in Module 3.

New compliance officers need to enroll with FINTRAC and obtain an ID number, logon id, and password for reporting purposes, which can take a few days. FINTRAC provides more details on their [website](#).

Depending on the brokerage's policies, if a report contains an error or incomplete information, the compliance officer may notify the Realtor involved to obtain the missing information and resubmit the report to FINTRAC.

Should the compliance officer not be the managing broker, the compliance officer also needs to keep brokerage leadership or the owner informed as to the status of the AML compliance program. Any issues with the adequacy of the program should be reported. Also, brokerage leadership and/or the owner needs to be informed of any upcoming regulatory examinations or when an AML compliance effectiveness review has been conducted (within 30 days of the report).

Good communication with brokerage leadership and/or the owner can help the compliance officer receive the support and resources necessary to ensure the program's success.

Overseeing Effectiveness Reviews

The effectiveness review will be discussed at greater length in a later module; however, it is important to understand the compliance officer's role and responsibilities regarding the review. The compliance officer does not conduct the review themselves: this role is generally given to an internal resource who does not have direct compliance oversight or to an external service provider who has not been recently involved in the brokerage's compliance program.

Pertaining to the effectiveness review of the compliance program, the compliance officer is responsible for:

- ◆ **Overseeing:** Overseeing the review.
- ◆ **Identifying:** Identifying the knowledge, skills, and experience required of the auditor on Canadian anti-money laundering and counter-terrorist financing to meet the requirements to conduct the review.
- ◆ **Ensuring:** Ensuring that the review is conducted at least every two years and shared with senior management within 30 days.
- ◆ **Taking:** Taking steps to address any deficiencies discovered by the review.

The auditor may report directly to a person in higher authority than the compliance officer. Where the auditor reports to the compliance officer, the compliance officer is responsible for

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reporting the results of the review and any plans to remediate deficiencies (including dates for action items) to brokerage leadership or the owner.

If someone is the newly appointed compliance officer for their brokerage, they might want to consider the following questions:

- ◆ **2 YEAR EFFECTIVENESS**

Has a compliance effectiveness review been completed in the last two years?

- ◆ **FORMAL REPORTING**

Was there a formal report that described both the methodology and the findings?

- ◆ **COMPLETION DATE**

When was the last effectiveness report completed?

- ◆ **REVIEW EFFECTIVENESS**

Did brokerage leadership or the owner review the effectiveness report within 30 days?

The compliance officer also takes the lead in remediating the compliance program. To address deficiencies, the compliance officer may need to:

- ◆ update the AML compliance program,
- ◆ create new controls,
- ◆ update processes,
- ◆ update client record keeping to ensure that the risk assessment and mitigation measures are up to date, or
- ◆ provide additional training for Realtors and staff.

Depending on the deficiencies noted in the effectiveness review, the compliance officer may need to delegate responsibility and work with other professionals within the brokerage to ensure the program is in compliance.

Monitoring the Program

Once a compliance program is initiated, the compliance officer monitors the program's performance to ensure that it is meeting its objectives.

The self assessment of the AML compliance program, which is separate from the effectiveness review, plays a major role in monitoring the program and in risk mitigation for the brokerage. The self assessment is an ongoing review that looks at the brokerage's inherent risk assessment, policies, procedures, and training. Should there be any gaps or issues, the compliance officer can quickly identify them and remediate as needed.

The compliance officer has the option to delegate the self assessment (or aspects of the self assessment) out to someone else who is active in the compliance program at the brokerage. However, the compliance officer is still ultimately responsible for it.

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The Qualities of a Compliance Officer

Anyone considering becoming a compliance officer or those looking to hire a compliance officer for their brokerage may wish to consider the qualities that contribute to an effective compliance officer. Compliance officers usually bring with them a wealth of **experience**, **knowledge**, and **skills** to their role in the brokerage. This lesson discusses these qualities from the perspective of a new compliance officer entering the position.

Experience

While experience levels vary, three to five years of experience in regulatory compliance is an asset to a new compliance officer. Compliance officers who were actively involved in their brokerage's AML compliance program and have gone through a full two-year cycle have a far more in-depth understanding of compliance and will be better able to effectively and efficiently manage a compliance program. Any experience with audits is also an asset.

Where a new compliance officer lacks experience with compliance, they can get training to cover any deficiencies. Training may include:

- ◆ Formal education
- ◆ Independent education
- ◆ On the job education
- ◆ Peer to peer training
- ◆ Continuing education

The value of peer to peer training cannot be understated. Often it takes hearing several fellow colleagues discuss an important process or method to advance a compliance officer's knowledge and understanding.

AML CERTIFICATION PROGRAMS

In Canada, there are some AML certification programs specifically for compliance officers. New compliance officers may wish to speak to their managing broker regarding certification if they believe it is of benefit to their role as a compliance officer and the brokerage's compliance program.

Knowledge

A compliance officer's prior experience often determines the knowledge that they bring to the position. A large piece of that required knowledge is the "why" of compliance: as in "why do we do this" and "why does this matter."

Compliance officers routinely need to answer disgruntled Realtors' questions regarding the effectiveness of the compliance program. Having real cases to discuss or anecdotal evidence that the efforts being made are making a difference locally is important to improve engagement.

To be able to explain the "why" of compliance, compliance officers should have a thorough knowledge of FINTRAC's compliance requirements as they pertain to real estate and a comprehensive knowledge of how money is laundered through the real estate sector.

In a FINTRAC examination, the compliance officer's background, experience, and training are reviewed to ensure that the officer has enough knowledge of:

- ◆ the brokerage's functions and structure;
- ◆ the sector's money laundering and terrorist activity financing risks and vulnerabilities, as well as related trends and typologies; and
- ◆ the sector's requirements under the PCMLTFA and associated regulations.

If the compliance officer's knowledge is insufficient, additional training may be required.

Skills

Compliance officers are integral to the overall safety (e.g. minimizing business, reputational, and compliance risks) of a brokerage and the staff and Realtors who work in that brokerage. They are talented individuals who bring a myriad of skills to the position. Some of the skills that a new compliance officer may possess, that will make them well suited to the position, include:

- ◆ Leadership
- ◆ Conflict management
- ◆ Communication
- ◆ Research
- ◆ Organization

Once developed, these skills serve a compliance officer well in their position.

A brokerage that invests in supporting its compliance officer can benefit from decreased turnover, increased consistency, and a more educated and trained officer. It takes time and energy to learn and understand the complexities of the role; therefore, retaining a compliance officer is beneficial to the success of the brokerage's FINTRAC compliance program.

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The Roles of Realtors, Staff, and Auditors

Administrative Staff

The role and responsibility of administrative staff regarding compliance is generally determined by what duties have been delegated to them by the brokerage, managing broker, and/or the compliance officer.

Administrative staff may also have the authority to provide instruction to Realtors and/or request corrections be made on forms that Realtors submit. Therefore, it is important to clearly establish, communicate, and document (in writing) the distribution of authority and duties within the brokerage regarding compliance.

Realtors

Realtors are on the front lines of anti-money laundering and counter-terrorist financing as they deal directly with consumers, clients, and transactions. Realtors connect directly with clients and establish business relationships with them. Therefore, Realtors are ideally positioned to identify key indicators of potential money-laundering and terrorist-financing activities.

◆ RESPONSIBILITY TO COMPLY

All Realtors are responsible for complying with the brokerage's compliance program, including the brokerage's reporting and record keeping requirements. Realtors can contribute to the success of the compliance program by fulfilling their responsibilities as outlined in their brokerage's FINTRAC policy manual, which may include:

- obtaining client identification when required,
- ongoing monitoring of business relationships, and
- reporting certain types of transactions to their compliance officer and/or as required to FINTRAC.

◆ RESPONSIBILITY TO REPORT

Perhaps the greatest responsibilities of a Realtor are keeping their compliance officer informed and filing reports. Realtors are generally responsible for filing the following reports with their compliance officer:

- Large Cash Transaction Reports,
- Suspicious Transactions Reports (STRs), and
- Terrorist Property Reports (TPRs).

Under the PCMLTFA, Realtors and brokerages both have responsibilities with respect to reporting STRs and TPRs.

Realtors need to be familiar with what constitutes a suspicious transaction, what qualifies as a large cash transaction, and how to identify whether a property is owned by a terrorist or terrorist organization.

Realtors are required to submit a suspicious transaction report as soon as practicable after they have established reasonable grounds to suspect that the transaction is related to money laundering or terrorist financing. The brokerage retains a copy of the STR and any acknowledgement from FINTRAC.

◆ RESPONSIBILITY TO BE INFORMED

To help Realtors stay informed of the changing requirements for reporting and their additional compliance obligations, they need to attend anti-money laundering and counter-terrorist financing training as required. FINTRAC requires the training of Realtors and staff on an ongoing basis. Brokerages may choose to embed this training in the brokerage's meetings to help ensure Realtors and staff are kept informed and up to date.

An educated Realtor is a vigilant Realtor.

If a Realtor is unsure about their individual responsibilities related to the compliance program or responsibilities delegated to them, they should consult with the compliance officer for more information.



CASE STUDY: VANCOUVER REALTOR SENTENCED TO PRISON FOR MONEY LAUNDERING

Part 1 – Summary

A Vancouver Realtor, O.M., leased luxury condominiums to members of a known organized crime syndicate. One of the gang leaders was murdered in one of the properties, another property was the target of a drive-by shooting, and other properties were used to stash narcotics.

Realtor O.M. also transferred funds derived from drug trafficking from a bank in Vancouver to a bank in Boston when they knew the origins of the funds. In 2017, Realtor O.M. made five transfers of these funds across national borders:

- ◆ one transfer of \$37,794 USD in January;
- ◆ one transfer of \$49,915 USD and another transfer of \$49,445 USD in July; and
- ◆ one transfer of \$49,930 USD and another for \$49,645 USD in August.

Part 2 – Results

In 2018, Realtor O.M. pled guilty to five counts of money laundering, wiring narcotics profits to banks in the State of Massachusetts, using their company's accounts. They were sentenced to two years in a United States federal prison and received a \$20,000 USD fine for money laundering. Their sentence in the United States also included one year of supervised release and a personal money judgment of approximately \$7,616 USD.

- Primary source: <https://www.justice.gov/usao-ma/pr/dualiranian-canadian-national-sentenced-international-money-laundering>

Most Realtors are not complicit in money laundering or terrorist financing. However, by not meeting one's compliance obligations, there may be perceived implicit involvement in the crime or perceived enabling of those involved in crime to be successful.

Auditor

As will be discussed in a later module, the two-year effectiveness review is an evaluation of the brokerage's compliance program to ensure that the brokerage is being effective at identifying and mitigating the risks associated with money laundering and terrorist financing. The scope of the review depends upon the size and complexity of the brokerage.

The two-year effectiveness review is not conducted by the managing broker, compliance officer, Realtors, or administrative staff involved in the program. Instead, an internal or external auditor is used to conduct the review. The appointment of the auditor may be by someone other than the compliance officer, especially in a larger brokerage.

When a brokerage does not have an auditor, then the review should be done by someone who is not directly involved in the compliance program yet still has adequate knowledge of the brokerage's compliance requirements under the PCMLTFA and associated regulations. It is important to find the right person with the right skills that is not already involved in the compliance program.

Who conducts the review should be documented. Regardless of who conducts the review, the auditor is responsible for assessing whether the brokerage's policies and procedures, risk assessment, and training program are effective. The auditor also assesses whether the brokerage's current practices are following legislative and regulatory requirements.

The auditor is responsible for identifying and documenting any gaps or weaknesses in the compliance program and making recommendations to remedy any issues.

"If, as a result of the review, any internal or external factors have an impact on the compliance program of the real estate broker or sales representative, such as any changes to the business model, the introduction of new products or services, or emerging trends or vulnerabilities of money laundering and terrorist activity financing, then changes to the training program may be necessary in order for it to be up to date and effective."

- FINTRAC

The compliance officer is then responsible for making changes to the compliance program based on the gaps or weaknesses that the auditor identified and updating the training program as necessary to ensure everyone has received adequate training.

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Actions

Learners are encouraged to download and use the fillable PDF document on the following pages to stay up to date and prepared for changes related to anti-money laundering compliance. The document provides an opportunity to identify areas in which the brokerage is doing well and areas that need improvement. It is also rich in resources that brokerages can benefit from.

This document does not need to be submitted as part of the Mastering Compliance program.

MODULE 2: ACTIONS

1. Appointing a Compliance Officer

The appointment of a compliance officer is the first step of an effective anti-money laundering/anti-terrorist financing (AML/ATF) program and this appointment should be documented. An efficient way to document it is to have it as part of your brokerage's FINTRAC policies and procedures manual.

- ◆ Confirm that the appointment has been made and there is documentation of the appointment. The documentation should include, but is not limited to:

- name of person(s)
- contact details
- description of experience/knowledge of their expertise/training for position
- date of appointment
- sign off by the compliance officer and senior management

If you do not already have documentation confirming the appointment, you can use the following sample policy template as a starting point to include in your brokerage's policies and procedures manual:

"Our compliance officer is responsible for our compliance regime. Our compliance officer has the authority and resources to effectively perform their duties. Though our compliance officer has the ability to delegate certain tasks to other employees, at their discretion, they are still ultimately responsible for maintaining the ongoing compliance regime. Our compliance officer is and their appointment is documented and approved by senior management."

1. Brokerage Name:	
2. Name of Compliance Officer:	
Contact Details:	
3. Description of Experience/Knowledge:	
4. Date of Appointment:	
5. Confirmation of the Appointment by the Compliance Officer:	
6. Confirmation of the Appointment of the Compliance Officer by Senior Management:	

2. Succession Planning

To support succession planning and ensure sustainability of your brokerage's compliance program, you may want to add and maintain additional information with your documentation on the role of a compliance officer. This will help ensure specific skills and knowledge are developed and/or retained within the brokerage over time.

Examples of information to include are:

- compliance officer job description or job summary
- outline of related AML experience and knowledge
- education, designations, and/or related training
- conferences, courses, workshops
- ongoing activities the compliance officer does to stay current; subscriptions to new feeds and/or other resources – recall many of these were introduced in Module 1 Actions
- other: _____

3. Knowledge and Skills of a Compliance Officer

Appointing a designated person to be your compliance officer alone does not fulfil your compliance program requirements or the overall objectives of the PCMLTFA and associated Regulations. In order to implement an effective AML/ATF program your compliance officer needs to have the knowledge and resources identified below.

By identifying the gaps now, you will have a better idea of what content to pay extra attention to and what questions to ask during the virtual classes as you move through this program.

Does your compliance officer have the following? Review the list and make notes of how these elements are either met or where additional inputs are required.

- ◆ The necessary authority and access to resources in order to implement an effective compliance program and make any desired changes

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- ◆ Knowledge of your brokerage's functions and structure

- ◆ Knowledge of the real estate sector's AML risks and vulnerabilities as well as ML/TF trends and typologies

- ◆ Understanding of the real estate sector's legal requirements under the PCMLTFA and associated Regulations.

4. Defined Roles and Responsibilities

Create a chart of different roles and their responsibilities for your brokerage, as listed below. Use the sample below, or develop your own, to help document the roles and responsibilities for FINTRAC compliance within your brokerage policy manual. Identify the responsibilities for each of these roles within your brokerage.

- ◆ Include tasks and activities that have been delegated and to whom
- ◆ Meet with the people in your brokerage identified above to examine their understanding of their roles and responsibilities and identify any gaps
- ◆ Identify opportunities for further training (which will be touched on in module 7)

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	Brokerage (Entity)	Managing Broker/Senior Management	Compliance Officer	Realtor	Staff	Auditor
Description of role						
FINTRAC requirements						
Delegated activities/ Brokerage responsibilities						
Identified gaps						
Training opportunities						

5. FINTRAC Reporting System

FINTRAC web reporting is a secure system accessed over the internet for reporting entities to manually enter and/or correct reports. In order for a compliance officer to submit reports to FINTRAC, they will need to enroll with FINTRAC and obtain an ID number, logon id, and password.

The reports that can be submitted with this system are: Suspicious Transaction Reports (STRs) and Large Cash Transaction Reports (LCTRs). When to report STRs and LCTRs will be covered in greater detail in module 3, and STRs will be covered in greater detail in module 6.

- ◆ If you are new to the role you will want to enroll in advance of needing to make a report as it may take several days to process. For more information on how to enroll or to log in go to: fintrac-canafe.gc.ca/reporting-declaration/info/f2r-eng
- ◆ There is an overview page and instructions on how to navigate the web reporting system here: fintrac-canafe.gc.ca/reporting-declaration/guide/sys-eng
- ◆ Once you log in and arrive on the homepage, Section 2 shows the “Training Reports” link which takes you to FINTRAC’s training environment. Reports created in this environment will not be submitted to FINTRAC. This environment is meant for training purposes.

As a part of the onboarding process for a new compliance officer, you may want to add the links and information above to your role description or onboarding documentation.

6. Effectiveness Review

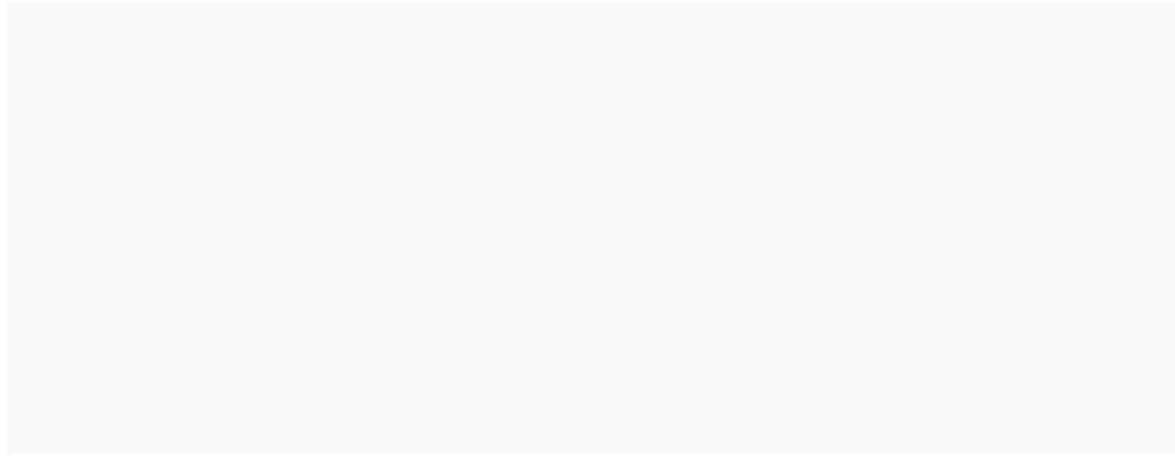
If you are a newly appointed compliance officer or are looking to evaluate your compliance program, start with answering the following questions related to the effectiveness review and make note of any gaps in activities and/or in documentation of the activities.

Taking an inventory now will be valuable for identifying areas for greater exploration in module 8 when we will be covering effectiveness reviews in greater detail.

- Has an effectiveness review been completed in the last two years?
- Was there a formal report that described both the methodology and the findings?
- When was the last effectiveness report completed?
- Did the senior management review the effectiveness report within 30 days of the review being completed?
- Have the recommendations from the effectiveness review been incorporated into policies and practise?

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What deficiencies were noted in the effectiveness review, what recommendations were made and were they implemented and documented?



- ◆ To address deficiencies, the compliance officer may need to:
 - update the AML compliance program,
 - create new controls,
 - update processes,
 - update client record keeping ensuring that the risk assessment and mitigation measures are up to date, or
 - provide additional training within the brokerage