



**Your REALTOR® is asking questions  
because it's the law.**



**REALTOR®**



## **On June 23rd, 2008 new federal money laundering and anti-terrorist financing regulations came into effect that require real estate agents and brokers to collect personal identification information from buyers and sellers.**

Your REALTOR® requires this identification information to comply with the law. It is the federal Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) that requires financial institutions and real estate agents, among other professionals and services covered by the legislation, to identify customers who conduct financial transactions. These include depositing funds or buying and selling real estate. The Act also requires real estate agents to keep these identification records for five years.

Canada has had substantial anti-money laundering and terrorist financing legislation since 2001. Since then REALTORS® have had a legal responsibility in Canada's efforts to combat money laundering and terrorist financing, by reporting any cash transactions of \$10,000 or more, or reporting suspicious real estate transactions.

Those original legal requirements still exist but under these new regulations, REALTORS® must now document personal information and proof of the identity of their client in each and every transaction, including occupation. If the client is a corporation, REALTORS® must obtain official corporate documents, and the names of directors. If the buyer or seller is in another city, province or country and no in-person meeting is held, REALTORS® must now use an agent or "mandatary" to identify third parties.

The new compliance requirements effect even a buyer or seller not using the services of a licensed real estate practitioner. If there is a real estate agent involved in the transaction, they are also required by law to now verify that private buyer or seller's information as well.

REALTORS® must also complete a report for ALL funds they receive during the real estate transaction, not just those of \$10,000 or more.

## **What your REALTOR® needs to do to comply with the law.**

The real estate agent you are dealing with is required by law to ask for and verify your personal information. By providing this information when requested, you will ensure that they can meet their legal obligations. The Act requires REALTORS® to keep identification records, and track all funds (not just large amounts of cash) provided during the real estate transaction.

### **ID Please**

Under the new rules, REALTORS(r) are required to obtain, record, and retain the personal information of their clients, including date of birth and occupation. To do this, they must ask for a government-issued identification document such as a drivers license, passport, or residency card. You should not provide your Social Insurance card as identification.

REALTORS® are required to keep a record of this information on file in the brokerage for a period of five years. For the purpose of compliance with this law, REALTORS® are not required to keep photocopies of government issued ID, just the factual data contained on it. However, your REALTOR® may make a photocopy of your ID because of other requirements related to the real estate transaction.

### **Are you a private seller or buyer?**

If you are not represented by a real estate agent in this process – in other words, you are buying or selling privately – the law requires the real estate agent that is involved representing the other party, to request your personal information and keep that information on file.

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### Is there anyone else involved?

There are aspects of your real estate transaction that might prompt the real estate agent you are dealing with to ask you for more information. For instance, you may be asked whether you are acting on behalf of a third party while conducting your transaction. This basically means you are following the instructions of someone else in completing the transaction, or someone else (individual or company) is involved in financing the transaction.

If there is a third party involved, your REALTOR® is also required by law to obtain their identification information, and keep that information on file for five years.

### Details of the deposit

Every time funds are received by a REALTOR® (e.g. a deposit) during the course of a real estate transaction, they are required to record the amount received and how it was obtained. Your real estate agent then must record this information, and also keep it on file at the brokerage for a five year period.

### Your information is kept confidential

The only reason the REALTOR® keeps your personal information on file is to comply with the new federal laws. It will not be used in any commercial way, and will not be provided to anyone else except in response to a request from the federal agency responsible for compliance, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). The law requires these files be kept at the brokers office for five (5) years.

## What you need to know about this new federal law.

While Bill C-25 is Canada's newest legislative attempt to curtail money laundering and terrorist financing, we have had legislation since 2001 that required designated industries in Canada (including real estate) to report suspicious transactions and large cash transactions of \$10,000 or more.

### Money laundering

Money laundering is the process used to disguise the source of money or assets derived from criminal activity. This illegal activity can include drug trafficking, smuggling, fraud, extortion and corruption. Criminals must launder the profits and proceeds from these crimes to be able to enjoy them. The scope of criminal proceeds is significant; the International Monetary Fund (IMF) estimated that some \$500 billion (U.S.) is laundered worldwide each year.

### Terrorist financing

Terrorist financing operates somewhat differently from money laundering. While terrorist groups do generate funds from criminal activities such as drug trafficking and arms smuggling, they also obtain revenue through legal means. Supporters of terrorist causes may, for example, raise funds from their local communities by hosting events or membership drives. In addition, some charity or relief organizations may unknowingly become the route where donors contribute funds that may eventually be used to commit a terrorist act.

## How does FINTRAC assist law enforcement and security agencies?

The Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC, collects, analyzes and discloses financial information and intelligence on suspected money laundering and terrorist financing activities. It was created as part of a Canadian government initiative to fight money laundering and terrorist financing. Although it operates at arms length from law enforcement, FINTRAC's primary role is to provide law enforcement agencies with information to help them with their investigations.

FINTRAC is required by law to protect the personal information it receives from unauthorized disclosure.

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## Who must report to FINTRAC?

The following persons and entities must report suspicious and certain other transactions to FINTRAC:

- real estate brokers and agents;
- financial entities including banks, credit unions, caisses populaires, trust and loan companies and agents of the Crown that accept deposit liabilities;
- life insurance companies, brokers or agents;
- securities dealers, portfolio managers and investment counsellors who are provincially authorized;
- persons engaged in the business of foreign exchange dealing;
- money services businesses;
- accountants and accounting firms when carrying out certain activities on behalf of their clients;
- casinos; and
- individuals and any entity importing or exporting currency or monetary instruments (such as a money order) of \$10,000 or more.

Additional information about this federal initiative, the federal legislation, and the role of FINTRAC in the reporting system is available at [www.fintrac-canafe.gc.ca](http://www.fintrac-canafe.gc.ca) or call toll-free: 1-866-346-8722.



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