KEEPING CURRENT

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Anti-Money Laundering (AML) What does it mean and why is it important?

By Zev Zlotnick

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

Zev Zlotnick
Partner
416.865.6601
zzlotnick@grllp.com

Money laundering is the concealment of the origins of illegally obtained money and disguising them as financial assets, such as real estate and mortgage transactions, without detection of the illegal activity that produced them. Real estate is one of the most significant sectors for money laundering and properties are becoming more vulnerable to this crime. Real estate transactions may be targeted because they are high value transactions that are under less scrutiny than others, such as the transactions of stocks and bonds.

Lenders are required, under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, to verify that all of the information borrowers provide on their mortgage application is accurate. Lenders are required to obtain detailed ownership from every borrower.

Any questionable transactions must be reported to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), which monitors trends and patterns to help identify offenders as well as disclosure relevant information to law enforcement.

On June 1, 2021 amendments were made to the to the regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. These amendments touch on a number of areas including:

- new virtual currency obligations for all reporting entities
- new definitions under the PCMLTFA
- identification and reporting obligations regarding politically exposed persons and heads of international organizations
- obligations for foreign money services businesses
- prepaid card obligations for financial entities
- beneficial ownership reporting obligations for all reporting entities
- recordkeeping and reporting changes for all reporting entities
- the 24-hour rule where reporting Entities must report large cash transactions
- business relationship screening requirements
- ongoing monitoring requirements
- identification methods for know-your-client checks

Reporting Entities should expect to heighten their anti-money laundering and anti-terrorist financing policies with the additional compliance obligations particularly with respect to their virtual currency obligations.

The Amendments introduce new requirements for all reporting entities to take reasonable measures to confirm the accuracy of information regarding beneficial ownership. Under the prior regulations, only financial entities, securities dealers, and life insurance and money services businesses had obligations related to beneficial ownership.

There are additional monitoring requirements including keeping records of the processes used to record information gathered during ongoing monitoring, and keeping records of processes used to record information gathered during enhanced ongoing monitoring of high-risk clients.

The level of required disclosure depends largely on the lender and their internal policies.

Brokers and lenders should be aware when to verify the identity of persons as advised by FINTRAC.

For all your AML related questions, please contact the writer. To see my previous 1-Minute Reads for Commercial Mortgage Lenders, please visit the Blog portion of my profile at https://www.grllp.com/profile/zevzlotnick

Contact Us

If you are in need of legal advice, please do not hesitate to contact Zev Zlotnick, at 416.865.6601 or zzlotnick@grllp.com.

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