
Re: Sharing Copies of STRs/ASTRs

Policy-Interpretation <Policy-Interpretation@fintrac-canafe.gc.ca>

Mon, Jul 27, 2020 at 8:00 AM

To: "amber@outliercanada.com" <amber@outliercanada.com>

Dear Ms. Scott,

Thank you for contacting the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's independent agency responsible for the receipt, analysis, assessment and disclosure of information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities in Canada and abroad.

I am writing further to your email of July 16th, 2020, wherein you requested clarification regarding the sharing of suspicious transaction reports (STRs) submitted to FINTRAC.

As you know, section 8 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) states that no person or entity shall disclose that they have made, are making, or will make a report under section 7, or disclose the contents of such a report, with the intent to prejudice a criminal investigation, whether or not a criminal investigation has begun.

The PCMLTFA sets out a regime in which the information contained in financial transaction reports sent to FINTRAC (including STRs) is protected from disclosure except in very limited circumstances. The Act also includes specific provisions aimed at protecting the personal information under FINTRAC's control. For example, as you may be aware, the PCMLTFA is founded on a prohibition on disclosure (s. 55(1), PCMLTFA). Any disclosure of information or intelligence by FINTRAC must fall under one of the exceptions to this prohibition. Outside of these exceptions, FINTRAC is prohibited from disclosing the contents of financial transaction reports, or even acknowledging their existence.

While reporting entities (REs) are not subject to the same prohibitions, FINTRAC strongly believes that STRs should be regarded as highly sensitive documents, given the role FINTRAC plays in the fight against money laundering (ML) and terrorist activity financing (TF) in Canada, and the fact that STRs are a key source of FINTRAC's intelligence holdings. From FINTRAC's perspective, it is not in the public interest for REs to disclose financial transaction reports and the information contained therein. Even beyond this, the collection or disclosure of financial transaction reports, including STRs, without a valid purpose and authority, may infringe on legislated privacy protection obligations. Almost all information within financial transaction reports is personal information about an identifiable individual and is considered financial intelligence by FINTRAC, collected for the sole purpose of reporting to FINTRAC. The potential harm that could occur from the disclosure of the information in these financial transactions reports is great, and includes compromising: (1) police and national security investigations that are both ongoing or could be undertaken in the future; (2) sources of the information/intelligence within the reports, placing those sources at risk of retaliation; and (3) FINTRAC's compliance activities, given that data provided by REs is always provided in confidence and that confidence is expected to be maintained by all parties. FINTRAC relies on the information included within STRs to support disclosure of financial intelligence to police and other law enforcement and national security organizations, in the interest of detecting, preventing and deterring ML and TF.

Therefore, while your client (MSB) is not prohibited from sharing the STRs it has submitted to FINTRAC with its service provider (Bank/CU), unless it is with the intent to prejudice a criminal investigation, strong consideration should be given to the above.

I trust this information will be of assistance.

Jessica Stewart

Compliance Sector | Secteur de la conformité

Financial Transactions and Reports Analysis Centre of Canada | Centre d'analyse des opérations et déclarations financières du Canada

Government of Canada | Gouvernement du Canada

The determination contained herein is provided to your organization on the understanding that it is based solely on the facts and information provided to FINTRAC and may be subject to change in the event additional information becomes available. | La détermination contenue dans la présente repose uniquement sur les faits et l'information fournis à CANAFE et pourrait être modifiée si des informations supplémentaires sont portées à notre connaissance.

From: Amber Scott <amber@outliercanada.com>

Sent: July 16, 2020 3:18 PM

To: guidelines-lignesdirectrices <guidelines-lignesdirectrices@fintrac-canafe.gc.ca>

Subject: Sharing Copies of STRs/ASTRs

Good afternoon,

One of our clients, a Canadian Money services business (MSB) has been asked by their financial services provider (bank/credit union) to provide copies of the suspicious transaction reports (STRs) and Attempted Suspicious Transaction Reports (ASTRs) that have been filed with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) on an ongoing basis. This struck us as being an overreach in terms of the information that should be disclosed to a service provider, and we are reaching out for an opinion on the appropriateness of these requests.

The financial service provider appears to be of the opinion that this is a reasonable request, and that they may close the MSB's bank account if the STRs and ASTRs are not provided by the MSB.

We will be posing the same question to the Office of the Privacy Commissioner (OPC).

If any additional information is required, please let us know.

Thank you,

Amber

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Amber D. Scott

Founder, CEO & Chief AML Ninja

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