



February 26, 2022

FINTRAC
24th Floor, 234 Laurier Avenue West
Ottawa, ON K1P 1H7

TO WHOM IT MAY CONCERN:

Withdrawal of Temporary Covid-related Support to Reporting Entities

The Investment Industry Association of Canada (IIAC) is the leading national association representing investment firms that provide products and services to Canadian retail and institutional investors.

We agree with the following statements and principles:

- Robust measures to verify the identity of clients are the foundation of a strong anti-money laundering and anti-terrorist financing (AML/ATF) regime to prevent, detect and deter money laundering and terrorist activity financing, which threaten national security and compromise the integrity of the financial system.
- Knowing your clients puts a reporting entity in a position to assess a proposed transaction and determine whether it aligns with what you know about that person or entity, and to assess whether there are reasonable grounds to suspect money laundering or terrorist activity financing where the transaction is outside of what is expected for that client.
- The first step in knowing your clients is to verify their identity.

We provide the following comments:

A. Verifying the identify of an Individual Who is not Physically Present

The new normal is to verify the identity of an individual who is not physically present. Given the shift to online interactions with clients, and prevalence of at-a-distance transactions, it is

important that authentication of a government-issued photo ID document at a distance should continue in accordance with the new normal.

Compliance may be achieved through a scanned copy of a government issued identification and a virtual call used to reasonably verify its authenticity. Throughout the pandemic, this has been achieved without incident and in accordance with the underlying principles of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and its associated Regulations.

This aforementioned approach also reflects US requirements:

- Pursuant to FINRA Rule 3310(b), firms must establish and implement policies, procedures, and internal controls *reasonably designed* to achieve compliance with the Bank Secrecy Act and its implementing regulations, including the Customer Identification Program (CIP).
- CIP is flexible and recognizes the need for:
 - risk-based procedures for verifying the identity of each **customer** to the extent *reasonable and practicable*.
 - procedures that enable the **broker-dealer** to form a *reasonable belief* that it knows the true identity of each **customer**.
 - both documentary *and non-documentary* methods of verifying customer identity. Documentary methods should allow for a scanned copy of a government issued identification and a virtual call used to reasonably verify its authenticity.

A copy of C.F.R. 1023.220 is included at Schedule A.

Please note that the dual method and the credit file method is not consistently available. For example, the credit file method requires client consent and may not be an option for certain overseas clients where the quality of foreign credit agencies is unacceptable. Similar issues arise for overseas clients where ‘recognizable and known’ institutions may not be available for the dual method to be reliable.

B. Confirming the existence of a Corporation or Entity other than a Corporation

We note that effective June 1, 2021, reporting entities that are required to verify the identity of a corporation or an entity other than a corporation are required to refer to a record that is **authentic, valid, and current**. FINTRAC expects reporting entities that choose to receive a paper record via fax, scan, or email, to have a process in place to determine that it is **authentic, valid and current**.

Please note that for members of the Canadian Securities Administrators (CSA) and Self Regulatory Organizations such as the Investment Industry Regulatory Organization of Canada

(IIROC) and the Mutual Fund Dealers' Association (MFDA) this is satisfied by account information required to open such accounts.

A sample of that documentation is set out below:

<p>Corporation</p>	<p>Account for a business registered as a corporation and established under law, such as the provincial Business Corporations Act or the Canada Business Corporation Act. Read Less</p>	<ul style="list-style-type: none"> • Account Authorization – Business (System Generated) • Copy of Articles of Incorporation and Certificate of Incorporation • Copy of most recent Corporate Annual Return examples of annual returns • Corporate Resolution Form (pdf) • Entity Self-Certification Form and U.S. Treaty Statement for NON Trust Accounts (pdf) • Disclosure Statement for New Accounts (pdf) • Relationship Disclosure Information (pdf) <p>Read Less</p>	<ul style="list-style-type: none"> • See additional requirements for adding a Margin Account • See additional requirements for Guided Portfolio 	<p>If account receives U.S. source income additional QI documentation will be needed. See Documenting Clients for QI.</p> <p>The Canada Revenue Agency (CRA) issues a Taxpayer Identification Number, Business Identification Number (BIN), or Business Number (BN) to a corporation.</p> <p>The client has one year from the date of account opening to advise the branch of the BIN or BN to update GNA before New Accounts places a restriction.</p> <p>Read Less</p>
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In addition, corporate annual returns have been accepted during the pandemic without incident.

C. Re-identification of Clients Where Flexibility was Relied upon prior to March 31, 2022

We are glad that FINTRAC will continue to consider the impact of the COVID-19 pandemic, as well as, the realities of each reporting entity sector, and the temporary flexibility provided, when assessing a reporting entity's compliance with the obligations identified in the PCMLTFA and its associated Regulations and will take a reasonable approach in its enforcement activities.

The IIAC has been advised by members using the identification methods outlined above during the pandemic that these methods have proceeded without incident and without cause for concern. As a result, there does not appear to be a general public interest in re-identifying clients. Re-identification may also lead to unnecessary investor confusion or upset.

We therefore suggest that re-identification occur only for clients who have been or are the subject of a suspicious transaction report from March 1, 2020, to March 1, 2025.

Yours sincerely,



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 President & CEO
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Schedule A

1023.220 **Customer** identification programs for broker-dealers.

(a) Customer identification program: minimum requirements -

(1) In general. A **broker-dealer** must establish, document, and maintain a written **Customer** Identification Program (“CIP”) appropriate for its size and business that, at a minimum, includes each of the requirements of paragraphs (a)(1) through (a)(5) of this section. The CIP must be a part of the **broker-dealer**'s anti-money laundering compliance program required under 31 U.S.C. 5318(h).

(2) Identity verification procedures. The CIP must include risk-based procedures for verifying the identity of each **customer** to the extent reasonable and practicable. The procedures must enable the **broker-dealer** to form a reasonable belief that it knows the true identity of each **customer**. The procedures must be based on the **broker-dealer**'s assessment of the relevant risks, including those presented by the various types of **accounts** maintained by the **broker-dealer**, the various methods of opening **accounts** provided by the **broker-dealer**, the various types of identifying information available and the **broker-dealer**'s size, location and **customer** base. At a minimum, these procedures must contain the elements described in this paragraph (a)(2).

(i)

(A) Customer information required. The CIP must contain procedures for opening an **account** that specify identifying information that will be obtained from each **customer**. Except as permitted by paragraph (a)(2)(i)(B) of this section, the **broker-dealer** must obtain, at a minimum, the following information prior to opening an account:

(1) Name;

(2) Date of birth, for an individual;

(3) Address, which shall be:

(i) For an individual, a residential or business street address;

(ii) for an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of a next of kin or another contact individual; or

(iii) for a person other than an individual (such as a corporation, partnership or trust), a principal place of business, local office or other physical location; and

(4) Identification number, which shall be:

(i) For a U.S. person, a taxpayer identification number; or

(ii) for a non-U.S. person, one or more of the following: A taxpayer identification number, a passport number and country of issuance, an alien identification card number, or the number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

NOTE TO PARAGRAPH (A)(2)(I)(A)(4)(II):

When opening an [account](#) for a foreign business or enterprise that does not have an identification number, the [broker-dealer](#) must request alternative government-issued documentation certifying the existence of the business or enterprise.

(B) Exception for persons applying for a taxpayer identification number. Instead of obtaining a taxpayer identification number from a [customer](#) prior to opening an [account](#), the CIP may include procedures for opening an [account](#) for a [customer](#) that has applied for, but has not received, a taxpayer identification number. In this case, the CIP must include procedures to confirm that the application was filed before the [customer](#) opens the [account](#) and to obtain the taxpayer identification number within a reasonable period of time after the [account](#) is opened.

(ii) Customer verification. The CIP must contain procedures for verifying the identity of each [customer](#), using information obtained in accordance with [paragraph \(a\)\(2\)\(i\)](#) of this section, within a reasonable time before or after the [customer's account](#) is opened. The procedures must describe when the [broker-dealer](#) will use documents, non-documentary methods, or a combination of both methods, as described in this [paragraph \(a\)\(2\)\(ii\)](#).

(A) Verification through documents. For a [broker-dealer](#) relying on documents, the CIP must contain procedures that set forth the documents the [broker-dealer](#) will use. These documents may include:

(1) For an individual, an unexpired government-issued identification evidencing nationality or residence and bearing a photograph or similar safeguard, such as a driver's license or passport; and

(2) For a person other than an individual (such as a corporation, partnership or trust), documents showing the existence of the entity, such as certified articles of incorporation, a government-issued business license, a partnership agreement, or a trust instrument.

(B) Verification through non-documentary methods. For a [broker-dealer](#) relying on non-documentary methods, the CIP must contain procedures that set forth the non-documentary methods the [broker-dealer](#) will use.

(1) These methods may include contacting a [customer](#); independently verifying the [customer's](#) identity through the comparison of information provided by the [customer](#) with information obtained from a consumer reporting agency, public database, or other source; checking references with other financial institutions; or obtaining a financial statement.

(2) The [broker-dealer's](#) non-documentary procedures must address situations where an individual is unable to present an unexpired government-issued identification document that bears a photograph or similar safeguard; the [broker-dealer](#) is not familiar with the documents presented; the [account](#) is opened without obtaining documents; the [customer](#) opens the [account](#) without appearing in person at the [broker-dealer](#); and where the [broker-dealer](#) is otherwise presented with circumstances that increase the risk that the [broker-dealer](#) will be unable to verify the true identity of a [customer](#) through documents.

(C) Additional verification for certain customers. The CIP must address situations where, based on the [broker-dealer's](#) risk assessment of a new [account](#) opened by a [customer](#) that is not an individual, the [broker-dealer](#) will obtain information about individuals with authority

or control over such [account](#). This verification method applies only when the [broker-dealer](#) cannot verify the [customer's](#) true identity using the verification methods described in paragraphs (a)(2)(ii)(A) and (B) of this section.

(iii) *Lack of verification.* The CIP must include procedures for responding to circumstances in which the [broker-dealer](#) cannot form a reasonable belief that it knows the true identity of a [customer](#). These procedures should describe:

- (A) When the [broker-dealer](#) should not open an [account](#);
- (B) The terms under which a [customer](#) may conduct transactions while the [broker-dealer](#) attempts to verify the [customer's](#) identity;
- (C) When the [broker-dealer](#) should close an [account](#) after attempts to verify a [customer's](#) identity fail; and
- (D) When the [broker-dealer](#) should file a Suspicious Activity Report in accordance with applicable law and regulation.

(3) *Recordkeeping.* The CIP must include procedures for making and maintaining a record of all information obtained under procedures implementing [paragraph \(a\)](#) of this section.

(i) *Required records.* At a minimum, the record must include:

- (A) All identifying information about a [customer](#) obtained under [paragraph \(a\)\(2\)\(i\)](#) of this section,
- (B) A description of any document that was relied on under [paragraph \(a\)\(2\)\(ii\)\(A\)](#) of this section noting the type of document, any identification number contained in the document, the place of issuance, and if any, the date of issuance and expiration date;
- (C) A description of the methods and the results of any measures undertaken to verify the identity of a [customer](#) under paragraphs (a)(2)(ii)(B) and (C) of this section; and
- (D) A description of the resolution of each substantive discrepancy discovered when verifying the identifying information obtained.

(ii) *Retention of records.* The [broker-dealer](#) must retain the records made under [paragraph \(a\)\(3\)\(i\)\(A\)](#) of this section for five years after the [account](#) is closed and the records made under paragraphs (a)(3)(i)(B), (C) and (D) of this section for five years after the record is made. In all other respects, the records must be maintained pursuant to the provisions of [17 CFR 240.17a-4](#).

(4) *Comparison with government lists.* The CIP must include procedures for determining whether a [customer](#) appears on any list of known or suspected terrorists or terrorist organizations issued by any Federal government agency and designated as such by Treasury in consultation with the Federal functional regulators. The procedures must require the [broker-dealer](#) to make such a determination within a reasonable period of time after the [account](#) is opened, or earlier if required by another Federal law or regulation or Federal directive issued in connection with the applicable list. The procedures also must require the [broker-dealer](#) to follow all Federal directives issued in connection with such lists.

(5)

(i) **Customer notice.** The CIP must include procedures for providing **customers** with adequate notice that the **broker-dealer** is requesting information to verify their identities.

(ii) **Adequate notice.** Notice is adequate if the **broker-dealer** generally describes the identification requirements of this section and provides such notice in a manner reasonably designed to ensure that a **customer** is able to view the notice, or is otherwise given notice, before opening an **account**. For example, depending upon the manner in which the **account** is opened, a **broker-dealer** may post a notice in the lobby or on its Web site, include the notice on its **account** applications or use any other form of oral or written notice.

(iii) **Sample notice.** If appropriate, a **broker-dealer** may use the following sample language to provide notice to its customers:

Important Information About Procedures for Opening a New Account

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all **financial institutions** to obtain, verify, and record information that identifies each person who opens an **account**.

What this means for you: When you open an **account**, we will ask for your name, address, date of birth and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

(6) **Reliance on another financial institution.** The CIP may include procedures specifying when the **broker-dealer** will rely on the performance by another **financial institution** (including an affiliate) of any procedures of the **broker-dealer's** CIP, with respect to any **customer** of the **broker-dealer** that is opening an **account** or has established an **account** or similar business relationship with the other **financial institution** to provide or engage in services, dealings, or other financial transactions, provided that:

(i) Such reliance is reasonable under the circumstances;

(ii) The other **financial institution** is subject to a rule implementing 31 U.S.C. 5318(h), and regulated by a Federal functional regulator; and

(iii) The other **financial institution** enters into a contract requiring it to certify annually to the **broker-dealer** that it has implemented its anti-money laundering program, and that it will perform (or its agent will perform) specified requirements of the **broker-dealer's** CIP.

(b) **Exemptions.** The **Commission**, with the concurrence of the Secretary, may by order or regulation exempt any **broker-dealer** that registers with the **Commission** pursuant to 15 U.S.C. 78o or 15 U.S.C. 78o-4 or any type of **account** from the requirements of this section. The Secretary, with the concurrence of the **Commission**, may exempt any **broker-dealer** that registers with the **Commission** pursuant to 15 U.S.C. 78o-5. In issuing such exemptions, the **Commission** and the Secretary shall consider whether the exemption is consistent with the purposes of the **Bank Secrecy Act**, and in the public interest, and may consider other necessary and appropriate factors.

(c) **Other requirements unaffected.** Nothing in this section relieves a **broker-dealer** of its obligation to comply with any other provision of this chapter, including provisions concerning information that must be obtained, verified, or maintained in connection with any **account** or transaction.