

The Makings of a Complete FINTRAC Compliance Program for Real Estate Brokerages

Today's session is a deep dive into the various components of a FINTRAC compliance policy that Compliance Officers, Broker-Owners, Brokers of Record/Managing Brokers should be considering as they run their businesses.



Introduction

Who am I?

- Active Realtor of 13 ½ years
- Co-Founder of ReallyTrusted

Who is ReallyTrusted?

- Vancouver based FINTRAC Compliance company
- Small team delivering a variety of products with a current specific focus on Real Estate brokerages
- FINTRAC Express, RT App, RT Manuals, RT Reviews, RT Academy



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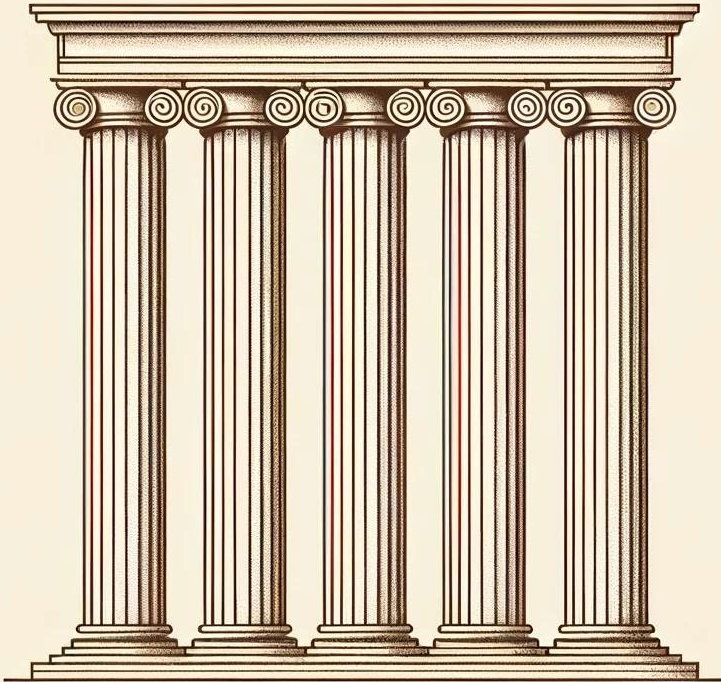
Basic Background Information

- FATF is an international organization focused on combating money laundering, established in 1989 by the G7
- FINTRAC established in 2000
- Real Estate one of many sectors covered
- New sectors added (Mortgage brokers later this year)
- Regulations change as risks evolve (originally PCMLTFA was PCMLA for instance)



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The Framework of a FINTRAC Compliance Program



5 Pillars

- Appointment of Compliance Officer
- Documented Risk Assessment
- Documented Policies and Procedures
- Documented Training Program
- Effectiveness Review



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Pillar 1

Appointment of a Compliance Officer

- The easiest pillar
- Document it
- Make sure they are qualified
- Make sure they have appropriate authority
(independency a strong plus for larger brokers)



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What we've seen go wrong.....

- No Appointment
- No AML/CTF knowledge
- No Authority or no segregation of duties - notion of independency (for larger brokers)

What FINTRAC wants from you

(a) appointing a person who is to be responsible for implementing the program or, in the case of a person, taking responsibility for implementing the program;

- Appointment signed off in policy manual
- Compliance officer has received additional AML/CTF training
- Compliance officer has say in day-to-day operations



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Pillar 2

Documented Risk Assessment

- Specific risks identified
- Risk levels attributed to each
- Control measures identified



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What we've seen go wrong.....

- Blank CREA Risk Assessment page
- One page Risk Assessment that says “We consider our brokerage to be low risk”
- “The Risk Assessment is that thing we do every two years, right?”

What FINTRAC wants from you...

- (c) assessing and documenting the risk referred to in subsection 9.6(2) of the Act, taking into consideration
 - (i) their clients and business relationships,
 - (ii) their products, services and delivery channels,
 - (iii) the geographic location of their activities,
 - (iv) in the case of an entity that is referred to in any of paragraphs 5(a) to (g) of the Act, any risk resulting from the activities of an entity that is affiliated with it and that either is referred to in any of those paragraphs or carries out activities outside Canada that are similar to those of a person or entity referred to in any of those paragraphs, and
 - (v) any other relevant factor;

- Risk assessment assesses products and services, delivery channels, geography, clients and business relationships, employees, suppliers and new technology
- Each area has different risk rating and therefore has appropriate control measures
- You'll know you have a good risk assessment when you feel comfortable that you have thoroughly analyzed your business properly).

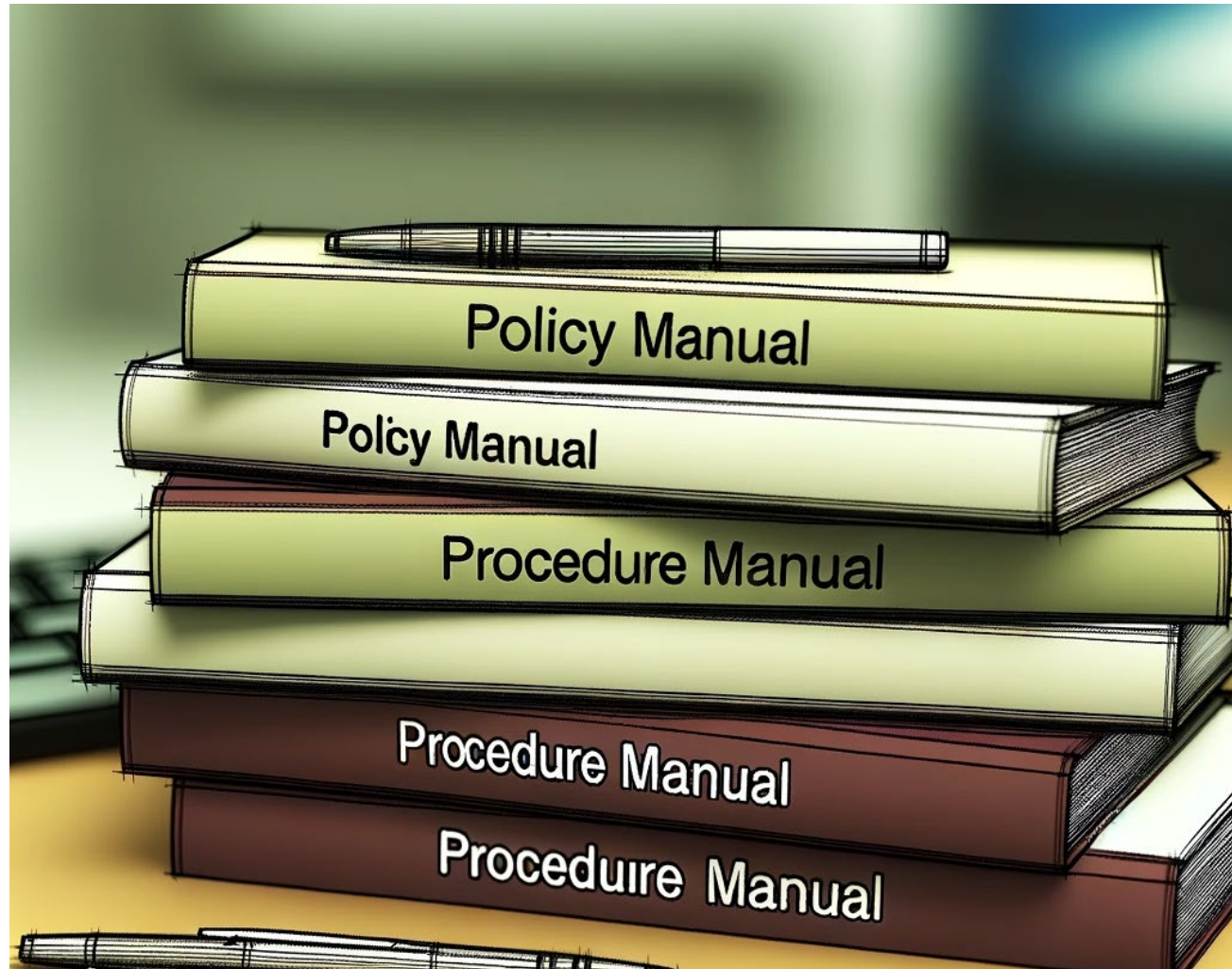


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Pillar 3

Documented Policies and Procedures

- Needs to be based on your risk assessment and your obligations under FINTRAC
- No one size fits all
- Policies define the what
- Procedures define the how



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What we've seen go wrong.....

- Using someone else's manual
- Using the CREA template unedited
- Having 2-3 pages within your brokerage manual be the only manual

What FINTRAC wants from you

(b) developing and applying written compliance policies and procedures that are kept up to date and, in the case of an entity, are approved by a senior officer;

- Policy manual walking through the various obligations your business does and does not have and broadly explaining the plan
- Procedure manual for agents walking through their specific part of the program
- Procedure manual for compliance staff that details all the procedures that ensure complete compliance with your stated policies



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Pillar 4

Documented Training Program

- Documents who will be trained
- How and how often
- On what
- Record of training kept



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What we've seen go wrong.....

- Spray and Pray (15 minutes at every sales meeting and nothing else)
- Annual FINTRAC meeting, attendance kept (this is actually OK!)
- Having no record whatsoever

What FINTRAC wants from you

(d) if the person or entity has employees, agents or mandataries or other persons who are authorized to act on their behalf, developing and maintaining a written, ongoing compliance training program for those employees, agents or mandataries or other persons;

(e) instituting and documenting a plan for the ongoing compliance training program and delivering the training; and

- A training program that is accessible enough that everyone ACTUALLY does it and learns enough about their role
- A training plan that is updated whenever things change
- A full log of all staff and employees who have completed everything is kept



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Pillar 5

Effectiveness Review

- An Audit of your program
- Should determine whether you are meeting your requirements
- Should determine whether your program is working as designed/intended
- Process and results need to be documented
- Findings incorporated



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What we've seen go wrong.....

- “I review my risk assessment every two years”
- “What is an effectiveness review?”
- “I updated my manual about 5 years ago”

What FINTRAC wants from you

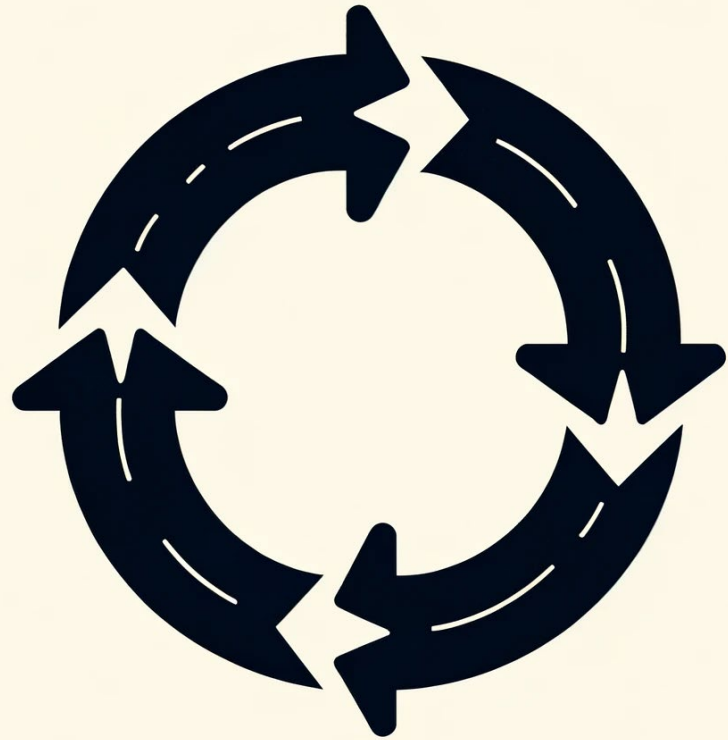
(f) instituting and documenting a plan for a review of the compliance program for the purpose of testing its effectiveness.

- An internal or qualified third party (external auditor) is brought in to review and results documented every two years (if no auditor then by yourself)
 - Documented plan
 - Documents findings
- You incorporate those findings by updating all the other components of your program as necessary



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The 5 pillars work together!!



- Compliance Officer can be constant, other 4 pillars must be fluid, changing and reinforce each other
- Both external (FINTRAC, changing international landscape, etc) and internal (changing products, staff, agents) must be accounted for regularly
- Every new factor will require an update in some component of your program



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General Concepts

- Focus on the actuals
- Components need to work together
- Program must be tailored to your business
- Changes/updates need to be woven through all components



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FINTRAC Examinations - Typical Findings on Deficiencies - Leading to Fines

- Policy and procedures
- Risk assessments
- Training programs
- Record keeping
- Unreported Suspicious Transactions
- Identification (KYC) requirements
- Neglecting suspicious / high risk indicators
- Ongoing monitoring



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Why does all this matter?

2022 Fines

Oct 18, 2022 \$206,250 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2022-10-18-eng>

Oct 13, 2022 \$275,385 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2022-10-13-eng>

Oct 6, 2022 \$282,397.50 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2022-10-06-eng>

July 12, 2022 \$230,423 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2022-07-12-eng>

May 10, 2022 \$101,227 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2022-05-10-eng>

March 22, 2022 \$22,770 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2022-03-22-eng>

Total 2022 Fines: \$1,118,453

2021 Fines

Nov 4, 2021 \$255,750 - <https://fintrac-canafe.canada.ca/new-neuf/nr/2021-11-04-eng>

June 25, 2021 \$123,915 - <https://www.fintrac-canafe.gc.ca/pen/pen-2021-06-25-eng>

June 11, 2021 \$59,235 - <https://www.fintrac-canafe.gc.ca/pen/pen-2021-06-11-eng>

March 22, 2021 \$66,742.50 - <https://www.fintrac-canafe.gc.ca/new-neuf/nr/2021-03-22-eng>

March 18, 2021 \$31,350 - <https://www.fintrac-canafe.gc.ca/pen/pen-2021-03-18-eng>

Total 2021 Fines: \$536,993

2023 Fines

Aug 10, 2023 \$57,915 - <https://fintrac-canafe.canada.ca/pen/amps/pen-2023-08-10-eng>

Oct 27, 2023 \$156,750 - <https://fintrac-canafe.canada.ca/pen/amps/pen-2023-10-27-eng>

2024 Fines

January 17, 2024 \$132,000 - <https://fintrac-canafe.canada.ca/pen/amps/pen-2024-01-17-eng>



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How not to solve this....



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How to solve this...

- Understand enough to understand what the options do and don't do
- You don't need to do it alone
- But a partial solution might not solve the whole problem



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How ReallyTrusted can help..



Contact us: sales@reallytrusted.com



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