

**CANADIAN CURRENCY AND MONETARY  
INSTRUMENT REPORTING REQUIREMENTS  
UNDER THE *PROCEEDS OF CRIME (MONEY LAUNDERING)*  
AND *TERRORIST FINANCING ACT***

Even though there is no statutory limit on the amount of currency or monetary instruments that can be transported across Canadian international boundaries, as of January 6, 2003, there are detailed reporting requirements that, if violated, can lead to substantial financial penalties and/or criminal charges regardless of the non-criminal nature of the funds and their cross-border movement. Under section 12(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, 2000, c.17, s. 1; 2001, c. 41, s. 48. (the "Act"), anyone entering or exiting Canada with currency or monetary instruments equal to or greater than CAN\$10,000, or its equivalent in a foreign currency, must report such in writing and in the prescribed manner to a border services officer. The expression *monetary instruments* is defined in *Cross-Border Currency and Monetary Instruments Regulations*, (the "Regulations") s. 1.(1) and includes any currency or negotiable instrument the title to which passes on delivery, as follows:

- (a) securities, including stocks, bonds, debentures and treasury bills; and
- (b) negotiable instruments, including bank drafts, cheques, promissory notes, travellers' cheques and money orders, other than:
  - (i) warehouse receipts or bills of lading, and
  - (ii) negotiable instruments that bear restrictive endorsements or a stamp for the purposes of clearing or are made payable to a named person and have not been endorsed.

The following monetary instruments do not need to be reported, regardless of their value, since title to them does not pass on delivery:

- (a) bank drafts, cheques or other negotiable instruments made payable to a named person or enterprise that have not been endorsed; and
- (b) share certificates that are either not endorsed or that bear a restrictive endorsement (i.e. certificates that are endorsed to a named person or corporate entity).

**1. Manner of Reporting**

Under section 12(3)(a) of the Act, the person making the reportable cross-border transaction must complete a *Form E677, Cross-Border Currency or Monetary Instruments Report - Individual*, a copy of which is attached as Schedule "A" and which can be filled online from the Canada Border Services Agency (CBSA) website at [www.cbsa-asfc.gc.ca/](http://www.cbsa-asfc.gc.ca/) and then printed, or if transporting on behalf of an entity or other person, that party must complete a *Form E667, Cross-Border Currency or Monetary Instruments Report - General*, a copy of which is attached as Schedule "B" and which can be filled online at the CBSA website. These reports must be given to a border services officer at a CBSA office upon entering or exiting Canada.

The report is then sent to the Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC"), a government agency created to collect, analyze, assess and disclose information in order to assist in the detection, prevention and deterrence of money laundering and the financing of terrorist activities. If a report is made, the individual is obliged to answer truthfully all questions asked, to present all funds if asked and to allow all baggage to be opened when so requested.

Border services officers can disclose any reported information to such bodies as the Canadian Security Intelligence Service and this information can also be shared with the governments of foreign states. More particularly, these reports can be disclosed to tax authorities in Canada and those in any nation with which Canada has entered into

a tax treaty. Such a disclosure would effectively neutralize any advantage of transporting currency and monetary instruments outside of the formal international banking system, since the reporting requirements include the disclosure of the identity of both the sender and the receiver.

## 2. Who Must Report

As stated above, the individual making the reportable cross-border transaction must provide a completed *Form E677, Cross-Border Currency or Monetary Instruments Report - Individual*, or if transporting on behalf of an entity or other person that party must provide a completed *Form E667, Cross-Border Currency or Monetary Instruments Report - General*. Currently, a lawyer is only obligated to report a reportable transaction if he or she physically carries currency or monetary instruments across a border on behalf of a client or on his or her own behalf.

## 3. Consequences of Not Reporting

Any individual not reporting a reportable cross-border transaction faces substantial financial and/or criminal penalties in addition to the potential loss of the funds where criminal activity is alleged and the legitimacy of the funds is not proved. Border services officers can search any person leaving or entering Canada if the officer suspects on reasonable grounds that the person has in his or her possession \$10,000 or more in currency or monetary instruments that have not been reported. The same powers lying with border services officers *vis-a-vis* international travellers also apply to any package posted or couriered into or out of Canada.

FINTRAC has broad search powers and can hold any seized currency or monetary instruments where there are reasonable grounds to believe that such were obtained either directly or indirectly as a result of the commission in Canada of an *enterprise crime offence* or a *designated substance offence* under section 462.3 of the *Criminal Code* (Canada). Though the avoidance of tax does not strictly fall within the enumerated list of prohibited activities any unreported cross border transaction would likely be treated as though the funds were the proceeds of crime and would therefore be subject to the same scrutiny.

The penalties for knowingly contravening the reporting requirements of the Act are:

- (1) upon summary conviction, a fine of up to \$50,000.00 and/or imprisonment for up to 6 months; and
- (2) upon conviction by indictment, a fine of up to \$500,000 and/or imprisonment of up to 5 years.

Summary conviction proceedings are applicable to offences which the authorities consider to be relatively minor and proceedings by way of indictment apply to offences the authorities consider to be serious but, since the Crown Attorney (the government lawyer) decides on the procedure to be adopted, the procedure may vary in some instances.

Absent a finding of reasonable grounds for suspecting that the funds are the proceeds of crime, the unreported transportation of a reportable transaction, if discovered, is still subject to a penalty of between \$250.00 and \$5,000.00 depending on whether there was an attempt to physically conceal the funds and, if so, the extent of the attempt to conceal them.

## CONCLUSION

Any previous advantage to delivering currency or monetary instruments outside of the formal international banking system mechanisms was effectively neutralized as of January 6, 2003. Carrying currency and monetary instruments with a value of \$10,000 or more across Canada's international borders should therefore be discouraged, since doing so is likely to attract the attention of border services officers who, in light of the current political climate, are likely to perform their jobs zealously. Other methods of transferring funds should therefore be investigated.

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\* Updated April 2009