

There has been some uncertainty regarding when the travel rule obligations apply to international electronic fund transfers (“EFT”) or SWIFT MT-103 messages (or equivalent) (“**Prescribed EFT Transactions**”). Specifically, the question being asked is “*At what threshold does the travel rule obligation apply to Prescribed EFT Transactions?*”

The Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (“PCMLTFR”) state that travel rule obligations applies Prescribed EFT Transaction when reporting entities are **required to keep a record**. In contrast, FINTRAC’s guidance stipulates “when you **initiate or receive**.”

The same uncertainty has not been seen with transactions related to virtual currency as both regulations and guidance have been very clear and direct. Not the case with EFTs.

The table below shows a comparison of the language used within the PCMLTFR as well as FINTRAC’s guidance related to travel rule for both Prescribed EFT Transactions and virtual currency transactions:

	<b>Prescribed EFT Transactions</b>	<b>Virtual Currency Transactions</b>
<b>PCMLTFR – Travel Rule Obligation</b>	<i>124 (1) For the purposes of section 9.5 of the Act, the prescribed persons or entities are the financial entities, money services businesses, foreign money services businesses and casinos that are required to <b>keep a record under these Regulations in respect of an electronic funds transfer.</b></i>	<i>124.1 (1) A financial entity, money services business or foreign money services business that is <b>required to keep a record under these Regulations in respect of a virtual currency transfer.</b></i>
<b>PCMLTFR – Record Keeping Obligations</b>	<i>36 A money services business shall keep the following records in connection with a service referred to in any of subparagraphs 5(h)(i) to (v) of the Act that they provide, and a foreign money services business shall keep the following records in connection with a service referred to in any of subparagraphs 5(h.1)(i) to (v) of the Act that they provide to persons or entities in Canada: (d) if they <b>initiate an electronic funds transfer of \$1,000 or more</b> at the request of a person or entity (e) if they <b>send an international electronic funds transfer of \$1,000 or more</b> that was initiated by another person or entity.</i>	<i>36 A money services business shall keep the following records in connection with a service referred to in any of subparagraphs 5(h)(i) to (v) of the Act that they provide, and a foreign money services business shall keep the following records in connection with a service referred to in any of subparagraphs 5(h.1)(i) to (v) of the Act that they provide to persons or entities in Canada: (g) if <b>they transfer an amount of \$1,000 or more in virtual currency</b> at the request of a person or entity (h) if <b>they receive an amount of \$1,000 or more in virtual currency</b> for remittance to a beneficiary.</i>

	Prescribed EFT Transactions	Virtual Currency Transactions
	<i>(f) if they are the <b>final recipient of an international electronic funds transfer of \$1,000 or more.</b></i>	
<b>FINTRAC Guidance</b>	<p><i>FEs, MSBs, FMSBs and casinos must include the travel rule information when <b>initiating an EFT.</b></i></p> <p><i>FEs, MSBs, FMSBs and casinos must also take reasonable measures to ensure that the travel rule information is included when they <b>receive an EFT</b>, either as an intermediary or as the final recipient.</i></p>	<p><i>FEs, MSBs and FMSBs must include the travel rule information when they <b>send</b> VC transfers, and must take reasonable measures to ensure that this information is included when they <b>receive VC transfers which require a VC record to be kept.</b></i></p>

We asked FINTRAC for a policy interpretation and we received the following via email:

*As you know, with respect to the EFT travel rule, pursuant to section 9.5 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), every prescribed reporting entity (RE), in respect of a prescribed EFT that occurs in the course of their financial activities, shall:*

- a) include with the transfer the name, address and account number or other reference number, if any, of the person or entity that requested it, and any prescribed information;*
- b) take reasonable measures to ensure that any transfer that the person or entity receives includes that information; and*
- c) take any prescribed measures.*

*Pursuant to section 124 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) and its subsections, the prescribed REs are money services businesses (MSBs), foreign money services businesses (FMSBs), financial entities, and casinos **that are required to keep EFT records.** Additionally, it is only prescribed EFTs that the travel rule applies to, which are international EFTs and EFTs that are SWIFT MT-103 messages or their equivalent. Finally, the prescribed information required under paragraph 9.5(a) of the PCMLTFA is the beneficiary’s name, address and, if applicable, the account number or other reference number of the beneficiary, if any.*

*As such, the prescribed REs, which include MSBs, that initiate, send, or finally receive international EFTs or SWIFT MT-103 messages (or equivalent) must include travel rule information with those transfers and take reasonable measures to ensure that any transfer received includes that information. For further clarity, if acting as an intermediary, an RE must comply with their travel rule obligations (i.e. they cannot “strip” information from the transfer when they pass it along).*

*As you know, all of the prescribed RE sectors have record keeping requirements for EFTs of \$1,000 CAD or more. Therefore, it is at this amount that the travel rule obligations begin to apply.*

Additional clarity was provided by FINTRAC via email, as follows:

*As you pointed out, subsection 124(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) explains that for the purposes of section 9.5 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), the prescribed persons or entities are the financial entities (FEs), money services businesses (MSBs), foreign money services businesses (FMSBs) and casinos that are **required to keep a record** under these Regulations in respect of an electronic funds transfer (EFT). The EFT travel rule is not a separate record keeping requirement and must be read in conjunction with the EFT record keeping requirements for the prescribed RE sectors. All of the prescribed RE sectors have record keeping requirements for EFTs of \$1,000 CAD or more. Therefore, as mentioned in our previous response, it is at this amount that the travel rule obligations begin to apply.*

*In regard to FINTRAC's travel rule guidance, it states that FEs, MSBs, FMSBs and casinos must include the travel rule information when they initiate an EFT **for which an EFT record must be kept**.*

As you can see from FINTRAC's interpretations, the travel rule applies to Prescribed EFT Transactions (*international EFTs and EFTs that are SWIFT MT-103 messages or their equivalent*) of \$1,000 CAD or more.

If you would like more information about travel rule obligations or about updating your compliance program documentation to meet the travel rule requirements, reach out to us at the AML Shop.