

Notice to real estate lawyers: Title insurers report to FINTRAC from October 1, 2025

The Canadian real estate market has been identified as being highly vulnerable to fraud and money laundering. To assist in addressing risks, the federal government has introduced new regulatory requirements for title insurers. Real estate lawyers should be aware of how these changes may affect their practice and their purchaser clients. You may need to make changes to your policies, procedures and retainer letters.

Canada's regulatory changes regarding title insurers

On October 1, 2025, title insurers will be regulated by the Financial Transactions and Reports Analysis Centre (FINTRAC), which generates intelligence for Canada's law enforcement and national security agencies. Title insurers will become a reporting entity, with obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and associated regulations. These obligations include that title insurers must report certain [suspicious transactions](#) to FINTRAC without informing you or their insureds. See ["reporting entities"](#) to learn about the individuals and businesses that report to FINTRAC and [sector specific guidance](#) for reporting entities. FINTRAC's specific guidance for title insurers will be released before October 1, 2025.

Why lawyers do not report clients to FINTRAC

For constitutional reasons, lawyers and law firms are not regulated by FINTRAC and do not report their clients to the regime. Lawyers are subject to the Law Society of BC's anti-money laundering and counter-terrorist financing requirements and must meet their obligations and comply with the law. A lawyer must not act for a client that a lawyer knows, or ought to know, on an objective basis, assists in or encourages any dishonesty, crime or fraud.

Request by a title insurer to act as its agent while you act for the purchaser

A lawyer is their purchaser client's agent. Your client may want a title insurance policy or be required by their lender to obtain one for their real property. The title insurer may ask you to be its agent as well for the limited scope of assisting them with obtaining and recording information to fulfil their FINTRAC obligations.

For example, the new Regulation 64.8 requires a title insurer to keep a record of:

- the name and address of the purchaser and, in the case of a person, their date of birth;
- the legal description and address of the real property or immovable;
- the closing date of the purchase;
- the purchase price;
- the amount of any loan secured by a mortgage on the real property or a hypothec on the immovable and the name of the lender;
- if known, the name of the vendor; and

- any title information respecting the real property or immovable that is found in the land registry in which the title to the real property or immovable is recorded.

The new Regulation 102.2 includes requirements for the title insurer to verify the identity of the purchaser of real property or an immovable and to whom they provide a title insurance policy. There are also requirements with respect to verifying the identity of corporations and other entities.

Title insurers will be allowed to rely on an agent to verify a client's identity but they must have a written agreement or arrangement with the agent. Acting as an agent under an agency agreement or arrangement with a title insurer to provide the confidential information set out above about the client, verification of their identity and their real estate transaction does not create a solicitor-client relationship between you and the title insurer as the services provided are not legal services. However, your purchaser client's consent to you acting as agent for the title insurer must be obtained and you must not disclose the purchaser client's confidential information without their consent to do so (see below). All privileged information is by its nature confidential but confidential information is not necessarily privileged. You must also not disclose any privileged information without the purchaser client's consent.

Your professional obligations

You must ensure that you comply with your professional obligations if you are considering acting for a title insurer to obtain the confidential information about your purchaser client, verification of their identity and the purchaser's real estate transaction for the purpose of the title insurer complying with its FINTRAC obligations. You are encouraged to review *BC Code* Chapter 3 and to note the defined terms in Chapter 1.

Consent requirements from the purchaser client

You must have your purchaser client's fully informed consent prior to disclosing any confidential information about them, verification of their identity and their real estate transaction to a title insurer (review *BC Code* rules 3.3-1 to 3.3-2, 3.4-2 and Commentaries). You must be honest and candid and inform the purchaser of all information that may affect the client's interest and disclose the information in sufficient time for the client to make a genuine decision (*BC Code* rule 3.2-2 and Commentary).

Prior to obtaining your client's consent, you must fully inform the client of all information relevant to the client's decision and disclose at a minimum:

- the specific information and records that you would disclose to the title insurer;
- the information you disclose will be used by the title insurer to meet its requirements as a reporting entity under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and associated regulations;

- as a reporting entity, the title insurer is required to submit reports to FINTRAC which include suspicious transactions reports;
- the information you disclose about the client could be reported to FINTRAC by the title insurer as a part of its reports without your knowledge and the client's knowledge;
- FINTRAC discloses information it receives from reporting entities to law enforcement as it considers appropriate;
- you are not providing legal services to the title insurer; and
- the fee that you will receive from the title insurer for acting as the title insurer's agent.

Consent should either be in writing or given orally provided that the client receives a written communication recording the consent as soon as practicable (see *BC Code* rule 1.1-1 definitions of "consent" and "disclosure"). If the purchaser client does not provide you with consent to act as the title insurer's agent, then you must not do so.

Ensure you have an agreement with the title insurer for non-legal services

Carefully consider the terms of any agreement to provide non-legal services to the title insurer. Ensure that the title insurer understands that you will not provide legal services and that a lawyer-client relationship would not be established. Review the definition of "client" in *BC Code* rule 1.1-1. Also review Chapter 3. You must consider whether solicitor-client privilege attaches or may attach to records and information prior to its disclosure to a title insurer so that the purchaser's privileged information is not disclosed, in addition to non-privileged but confidential information, without their consent.

To learn more about Canada's regulatory changes, including title insurers being brought into the FINTRAC regime, see

- FINTRAC's act and regulations [web page](#)
- [Regulations Amending Certain Regulations Made Under the Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act: SOR/2024-266](#)
- [Canada Gazette, Part 2, Volume 159, Number 1: Regulations Amending Certain Regulations Made Under the Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#)

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