

FINTRAC Silence On C\$1.1m Reporting Fine Prompts Concern

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A Canadian financial regulator is causing controversy over its refusal to name the bank it fined C\$1.1m (£600,000) for breaking rules on transaction reporting.

Lawyers and financiers criticized FINTRAC, Canada's financial intelligence group, for its silence last week on who received the fine, issued for failure to report [suspicious transactions](#) worth more than C\$10,000.

The lack of transparency is particularly alarming for some because the penalty is the first the agency has issued against a bank in its 16 years of existence.

Some have, however, speculated that the silence could be part of a settlement made with the bank to avoid lengthy litigation, while others wondered if the move is connected to an appeals process.

Peter Aziz, counsel specialising in finance at the Canadian law firm Torys, told PaymentsCompliance that if an appeal was ongoing the bank "would be entitled to anonymity" until its outcome.

"I think it important for FINTRAC to retain its discretion to decide whether or not name the fined bank," he added.

"A bank may comply substantially with the relevant legislation and the instance of non-compliance may be minor.

"In such an instance, naming a bank may suggest that compliance deficiencies are greater than they are."

FINTRAC retains discretion to name a bank in the case of [serious or repeated violations](#), or those which incur a penalty of at least C\$250,000.

Darren Gibb, a spokesman for FINTRAC, defended the decision not to do so in this instance.

He said: "We've named the sector, we've named the violations and we think it's better to send a strong message of deterrence right across the regime than to wait potentially years and years for a review and appeal process to unfold."

However, Matthew McGuire, vice president and anti-money laundering expert at IT firm Securefact, accused the agency of breaching its own guidelines.

Talking to the CTV broadcasting network, he claimed that the case "certainly meets the criteria for being

published.”

Gibb denied this charge, saying: “In this particular case, we are exercising our discretion to withhold the name.”

Although no banks have been suggested as potential culprits, the “big six” Canadian banks have confirmed they are not the recipients of the fine.

These include the National Bank of Canada, RBC Royal Bank, the Bank of Montreal, the Canadian Imperial Bank of Commerce, the Bank of Nova Scotia and TD Canada Trust.

Aziz said it was not possible to speculate which bank received the fine, but others suggested that a smaller bank may be involved, or the Canadian arm of an international group.

Even though the bank’s identity is unknown, some have chafed against an alleged discrepancy between how FINTRAC treats smaller financial groups and the larger players.

Only last week the regulator fined securities dealer Becksley Capital C\$28,500 in relation to money laundering rules, Diamond Exchange Toronto C\$12,750 and Victoria Jewellers C\$13,500.

According to Aziz, the penalty against the unnamed bank “does appear to mark a change” in the agency’s compliance enforcement.

“In the past, FINTRAC has been relatively patient while banks implemented compliance policies and procedures,” he said.

“FINTRAC now expects all banks to be fully compliant and is prepared to levy penalties where they are not.”

The story comes amid international controversy over the Panama Papers, which revealed details of mass tax avoidance across the globe.

Justin Trudeau, recently elected Canadian Prime Minister, spoke of an “increasing desire for transparency and accountability” around the world, a comment that local press have said contradicts the stance of FINTRAC on the unnamed bank.

FINTRAC’s Gibb claimed that since 2008 fines against some 74 companies have been issued by his agency, of which only 34 have been publicly revealed.

The regulator is said to be encouraging companies to report, following pressure from experts for the regulator to [do more to tackle financial crime](#).

Official data says that 31,000 Canadian businesses sent the regulator 92,000 suspicious transactions reports in 2015, an 11 percent year-on-year rise.

Among those required to issue reports are money services, banks, securities dealers, insurers, real-estate brokers and casinos.

The Payments Compliance Country Report on Canada can be read [here](#).

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