

CPPO MEMBER UPDATE — FINTRAC Regulatory Framework Submission

In direct response to the CPPO's detailed document outlining problematic use cases captured by the current regulatory framework, FINTRAC provided a written response interpreting that individual card recipients of the following corporate loaded prepaid products are not considered authorized users and that the authorized user provisions do not apply. Consequently, an individual's user identity does not have to be verified. This policy interpretation applies to corporate rewards programs, employee reimbursement programs, retail incentive programs, and class action settlement programs. This is a significant and positive development for the CPPO and its member companies.

Below is the policy interpretation we received from FINTRAC earlier this month indicating that individual accounts under a corporate funded prepaid programs do not constitute authorized users under the AML Regulations.

FINTRAC Provided the CPPO the following response:

Thank you for providing this follow-up to last fall's call where you raised your concerns regarding the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR), and its application to prepaid payment products (PPPs) and prepaid payment product accounts (PPPAs), on behalf of the Canadian Prepaid Providers Organization (the "CPPO"). We have reviewed the use cases you provided in your letter of January 11, 2023, from Jennifer Tramontana, as well as the suggested regulatory amendments.

Use Case Assessment

As you know, the PCMLTFR defines the following concepts:

Prepaid payment product means a product that is issued by a financial entity and that enables a person or entity to engage in a transaction by giving them electronic access to funds or virtual currency paid to a prepaid payment product account held with the financial entity in advance of the transaction. It excludes a product that

(a) enables a person or entity to access a credit or debit account or one that is issued for use only with particular merchants; or

(b) is issued for single use for the purposes of a retail rebate program.

Authorized user means a person who is authorized by a holder of a prepaid payment product account to have electronic access to funds or virtual currency available in the account by means of a prepaid payment product that is connected to it.

Further, FINTRAC is of the position that the definition of "authorized user" refers to a person that has "access to funds or virtual currency available in the account". It does not refer to a person that solely has access to funds or VC originating from an account.

In your letter you provide use cases of PPPs that are used for: a hotel chain rewards program, an employee reimbursement program, a retail incentive program, and class action settlements. Based on the information provided, it is my understanding that the recipients of these PPPs would simply be users of the relevant PPPs products and would have no access to the PPP account. As such, these recipients would not be considered as authorized users within the meaning of the PCMLTFR, and therefore these users do not trigger any associated PCMLTFR requirements.

Proposed Amendments

In your letter you state that “The essence of these use cases revolves around the fact that in order for there to be the ability to launder funds, individuals would be required to be able to load funds on the cards. For these programs, only the sponsoring corporate entity has the ability to load or reload the cards. Cardholders have no ability to do so and have no control over how much is loaded on their card and when the funds are so loaded.”. Moreover, you have also outlined your belief that “the costs of regulating the cards—which include not only operational costs but also the invasiveness of collecting significant levels of personal data for very low-risk products—is not commensurate with the benefits.”

Based on the assessment above, whereby the PPPs described do not, in fact, trigger additional requirements, we do not believe that regulating these types of products results in unreasonable burden, as described.

As such, we do not believe that there is a need for regulatory amendments, as proposed, at this time.