

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA

The Honourable Mr. Austin F. Cullen, Commissioner

AFFIDAVIT

I, Lesley Soper, with a business address of 269 Laurier Avenue West, Ottawa, Ontario, AFFIRM THAT:

1. I am a Director-General in the National and Cyber Security Branch of Public Safety Canada.
2. I have personal knowledge of the facts and matters herein deposed to, save and except where such facts and matters are stated to be made upon information and belief, and as to such facts and matters I do believe them to be true.
3. I affirm this affidavit to provide evidence to the Commission of Inquiry into Money Laundering in British Columbia and for no other purpose

Creation and Funding of the ACE Team

4. The Action, Coordination and Enforcement (ACE) Team was funded and announced through the federal government's budget for fiscal year 2019-2020 (Budget 2019). Budget 2019 provided funding for a number of anti-money laundering (AML) initiatives, including \$24 million over five years starting in 2019-2020 for Public Safety Canada (PS) to create and implement the ACE Team Pilot Project. Attached to this affidavit as Exhibit A is a copy of Part 7 of Chapter 4 of Budget 2019. Funding for the ACE Team Pilot Project is discussed on page 3 of Exhibit A, which is page 38 of Chapter 4.
5. The ACE Team Pilot Project is intended to bring together dedicated experts from across intelligence and law enforcement agencies to strengthen inter-agency coordination and cooperation, and identify and address significant money laundering and financial crime threats. The ACE Team is intended to fit within Canada's broader anti-money laundering and anti-terrorist financing regime (AML/ATF Regime). That regime is designed to protect the integrity of Canada's financial system and contribute to the safety and security of Canadians by detecting, disrupting, and deterring money laundering, terrorist financing, and other criminal



activities. Attached to this affidavit as Exhibit B is a copy of a document titled “Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime” that describes Canada’s AML/ATF Regime in greater detail. A Department of Finance official provided me with a copy of this document on May 10, 2021, and, to the best of my information and belief, I understand this document to provide an accurate summary of the federal AML/ATF Regime.

6. The ACE Team Pilot Project consists of two phases. The first phase was a design phase, that took place from fiscal year 2019-2020 to 2021-2022. The focus of this phase was on staffing the ACE Team and planning for the second phase. The second phase is an operational phase, scheduled to take place from fiscal year 2021-2022 to 2023-2024. The focus of the operational phase is on coordinating support for AML operational partners. The design and operational phases of the ACE Team Pilot Project are discussed in more detail in paragraphs 7-24 below.

Design Phase: ACE Team

Design Phase Staffing

7. At the outset of the design phase, PS focused on staffing the ACE Team. In August 2019, the project Director was hired and the remainder of the ACE Team was staffed over the course of fall 2019. The team grew to eight full time equivalent staff (FTEs) during this phase.
8. In order to achieve the ACE Team’s objectives to strengthen inter-agency cooperation and bring together experts from different law enforcement and intelligence agencies into an integrated team, the eight FTEs were sourced from a broad range of agencies. Specifically, three FTEs were hired from PS and one FTE was seconded from each of the following federal departments and agencies:
- a) Financial Transactions and Reports Analysis Centre of Canada (FINTRAC);
 - b) the Royal Canadian Mounted Police (RCMP);
 - c) Canada Revenue Agency (CRA);
 - d) Public Services and Procurement Canada - Forensic Accounting Management Group (PSPC-FAMG); and,
 - e) the Office of the Superintendent of Financial Institutions (OSFI).

Design Phase Functions and Activities

9. Once the ACE Team was staffed, the focus of the design phase shifted to conducting partner engagement and developing a framework to guide the ACE Team during its operational phase.
10. Throughout 2019 and 2020, the ACE Team conducted consultations with federal, provincial, and municipal AML operational partners, including law enforcement, prosecution, and regulatory authorities in British Columbia, Alberta, Ontario, and Quebec. The objective of these consultations was to understand the AML enforcement and prosecutorial challenges faced by these partners and to consider how the operational phase of the ACE Team could support their needs.
11. The ACE Team also consulted AML centres in key international partners, such as the United States, the United Kingdom, the Netherlands, and Australia. The focus of the consultations with these international partners was for the ACE Team to develop an understanding of best practices for AML centres and to apply any lessons these international AML centres have learned to the ACE Team's own design activities.
12. Based on the research and consultations undertaken, the ACE Team developed a model for the operational phase, which continued to be refined over the course of fall 2020 and winter 2021. This model is explained in more detail in paragraphs 13-24 below.

Operational Phase: Financial Crime Coordination Centre (FC3)

13. For the operational phase, the ACE Team has been renamed the Financial Crime Coordination Centre (FC3). This new name better reflects the Centre's operational role of coordinating support to AML operational partners, including law enforcement and public agencies across all levels of government.

Operational Phase Staffing

14. During the FC3 operational phase, PS plans to expand the team to 20-25 FTEs. As of May 5, 2021, the team has expanded to 11 FTEs. Staffing will include a mixture of full-time positions at PS and secondments from partner agencies.

Operational Mandate and Activities

15. The Government of Canada has approved the FC3 operational mandate and responsibilities, which will continue for the remainder of the five-year pilot, from fiscal year 2021-22 to 2023-

24. PS may, based on the results from the ACE/FC3 pilot, explore options to continue or adapt the FC3 model and seek ongoing funding post-2024.

16. The FC3 plans on providing three types of support that FC3 will provide to operational partners: policy support, training support, and operational support. These three types of support and their associated functions and activities are described in more detail in paragraphs 17-24 below.

Policy Support

17. The objective of the FC3's policy support function will be to work with operational federal and regional partners to support the exploration and development of operationally-focused AML strategies, legislation, and policies. It is anticipated that this policy support will strengthen the effectiveness of AML enforcement efforts undertaken by operational partners in response to financial crime threats.
18. The focus of FC3 in this area will be on enhancing coordination among government departments and agencies who play a role in combatting money laundering, and working to ensure that policies and initiatives developed at the federal level respond to the operational needs of investigative and enforcement partners at all levels of government.
19. Examples of policy support activities that FC3 may conduct include exploring and proposing policy, legislative or regulatory changes, and supporting work to identify and address key money laundering threats.

Training Support

20. The objective of the FC3's training support function is to support the development of financial crime enforcement-specific knowledge, skills and expertise among regional and federal Canadian partners. FC3 aims to achieve this objective in two ways. First, FC3 intends to widen access among partners to existing financial crime training in Canada. Second, FC3 intends to consult with partners in order to identify gaps in financial crime enforcement knowledge and skills, then work with those partners to develop additional training to address those gaps.
21. Additional examples of training support activities that FC3 may conduct include developing online tools to facilitate access to and awareness of training.
22. As a key part of FC3's work to improve coordination and expertise development among partners, the Centre plans to host a national-level AML conference. This conference will be open to operational-level personnel who work in AML or financial crime enforcement or



prosecution services across Canada at the federal, provincial, and municipal levels. The goal of the conference will be to bring together enforcement partners and operational policy makers to enhance financial crime knowledge, build connections, and strengthen the effectiveness of AML enforcement actions. The conference is expected to take place from November 25 to December 3, 2021.

Operational Support

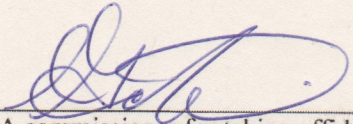
23. The objective of the FC3's operational support function is to help ensure federal and regional initiatives and partners have additional support to effectively undertake financial crime operations. In this capacity, FC3 will provide support to existing regional (including provincial and municipal) and federal forums for AML enforcement coordination, such as the federal Anti-Money Laundering / Anti-Terrorist Financing (AML/ATF) Regime and the Counter Illicit Finance Alliance – British Columbia (CIFA-BC), and facilitate access for regional partners to federal services or support upon request.
24. Examples of operational support activities that FC3 may conduct include: facilitating connection between FC3 and similar financial crime coordination entities in international partner jurisdictions to enhance international cooperation; providing guidance on federal information sharing mechanisms; assisting domestic partners in accessing federal support services (e.g. forensic accounting services); and developing FC3 subject matter experts who can assist partners with specific issues.

Remote Commissioning

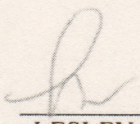
25. I am not physically present before the commissioner taking my affidavit. I am linked with the commissioner by video technology and am adhering to the following process for commissioning the affidavit:
 - a. I have shown the commissioner the front and back of my government-issued photo identification;
 - b. The commissioner has compared the video image of myself and the information on my government-issued photo identification and has confirmed to me that they are reasonably satisfied that it is the same person and that my identification is valid and current;

- c. The commissioner has confirmed to me that a screenshot of the front and back of my government-issued photo identification was taken and that they will retain a copy of those screenshots.

AFFIRMED BEFORE ME via videoconference)
 with the affiant in Ottawa, Ontario and the)
 Commissioner in Burnaby, British Columbia on)
 this 11th day of May, 2021)

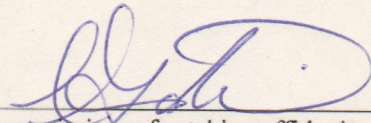

 _____)
 A commissioner for taking affidavits for)
 British Columbia)

Ashley Gardner
 Barrister and Solicitor
 900-840 Howe St.
 Vancouver, BC V6Z 2S9


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 LESLEY SOPER)

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THIS IS **EXHIBIT "A"** TO THE
AFFIDAVIT OF LESLEY SOPER
AFFIRMED BEFORE ME VIA
VIDEOCONFERENCE WITH THE AFFIANT
IN MAPLE, ONTARIO AND THE COMMISSIONER
IN BURNABY, BC
THIS 11TH DAY OF MAY, 2021.

A handwritten signature in blue ink, appearing to be 'L. Soper', written over a horizontal line.

A commissioner for taking affidavits
for the Province of British Columbia

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In Budget 2018, the Government announced its intention to move away from the Phoenix pay system toward one better aligned to the complexity of the Government's pay structure and to the future needs of Canada's world-class public service.

Working cooperatively with experts, federal public sector unions, employees, pay specialists and technology providers, the Treasury Board Secretariat (TBS) launched a process to review lessons learned, and identify options for a next-generation pay solution.

As part of this process, pay system suppliers were invited to demonstrate possible solutions, which were directly tested with users. Based on feedback from users and participating stakeholders, TBS has been able to identify options with the potential to successfully replace the Phoenix pay system. As a next step, the Government will work with suppliers and stakeholders to develop the best options, including pilot projects that will allow for further testing with select departments and agencies, while assessing the ability of suppliers to deliver.

Finally, TBS will continue to engage public servants throughout this process, to ensure that their feedback is fully reflected in any future solution.

Part 7: A Fair Tax System for All Canadians

The Government is committed to building an economy that works for everyone. To do that, we need a tax system that is fair, and we need all Canadians to pay their fair share.

The taxes Canadians pay help to build the infrastructure that keeps people moving and our economy growing. They help support the schools that teach us when we're young and pay for the medical care that keeps us healthy as we age. They also help to create good, well-paying jobs—and provide a solid social safety net to help people when they lose their jobs.

It's important to all Canadians that the Government be able to deliver the programs and services Canadians rely on, while keeping taxes low for the middle class. In each of its budgets, the Government has strengthened the Canada Revenue Agency's ability to crack down on tax evasion and combat tax avoidance, and proposed measures to close tax loopholes—often used by the wealthiest Canadians—that result in unfair tax advantages for some at the expense of others.

Budget 2019 builds on this approach, with additional measures aimed at ensuring Canada's tax system is efficient, effective and fair.

Improving Tax Compliance

The taxes we pay support government services that benefit all Canadians—from health care and education to affordable housing and public safety. By cracking down on tax evasion and aggressive tax avoidance, the Government is ensuring that it has the money needed to deliver the programs that Canadians depend on.

Significant investments have been made in recent years to strengthen the Canada Revenue Agency's (CRA's) ability to unravel complex tax schemes, increase collaboration with international partners, and ultimately bring offenders to justice.


These investments have already yielded positive results.

Starting in 2015, the CRA expanded the number of audit teams that focus on high net worth individuals and their associated corporate structures. As a result, there are now more than 1,100 offshore audits underway, resulting in more than 50 criminal investigations with links to offshore transactions.

To further combat tax evasion and aggressive tax avoidance, Budget 2019 proposes to invest an additional \$150.8 million over five years, starting in 2019–20. This investment will allow the CRA to fund new initiatives and extend existing programs, including:

- Hiring additional auditors, conducting outreach and building technical expertise to target non-compliance associated with cryptocurrency transactions and the digital economy.
- Creating a new data quality examination team to ensure proper withholding, remitting and reporting of income earned by non-residents.
- Extending programs aimed at combatting offshore non-compliance.

Budget 2019 accounts for the expected revenue impact from these targeted compliance initiatives, of \$369.0 million over five years. These amounts do not reflect the gain that will be realized by provinces and territories, whose tax revenues will also increase as a result of these initiatives.

 To help the CRA stay ahead of non-compliance schemes driven by the use of new, advanced technologies, Budget 2019 also proposes to invest \$65.8 million over five years to improve the CRA's information technology systems, including replacing legacy systems, so that the infrastructure used to fight tax evasion and aggressive tax avoidance continues to evolve.

Strengthening Beneficial Ownership Transparency

In December 2017 the Minister of Finance and his provincial and territorial counterparts jointly committed to improving corporate transparency so that Canadian authorities can more clearly know who owns which corporations in Canada. The Ministers also agreed to work together to better harmonize corporate ownership record requirements between jurisdictions.

What Is Beneficial Ownership?

Beneficial ownership refers to the identity of individuals who own, control or profit from a corporation or trust.

To that end, the *Canada Business Corporations Act* was amended to require federally incorporated corporations to maintain beneficial ownership information. In Budget 2019, the Government proposes further amendments to the Act to make the beneficial ownership information maintained by federally incorporated corporations more readily available to tax authorities and law enforcement.

In addition, Budget 2018 proposed the introduction of enhanced tax reporting requirements for trusts, effective for the 2021 and later taxation years, in order to improve the collection of beneficial ownership information for income tax purposes.

The Government will continue to collaborate with the provinces and territories to assess how best to improve corporate ownership transparency.


Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) Regime


Money laundering, terrorist financing and tax evasion are a threat to Canadians' safety, security and quality of life, and harm the integrity and stability of the financial sector and the broader economy. Canada takes a comprehensive and coordinated approach to combatting money laundering, terrorist financing and organized crime. However, those seeking to launder proceeds of crime—or raise, transfer and use funds for the purposes of terrorism—are finding new ways to exploit the complex global financial system and evade the considerable protections already in place in Canada. There are growing concerns that illicit funds are finding their way into the Canadian economy through channels that millions of Canadians rely on, including corporations, real estate and trade.

The recent report by the House of Commons Standing Committee on Finance entitled *Confronting Money Laundering and Terrorist Financing: Moving Canada Forward* provides a roadmap to respond to current and future threats. Budget 2019 proposes an integrated plan to modernize Canada's AML/ATF framework and strengthen data resources, financial intelligence and information sharing to identify and meet evolving threats—while continuing to protect the privacy rights of Canadians and manage the regulatory burden on the private sector.

A first phase of concerted action will give police the resources they need to tackle financial crime and address gaps in information sharing. It will also dedicate new resources to identify and address complex money laundering operations in Canada.

The Government proposes to:


 Strengthen federal policing operational and investigative capacity by providing up to \$68.9 million over five years, beginning in 2019–20, and \$20.0 million per year ongoing, to the Royal Canadian Mounted Police.


 Create the Anti-Money Laundering Action, Coordination and Enforcement (ACE) Team, which will bring together dedicated experts from across intelligence and law enforcement agencies to strengthen inter-agency coordination and cooperation and identify and address significant money laundering and financial crime threats. Budget 2019 proposes to invest \$24 million over five years, beginning in 2019–20, for Public Safety Canada to implement the ACE Team as a pilot initiative.

 Create a multi-disciplinary Trade Fraud and Trade-Based Money Laundering Centre of Expertise, which will complement the efforts of the ACE Team. This initiative will strengthen capacity at the Canada Border Services Agency and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to target these growing threats. Budget 2019 proposes to invest \$28.6 million over four years, beginning in 2020–21, with \$10.5 million per year ongoing to create a multi-disciplinary Trade Fraud and Trade-Based Money Laundering Centre of Expertise.

 Strengthen operational capacity at FINTRAC, Canada's AML/ATF regulator and financial intelligence unit, to:

- Improve oversight of modern financial practices related to virtual currencies, foreign money service businesses, pre-paid products and customer identification.
- Expand public-private partnership projects to improve the overall efficiency and effectiveness of the AML/ATF Regime.
- Increase outreach and examinations in the real estate and casino sectors with a focus on the province of British Columbia.

 Budget 2019 proposes to invest \$16.9 million over five years in FINTRAC, beginning in 2019–20, and \$1.9 million per year ongoing to advance these objectives.

 Budget 2019 also proposes complementary legislative measures to strengthen Canada's legal framework and support operational capacity. With these measures, Canada will adopt international best practices, provide new tools for investigators and prosecutors, and support regulatory compliance by the private sector.

Budget 2019 proposes to make legislative amendments to:

- Add an alternative requirement of recklessness to the offence of money laundering in the *Criminal Code*. This would criminalize the activity of moving money on behalf of another person or organization while being aware that there is a risk that this activity could be money laundering and continuing with that activity in spite of the risk. It would also provide law enforcement with an important, practical tool in the fight against professional money launderers in Canada.
- Add Revenu Québec and the Competition Bureau as disclosure recipients of FINTRAC financial intelligence by amending the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), and provide \$2.4 million over five years, beginning in 2019–20, and \$0.5 million per year ongoing for FINTRAC to develop additional expertise and capacity.
- Modify the timing and the discretion of the Director of FINTRAC to make public certain information related to an administrative monetary penalty, by amending the PCMLTFA.
- Exclude the identity of a reporting entity, the nature of the violations and the amount of the penalty imposed from the scope of any confidentiality order that a court may issue in relation of the administrative monetary penalty, by amending the PCMLTFA.
- Broaden access to specialized asset management services at Public Services and Procurement Canada by amending the *Seized Property Management Act*.
- Make technical amendments to the PCMLTFA to expand the definition of designated information, clarify terminology and improve readability.

Collecteur Project: A Vast Money Laundering Network Dismantled

Dismantling complex money laundering networks that fuel criminal activity requires significant investment of time and resources—as well as cooperation across domestic and international law enforcement agencies. The Collecteur Project, a major investigation led by the Royal Canadian Mounted Police, in cooperation with the Canada Revenue Agency, led to the arrests of 17 individuals associated with a vast money laundering network in mid-February 2019. The network moved money collected from criminal groups in Montréal, through various individuals and currency exchange offices in Toronto, using an informal value transfer system with connections in Lebanon, the United Arab Emirates, Iran, the United States and China. The funds were then returned to drug-exporting countries such as Colombia and Mexico. To date, the estimated value of assets seized and restrained through the investigation totals more than \$32.8 million, including drugs, cash, properties, and money in bank accounts.

Combatting Aggressive International Tax Avoidance

Update on the Base Erosion and Profit Shifting Project

The Government is committed to safeguarding Canada's tax system and to that end continues to be an active participant in the Organisation for Economic Co-operation and Development/Group of Twenty (OECD/G20) project known as the Base Erosion and Profit Shifting (BEPS) initiative. BEPS refers to international planning used by some corporations and wealthy individuals to inappropriately avoid paying taxes by shifting profits earned in Canada to other offshore jurisdictions. The Government continues to work with its international partners to improve and update the international tax system, and to ensure a coherent and consistent response to fight cross-border tax avoidance.

Ongoing Base Erosion and Profit Shifting Project

Country-by-Country Reporting

Large multinational enterprises in Canada and elsewhere are now required to file country-by-country reports that include information on their global allocation of income and taxes, as well as the nature of their global business activities. These reports are exchanged between the Canada Revenue Agency (CRA) and other tax authorities with whom Canada has the required exchange agreements in place.

Country-by-country reports are an important tool in combatting Base Erosion and Profit Shifting (BEPS) by providing the CRA and other tax authorities with new information to better assess transfer pricing risks (transfer pricing refers to the prices and other conditions that apply to transactions between members of multinational enterprises; while these are supposed to reflect what arm's length parties would do, there is the risk that multinational enterprises will use transfer pricing to shift profits from Canada to low-tax jurisdictions). The first exchanges of these reports took place in 2018. Canada is now participating in an OECD review of the standard for these reports to ensure that they provide tax administrations with better information that allows for proper assessment of transfer pricing and other BEPS risks. This review is scheduled to be completed in 2020.

Multilateral Instrument

The *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (known as the Multilateral Instrument or MLI) is an important tool in facilitating a number of the measures developed under the OECD/G20 BEPS project, and in combatting international tax avoidance. The MLI is intended to allow participating jurisdictions to modify their existing tax treaties without having to individually renegotiate those treaties. Canada, along with another 86 jurisdictions to date, is a signatory to the MLI. The Government is taking the necessary steps to enact the MLI into Canadian law and to ratify the MLI as needed to bring it into force.

Strengthening Canada's International Tax Rules

The Government is also taking action to protect the integrity and improve the fairness of Canada's international tax system. This system includes rules to prevent taxpayers from avoiding Canadian income tax by shifting property income into foreign resident corporations. It also includes rules aimed at ensuring that non-residents pay their fair share of tax on income derived from Canadian sources.

To further strengthen Canada's international tax rules, the Government proposes to:

- Extend the foreign affiliate dumping rules in the *Income Tax Act* to prevent a corporation resident in Canada that is controlled by a non-resident individual or trust from reducing its tax payable by investing in a foreign affiliate.
- Introduce an ordering rule to ensure that the transfer pricing rules (i.e., rules that apply to certain international transactions) in the *Income Tax Act* apply before other provisions of the Act.
- Ensure that the term "transaction" has the same meaning in both the transfer pricing rules and the assessment rules in the *Income Tax Act*.
- Prevent non-resident taxpayers from avoiding Canadian dividend withholding tax on compensation payments made under cross-border share lending arrangements with respect to Canadian shares.

Employee Stock Options

In Budget 2016, the Government committed to undertake a wide-ranging review of federal tax expenditures. Individuals and businesses had expressed concerns about the efficiency and fairness of Canada's tax system, and how some tax expenditures unfairly benefit the wealthiest Canadians rather than the middle class and those people working hard to join it.

Since Budget 2016, the Government has taken many actions to improve the fairness of the tax system including eliminating the ability to artificially multiply the small business deduction, limiting the ability to use businesses to shelter investment income and cracking down on tax evasion and aggressive tax avoidance. In total, the Government's actions are expected to recoup over \$3 billion per year in revenues (see Annex 5) which have been reinvested in tax reductions and benefits going to middle class families, seniors and Canadians who need it most.

Budget 2019 announces the Government's intent to limit the use of the current employee stock option tax regime and move toward aligning the tax treatment with the United States for employees of large, long-established, mature firms.

Employee stock options, which provide employees with the right to acquire shares of their employer at a designated price, are an alternative compensation method used by businesses to increase employee engagement, and promote entrepreneurship and growth. Many smaller, growing companies, such as start-ups, do not have significant profits and may have challenges with cash flow, limiting their ability to provide adequate salaries to hire talented employees.

Employee stock options can help such companies attract and retain talented employees by allowing them to provide a form of remuneration linked to the future success of the company.

To support this objective, the tax rules provide employee stock options with preferential personal income tax treatment in the form of a stock option deduction which effectively results in the benefit being taxed at a rate equal to one half of the normal rate of personal taxation, the same rate as capital gains. The tax benefits of the employee stock option deduction, however, disproportionately accrue to a very small number of high-income individuals.

Table 4.1
Distribution of Employee Stock Option Deduction by Income (2017)

Individual's total income ¹ (\$)	Number of individuals	Stock option deduction claimed		
		Average amount (\$)	Aggregate amount (\$ millions)	Per cent of aggregate amount
Under 200,000	20,140	6,000	120	6
200,000 to 1,000,000	14,160	44,000	630	30
Over 1,000,000	2,330	577,000	1,340	64
Overall	36,630	57,000	2,090	100

¹ Including stock option benefits.

Note: Numbers may not add due to rounding.

Source: Tax filer data for the 2017 taxation year.

When examining the evidence, it is clear that the employee stock option deduction is highly regressive. In 2017, 2,330 individuals, each with a total annual income of over \$1 million, claimed over \$1.3 billion of employee stock option deductions. In total, these 2,330 individuals, representing 6 per cent of stock option deduction claimants, accounted for almost two-thirds of the entire cost of the deduction to taxpayers.

The public policy rationale for preferential tax treatment of employee stock options is to support younger and growing Canadian businesses. The Government does not believe that employee stock options should be used as a tax-preferred method of compensation for executives of large, mature companies.

To address this inequity, the Government intends to move forward with changes to limit the benefit of the employee stock option deduction for high-income individuals employed at large, long-established, mature firms. In its approach, the Government will be guided by two key objectives:

- to make the employee stock option tax regime fairer and more equitable for Canadians, and
- to ensure that start-ups and emerging Canadian businesses that are creating jobs can continue to grow and expand.

Specifically, the Government will move toward aligning Canada's employee stock option tax treatment with that of the United States by applying a \$200,000 annual cap on employee stock option grants (based on the fair market value of the underlying shares) that may receive tax-preferred treatment for employees of large, long-established, mature firms. Under this approach, the vast majority of employees of these firms that may receive employee stock option benefits would be unaffected.

For start-ups and rapidly growing Canadian businesses, employee stock option benefits would remain uncapped. In this manner, start-ups and emerging Canadian businesses will be protected and maintain the ability to use employee stock options as an effective tool to attract and reward employees and accelerate their growth.

Further details of this measure will be released before the summer of 2019.

Any changes would apply on a go-forward basis only and would not apply to employee stock options granted prior to the announcement of legislative proposals to implement any new regime.

How a new regime for taxing employee stock options could affect employees who are granted employee stock options

Henry is an executive of a large, long-established, mature company that has an employee stock option plan. Henry's employer grants him stock options to acquire 100,000 shares at a price of \$50 per share (the fair market value of the shares on the date the options are granted), with all of the options vesting in a future year. Since the fair market value of the underlying shares at the time of grant ($\$50 \times 100,000 = \5 million) exceeds the \$200,000 limit, the amount of stock options that can receive preferential tax treatment will be capped. In particular, the stock option benefits associated with 4,000 ($\$200,000 \div \$50 = 4,000$) of the options can continue to receive preferential personal income tax treatment, while the stock option benefits associated with the remaining 96,000 options will be included in Henry's income and fully taxed at ordinary rates and deductible for corporate income tax purposes.

For instance, if the price of the shares has increased to \$70 at the time that Henry exercises the options, \$1,920,000 ($\$70 \times 96,000 - \$50 \times 96,000$) of the employee stock option benefit will be included in Henry's income and fully taxed at ordinary rates, while only \$80,000 ($\$70 \times 4,000 - \$50 \times 4,000$) of the benefit will receive preferential personal income tax treatment (with no deduction to the employer).

This treatment is very different from the tax treatment Henry could receive under current tax rules, under which he would generally be entitled to a \$1,000,000 employee stock option deduction on the \$2,000,000 employee stock option benefit.

Clara is a senior manager at the same large, long-established, mature company, which grants her employee stock options to acquire 3,000 shares at a price of \$50 per share (the fair market value of the shares on the date the options are granted). Since the fair market value of the underlying shares at the time of grant ($\$50 \times 3,000 = \$150,000$) is within the \$200,000 limit, all of the stock option benefits associated with these options will continue to receive preferential personal income tax treatment.

For instance, if the price of the shares has increased to \$70 at the time that Clara exercises the options, her stock option benefit of \$60,000 ($\$70 \times 3,000 - \$50 \times 3,000$) will continue to receive preferential personal income tax treatment.

Amanda is an employee of a start-up company that has an employee stock option plan. Amanda's employer grants her stock options to acquire 100,000 shares at a price of \$1 per share. Since Amanda received these options from a start-up, all of the stock option benefits associated with the options will continue to receive preferential personal income tax treatment.

For instance, if the price of the shares has increased to \$6 at the time that Amanda exercises the options, her stock option benefit of \$500,000 ($\$6 \times 100,000 - \$1 \times 100,000$) will continue to receive preferential personal income tax treatment.

Adjusting the Rules for Cannabis Taxation

New classes of cannabis products, namely edible cannabis, cannabis extracts, and cannabis topicals, will be permitted for legal sale under the *Cannabis Act* later this year. The Government is proposing that the excise duty framework for cannabis products be amended to more effectively apply the excise duty on these new classes of cannabis products, as well as to cannabis oils, which are already legally available for sale. This proposed change will result in the framework better reflecting recommendations from the expert Task Force on Cannabis Legalization and Regulation and feedback received from the cannabis industry.


For most products, namely fresh and dried cannabis, and seeds and seedlings, there will be no changes to the current excise duty framework. However, for cannabis edibles, cannabis extracts (which will include cannabis oils), and cannabis topicals, excise duties will be imposed on the quantity of tetrahydrocannabinol (THC) contained in a final product.

The proposed THC-based rate will help simplify the excise duty calculation for specific cannabis products and ease compliance issues that producers have encountered with respect to cannabis oils. Certain low-THC products (e.g., cannabis oils) will also generally be subject to lower excise duties than before, providing further tax relief for cannabis products typically used by individuals for medical purposes.

The proposed measure will come into effect on May 1, 2019, and will not affect the federally administered co-ordinated revenue-sharing agreements reached with most provincial and territorial governments, and is not expected to materially change the overall projected excise duty revenues presented in Budget 2018.

Improving Access to the Canada Workers Benefit Throughout the Year

Budget 2018 introduced the new Canada Workers Benefit (CWB), a refundable tax credit that helps supplement the earnings of low-income workers, by letting them take home more money while they work. The CWB features a payment option through which beneficiaries are able to receive up to four advance payments of the benefit throughout a year, totalling up to half of their estimated CWB entitlement for the year. Currently, this provision is little used.

 To give low-income workers improved access to support throughout the year, Budget 2019 proposes to provide the Canada Revenue Agency (CRA) with \$4 million over two years, starting in 2019–20, to conduct targeted outreach. This outreach would increase awareness of the CWB, including the advance payment provision.

Budget 2019 further proposes that this funding be used to allow low-income workers to apply online for advance payment of the Canada Workers Benefit through the CRA's My Account portal. The Government intends to determine what investments are required to support the delivery of the Benefit, while reducing the paper burden for eligible workers, and will continue to look for ways to improve the Canada Workers Benefit and support more Canadians working hard to join the middle class.

Intergenerational Business Transfers

The Government understands the importance Canadian farmers, fishers and other business owners place on being able to pass their businesses on to their children. The Government will continue its outreach to farmers, fishers and other business owners throughout 2019 to develop new proposals to better accommodate intergenerational transfers of businesses while protecting the integrity and fairness of the tax system.

Small Business Deduction—Farmers and Fishers

Currently, certain relief is given to Canadian-controlled private corporations carrying on a farming or fishing business from the tax rules designed to prevent the multiplication of the small business deduction. Budget 2019 proposes to extend that relief to sales of farming products and fishing catches to any arm's length corporation. This measure applies to taxation years that begin after March 21, 2016.

Closing Tax Loopholes

In each of its previous three budgets, the Government has taken action to ensure that Canada's tax rules function as intended and that they do not result in unfair tax advantages for some at the expense of others. Budget 2019 continues this approach by proposing measures to close tax loopholes that can result in some people paying less than their fair share. Ongoing legislative adjustments help ensure the integrity of Canada's tax system and give Canadians greater confidence that the system is fair for everyone.

To make Canada's tax system more fair, Budget 2019 proposes to:

- Prevent the use by mutual fund trusts of a method of allocating capital gains or income to their redeeming unitholders where the use of that method inappropriately defers tax or converts fully taxable ordinary income into capital gains taxed at a lower rate.
- Improve existing rules meant to prevent taxpayers from using derivative transactions to convert fully taxable ordinary income into capital gains taxed at a lower rate.
- Stop the use of individual pension plans to avoid the prescribed transfer limits. These limits are meant to prevent inappropriate tax deferrals when individuals transfer assets out of certain types of pension plans.

Chapter 4
Delivering Real Change
 millions of dollars

	2018– 2019	2019– 2020	2020– 2021	2021– 2022	2022– 2023	2023– 2024	Total
Part 1. Health and Well-Being							
Introducing a National Dementia Strategy	0	3	12	12	12	12	50
Creating a Pan-Canadian Database for Organ Donation and Transplantation	0	1	6	10	10	10	37
Expanding Health Related Tax Relief	0	0	0	0	0	0	0
Enhancing the Federal Response to the Opioid Crisis in Canada	0	7	11	6	4	2	31
Supporting a Pan-Canadian Suicide Prevention Service	0	5	5	5	5	5	25
Supporting Community-Based Housing for People with Complex Health and Social Needs in PEI	0	10	10	10	10	10	51
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-10	-10	-10	-10	-10	-51
Supporting a Safe and Non-Discriminatory Approach to Plasma Donation	0	1	2	0	0	0	2
Supporting Employment for Persons with Intellectual Disabilities and Autism Spectrum Disorders	0	4	4	4	0	0	12
More Accessible Federal Government Workplaces	0	2	3	4	3	3	14
Inclusion of Canadians with Visual Impairments and Other Print Disabilities	0	9	5	6	4	2	27
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-3	0	0	0	0	-3
Improvements to the Registered Disability Savings Plan	0	3	17	28	30	31	109
Introducing a Food Policy for Canada	0	36	43	53	54	54	239
<i>Less: Funds existing in the Fiscal Framework</i>	0	-10	-15	-25	-25	-25	-100
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-1	-1	-1	-1	-1	-6
Addressing the Challenges of African Swine Fever	0	5	8	6	6	6	31
The Social Finance Fund	0	25	25	0	0	0	50
<i>Less: Funds from 2018 Fall Statement</i>	0	-15	-35	0	0	0	-50
Part 1. Health and Well-Being Total	0	71	89	108	101	98	467

Part 2. Support for Diversity, Culture and the Arts

Expanding Support for Artists and Cultural Events	0	31	31	0	0	0	61
Advancing Gender Equality	0	10	10	20	40	80	162
Expanding the Work of the LGBTQ2+ Secretariat	0	10	11	0	0	0	21
Introducing a New Anti-Racism Strategy	0	17	15	13	0	0	45
Supporting Black Canadian Communities	0	5	5	5	5	5	25
Supporting Canadian Journalism							
Tax Credit for Journalism Organizations	0	0	75	95	95	95	360
Tax Credit for Digital News Subscriptions	0	5	26	31	36	41	138
Access to Charitable Tax Incentives for Not-for-Profit Journalism	0	6	25	32	22	11	96
<i>Less: Funds from Previous Budgets or Fall Statements</i>	0	-45	-105	-130	-150	-165	-595
Supporting Donations of Cultural Property	0	0	0	0	0	0	0
Ensuring a Safe and Healthy Sport System	0	6	6	6	6	6	30
Part 2. Support for Diversity, Culture and the Arts Total	0	45	98	72	54	73	343

Part 3. Support for Canada's Veterans and Their Families

Supporting Veterans as They Transition to Post-Service Life	0	33	28	25	25	24	136
Supporting Research on Military and Veteran Health	0	1	7	7	7	7	30
Supporting Veteran's Families	0	30	30	30	30	30	150
Commemorating Canada's Veterans	0	1	1	1	0	0	3
Juno Beach Centre	0	1	1	1	1	1	3
Recognizing Métis Veterans	0	30	0	0	0	0	30
Part 3. Support for Canada's Veterans and Their Families Total	0	95	66	64	63	62	351

Part 4. Public Safety and Justice

Protecting Canada's Critical Infrastructure from Cyber Threats	0	22	32	39	26	26	145
<i>Less: Funds from Previous Budgets or Fall Statements</i>	0	-3	-11	-7	-6	-6	-34
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-5	-5	-5	-5	-5	-23
Growing Canada's Advantage in Cyber Security	0	0	20	20	20	20	80
Protecting Democracy	0	8	10	11	12	12	52

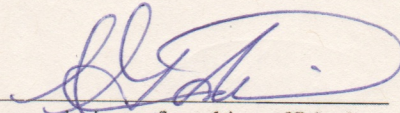
Less: Funds Sourced from Existing Departmental Resources	0	-1	-1	-1	-1	0	-4
Protecting Canada's National Security	0	13	14	14	14	14	70
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-1	-1	-1	-1	-1	-3
Enhancing Accountability and Oversight of the CBSA	0	1	3	6	7	7	24
Strengthening the Royal Canadian Mounted Police	0	96	112	100	100	100	509
Enhancing the Integrity of Canada's Borders and Asylum System	0	362	460	229	65	60	1,176
Protecting People from Unscrupulous Immigration Consultants	0	11	11	10	10	10	52
Ensuring Better Disaster Management Preparation and Response	0	18	33	36	35	34	156
Improving Emergency Medical Response in Western Canada	65	0	0	0	0	0	65
Protecting Children from Sexual Exploitation Online	0	4	9	9	0	0	22
Giving Canadians Better Access to Public Legal Education and Information	0	2	2	2	2	2	8
Supporting Access to Family Justice in the Official Language of One's Choice	0	0	4	4	4	4	17
Protecting Community Gathering Places from Hate Motivated Crimes	0	2	2	2	2	2	10
Part 4. Public Safety and Justice Total	65	529	695	468	285	281	2,323
Part 5. Canada's International Engagement							
Increasing Canada's International Assistance Envelope	0	0	0	0	0	700	700
<i>Less: Funds from Previous Budgets or Fall Statements</i>	0	0	0	0	0	-600	-600
Renewing Canada's Middle East Strategy	0	666	721	2	2	2	1,394
<i>Less: Existing International Assistance Envelope Resources</i>	0	-213	-213	0	0	0	-426
Reinforcing Canada's Support for Ukraine	0	36	34	36	0	0	106
<i>Less: Existing International Assistance Envelope Resources</i>	0	-2	-2	-2	0	0	-6
Part 5. Canada's International Engagement Total	0	488	540	36	2	102	1,167
Part 6. Better Government							
Investing in Service Canada	0	124	112	62	9	0	305
<i>Less: Funds from CPP Account</i>	0	-21	-24	-12	-7	0	-64

<i>Less: Projected Revenues</i>	0	-1	-2	-2	-2	-2	-7
Improving Client Services at the Canada Revenue Agency	0	38	40	41	41	38	198
<i>Foregone Revenues</i>	0	25	25	25	25	25	125
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-30	-30	-30	-30	-30	-148
Improving Immigration Client Service	0	18	25	0	0	0	43
Helping Travellers Visit Canada	0	38	40	0	0	0	79
Resolving Income Security Program Disputes More Quickly and Easily	0	36	46	59	57	57	254
<i>Less: Funds from CPP Account</i>	0	-8	-14	-15	-14	-14	-65
<i>Less: Projected Revenues</i>	0	-11	-32	-33	-35	-36	-148
Ensuring Proper Payments for Public Servants	22	366	74	77	8	8	554
Less: Funds existing in the Fiscal Framework	-18	0	0	0	0	0	-18
Part 6. Better Government Total	3	574	260	171	53	46	1,108
Part 7. A Fair Tax System for All Canadians							
Improving Tax Compliance	0	23	43	44	48	59	217
<i>Less: Projected Revenues</i>	0	-65	-76	-76	-76	-76	-369
<i>Strengthening Canada's AML-ATF Regime</i>	0	16	28	35	42	39	161
<i>Less: Funds Sourced from Existing Departmental Resources</i>	0	-4	-5	-5	-2	0	-16
Adjusting the Rules for Cannabis Taxation	0	0	0	0	0	0	0
Improving Access to the Canada Workers Benefit Throughout the Year	0	4	1	0	0	0	4
Small Business Deduction - Farmers and Fishers	0	0	0	0	0	0	0
Closing Tax Loopholes	0	-25	-105	-90	-75	-55	-350
Part 7. A Fair Tax System for All Canadians Total	0	-52	-114	-92	-63	-33	-354
Chapter 4 - Net Fiscal Impact	68	1,750	1,635	829	495	630	5,406

Notes: "0" indicates a nil amount or small amount (less than \$500,000).

Date modified:
2019-03-19

THIS IS **EXHIBIT "B"** TO THE
AFFIDAVIT OF LESLEY SOPER
AFFIRMED BEFORE ME VIA
VIDEOCONFERENCE WITH THE AFFIANT
IN MAPLE, ONTARIO AND THE COMMISSIONER
IN BURNABY, BC
THIS 11TH DAY OF MAY, 2021.

A handwritten signature in blue ink, appearing to be 'L. Soper', written over a horizontal line.

A commissioner for taking affidavits
for the Province of British Columbia

A small, faint handwritten mark or signature in the bottom right corner of the page.

**Overview of Canada's AML/ATF Regime for the Commission of Inquiry into Money
Laundering in British Columbia**

Government of Canada

May 2021



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1.0 Overview of Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime

Canada's Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) Regime (the Regime, hereafter) protects the integrity of Canada's financial system by deterring individuals from using it to carry out money laundering, terrorist financing, or other criminal activities that generate proceeds of crime. It also contributes to the safety and security of Canadians by providing financial intelligence to detect and disrupt criminal and terrorist activity.

Money laundering is the process used by criminals to conceal or disguise the origin of criminal proceeds to make them appear as if they originated from legitimate sources. Money laundering benefits domestic and international criminals and organized crime groups. Terrorist financing, in contrast, is the collection and provision of funds from legitimate or illegitimate sources for terrorist activity. It supports and sustains the activities of domestic and international terrorists that can result in terrorist attacks in Canada or abroad, causing loss of life and destruction.



The Regime operates based on three interdependent pillars: (i) policy and coordination; (ii) prevention and detection; and (iii) investigation and disruption.

These three pillars work together to support efforts to combat organized crime, terrorism, and other major crimes, such as tax evasion, corruption, cybercrime, drug trafficking, and fraud. The Regime balances safeguarding the integrity of Canada's financial system, ensuring the safety and security of Canadians, and respecting Canadian individual rights and freedoms, including privacy rights.

Foundational to the AML regime is financial intelligence which serves to inform administrative and criminal investigations, guide policy initiatives and, the prevention and detection of proceeds of crime and money laundering. Actionable financial intelligence assists law enforcement and national security agencies to identify assets, their flow into and out of domestic and international jurisdictions and persons and networks associated to assets.

A number of federal statutes, such as the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), establish Canada's AML/ATF framework and set out the roles and responsibilities of the Regime partners. These are described further below. This legislative framework is also supported by regulations and guidance that clarify expectations, and treaties

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and conventions which support international efforts to combat money laundering and terrorist financing.

Money laundering and terrorist financing are crimes that are transnational in nature and affect all Canadians. As a result, the Regime is intended to deter criminals and terrorist financiers from using Canadian financial institutions and other entities for criminal purposes. The Regime also aims to provide appropriate tools to law enforcement and security agencies to combat money laundering and terrorist financing, while respecting the *Canadian Charter of Rights and Freedoms* and personal privacy of Canadians, and minimizing the regulatory burden on reporting entities. Privacy impacts and regulatory burden are cross-cutting issues that are taken into account in Regime policy development and operations.

2.0 Roles and Responsibilities of Federal Departments and Agencies

Canada's AML/ATF Regime comprises 13 federal departments and agencies. Federal efforts are supported by provincial, regional, and municipal regulatory and law enforcement bodies, and over 24,000 private sector entities that have customer identification, record-keeping and reporting obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and its regulations. The roles and responsibilities of each federal partner are outlined below.

Canada Border Services Agency

The CBSA is responsible for the administration and enforcement of Part 2 of the PCMLTFA, which requires reporting on the cross-border movement of currency or monetary instruments valued at \$10,000 or more and any associated seizures. The CBSA administers both the monetary penalty regime for failing to report more than \$10,000 in currency and the concomitant review processes. Currency that is reasonably suspected to be the proceeds of crime or terrorist financing is seized as forfeit and is not returned on payment of penalty. The CBSA transmits information from reports and seizures to FINTRAC and is a disclosure recipient of information from FINTRAC.

The CBSA also has the mandate and the authorities to detect, identify and investigate trade fraud. Trade fraud is characterized by the intentional evasion of capital controls, quotas, duties or taxes by the misrepresentation of the price, quantity, quality, origin, classification and/or description of goods on commercial customs invoices and on trade finance documents. Trade fraud techniques are frequently used by criminal actors to transmit illicit financial flows across international borders disguised as legitimate trade transactions. This is known as trade-based money laundering (TBML). The CBSA has a mandate to detect, deter and disrupt customs fraud, but refers suspected instances of TBML to the Royal Canadian Mounted Police for further investigation. In April 2020, the CBSA launched its Trade Fraud and Trade Based Money Laundering Centre of Expertise. The Centre consists of a multi-disciplinary team comprised of intelligence analysts, trade specialists, and criminal investigators across Canada that will



position the Agency to identify and investigate anomalous trade transactions indicative of both trade fraud and TBML, and fill in knowledge gaps on threat actors and modus operandi.

Canada Revenue Agency (CRA)

CRA's role in the context of the Regime is twofold: to minimize the impact money laundering and terrorist financing have on the Agency's ability to collect and protect taxes and duties; and to protect the integrity of Canada's charitable registration system from the risk of terrorist financing abuse.

The CRA can use the powers available under the Regime to investigate money laundering offences when the designated offence is tax evasion under the *Income Tax Act* and the *Excise Tax Act*. It can also pursue money laundering offences when the predicate offence is fraud under the Criminal Code related to a tax matter. Following an investigation, the CRA refers cases to the PPSC for charge approval and prosecution.

CRA-Charities Directorate reviews applications for registration as a charity, monitoring registered charities, shares TF related information with national security partners and conducts compliance-related activities in support of the *Income Tax Act* and the *Charities Registration (Security Information) Act (CRSIA)*. This mandate covers only charities and not all entities in the non-profit sector.

Canadian Security Intelligence Service (CSIS)

CSIS has a mandate to collect, analyze, and report to the Government of Canada information and intelligence concerning threats to Canada's national security, and to take measures to reduce those threats. CSIS is a designated recipient from FINTRAC of financial intelligence relevant to threats to the security of Canada. In the course of its investigations of individuals suspected to be engaged in activities constituting threats to the security of Canada, CSIS may identify individuals engaged in the financing of terrorist activities.

Department of Finance Canada

The Department of Finance is responsible for developing AML/ATF policy for the PCMLTFA and its regulations and advising the Minister of Finance on policy issues, Regime-related activities, the Minister's responsibility for oversight of FINTRAC, and developments related to combating money laundering and terrorist financing. As the main policy lead for the federal Regime, the Department of Finance serves as the secretariat for the Regime's governance committees, including and leads coordination on most Regime horizontal policy initiatives, including strategy and performance reporting.

The Department of Finance leads the Canadian delegation to the Financial Action Task Force (FATF) and the two FATF-Style Regional Bodies Canada participates in, the Asia Pacific Group on Money Laundering and the Caribbean Financial Action Task Force. It also coordinates Canada's international positions on AML/ATF issues at the G7 and G20.



Department of Justice Canada

The Department of Justice provides legal and policy advice on money laundering and terrorist financing offences to Regime partners and aids policy development by providing legal opinions with respect to legal challenges. In particular, the Criminal Law Policy Section is responsible for the *Criminal Code of Canada* and the International Assistance Group administers the *Mutual Legal Assistance in Criminal Matters Act* and the *Extradition Act*, which are the two main statutes in relation to Canada's ability to provide international cooperation to Canadian Regime partners as well as to Canada's international treaty partners.

The International Assistance Group at the Department of Justice also negotiates and administers Canada's treaties for mutual legal assistance and extradition. These support Canadian investigations and prosecutions involving evidence and/or individuals located abroad; and fulfill international AML/ATF commitments.

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

FINTRAC is Canada's financial intelligence unit and AML/ATF regulator. As such, FINTRAC has a dual operational mandate:

- *financial intelligence* – analyzing and assessing reports and information from a variety of sources in order to assist in the detection, prevention, and deterrence of money laundering and terrorist activity financing by disclosing financial intelligence that is suspected to be relevant to a money laundering, terrorist activity financing or threats the security of Canada investigation, or prosecution of an ML/TF offence.
- *compliance* – ensuring reporting entities comply with obligations under the PCMLTFA and its regulations related customer identification, reporting, and record keeping.

FINTRAC is as an independent agency, operating at arm's length from law enforcement and other departments and agencies of Government to which it is authorized to provide financial intelligence, including municipal and provincial police, securities regulators, as well as the CBSA, RCMP, CSIS, CSE, CRA, Revenu QC and Competition Bureau and DND/CAF. Its mandate and powers were designed to safeguard individual privacy and respect the *Canadian Charter of Rights and Freedoms*. It reports to the Minister of Finance, who is accountable to Parliament for FINTRAC's activities.

Global Affairs Canada (GAC)

GAC implements elements of Canada's efforts to combat terrorist financing, proliferation financing, and to combat the laundering of proceeds of certain crimes. GAC is responsible for the administration of Canada's sanctions regime, including with respect to autonomous sanctions under the *Justice for Victims of Corrupt Foreign Officials Act* and the *Special Economic Measures Act*, as well United Nations Security Council-mandated sanctions, which are implemented into domestic law under the *United Nations Act*. In addition, GAC's Counter-Terrorism Capacity Building Program and Anti-Crime Capacity Building Program provide technical assistance for capacity building to address to the needs of States lacking the laws,

policies, plans, training, or operational expertise to prevent and mitigate acts of terrorism and combat organized crime and corruption.

Innovation, Science and Economic Development Canada (ISED)

The concealment of information on the ultimate ownership or control of corporations (also called “beneficial ownership”) can be part of international webs used to facilitate tax evasion, money laundering, corruption, financing of terrorist activities, and the proliferation of dangerous goods. ISED is an important policy partner as it is responsible for the regulation and oversight of many aspects of Canada’s marketplace framework, which includes corporate governance and federal incorporation under the *Canada Business Corporations Act*.

ISED is also responsible for the *Personal Information Protection and Electronic Documents Act* and the related guidance and Regulations. This is particularly important in discussions surrounding enhanced information sharing (both between public and private sector and amongst private sector entities).

Office of the Superintendent of Financial Institutions (OSFI)

The 2019-20 fiscal year marked the beginning of the two-year transition between FINTRAC and OSFI for AML/ATF assessments of FRFIs. Following this transition, FINTRAC will assume primary responsibility for conducting independent assessments of FRFIs to ensure compliance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations.

Public Prosecution Service of Canada (PPSC)

PPSC is responsible for initiating and conducting federal prosecutions, including fraud, money laundering and terrorist financing offences.

The Attorney General of Canada (as opposed to a provincial Attorney General) has authority to prosecute a money laundering offence only where the predicate offence is a contravention of an Act of Parliament other than the *Criminal Code of Canada*, such as the Controlled Drugs and Substances Act (CDSA). PPSC also provides legal advice to law enforcement agencies over the course of their investigations. When charges are laid following an investigation, full responsibility for the proceedings shifts to PPSC.

Public Safety Canada

Public Safety is the lead policy department responsible for combatting transnational organized crime, terrorism, and other threats to the security of Canada. Public Safety leads the ACE Team pilot project, which, in April 2021, launched operations as the Financial Crime Coordination Centre (FC3) and aims to coordinate support to anti-money laundering operational partners in Canada. The RCMP, CSIS, and CBSA are part of the Public Safety portfolio, and all collectively work on issues of mutual interest.

Additionally, the department supports the Minister of Public Safety’s statutory responsibilities to recommend terrorist entities for listing pursuant to section 83.05 of the *Criminal Code*. The

Governor in Council may add an entity to the list if satisfied there are reasonable grounds to believe that:

- (a) the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or
- (b) the entity has knowingly acted on behalf of, at the direction of or in association with an entity referred to in paragraph (a).

The Criminal Code defines “entity” as a person, group, trust, partnership or fund or an unincorporated association or organization. A listed entity’s property is subject to seizure/restraint and/or forfeiture. Financial institutions such as banks, brokerages, etc., are governed by strict reporting requirements with respect to an entity's property. It is a crime to deal with or make available property, or other financial services that will be used by or benefit, a terrorist group.

Public Services and Procurement Canada (PSPC)

PSPC, through the Seized Property Management Directorate, is responsible for managing assets seized or restrained by law enforcement or by any person employed in the federal public administration or by a provincial or municipal authority in relation to seizure, restraint, custody, management, forfeiture or disposal of property in connection with designated offences or property that is or may be proceeds of crime or offence-related property. SPMD is also responsible for disposing and sharing the proceeds upon court declared forfeitures under the Forfeited Property Sharing Regulations. PSPC, through the Forensic Accounting Management Group also participates in and supports investigations and prosecutions related to money laundering, proceeds of crime and/or terrorist criminal activity.

Royal Canadian Mounted Police (RCMP)

As the national police force, and as the provincial or local police force in many jurisdictions across Canada, the RCMP plays a fundamental role in the Regime. The RCMP investigates money laundering and terrorist financing cases, lays charges, makes arrests, and seizes funds or assets suspected of being proceeds of crime or used in support of terrorist criminal activity. The RCMP acts as a liaison in exchanging criminal intelligence with domestic and international police forces and liaison officers assist in pursuing AML/ATF cases. Following investigations, the RCMP also refers cases to the PPSC for prosecution.

3.0 Canada’s Legislative Context

Canada’s AML/ATF Regime is founded on the following key legislation: *The Canadian Charter of Rights and Freedoms, The Criminal Code of Canada, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations, and The Personal Information Protection and Electronic Documents Act*. These legislative tools, combined with department specific legislation outlines the scope and abilities of the federal AML/ATF regime.

Canadian Charter of Rights and Freedoms

The *Canadian Charter of Rights and Freedoms* is a fundamental Canadian law that provides constitutional protection of human rights. This includes the right to life, liberty, and security of the person under section 7, the right to be free from unreasonable searches and seizures under section 8, and equality before and under the law under section 15.

As a part of Canada's Constitution, the *Canadian Charter of Rights and Freedoms* takes precedence over other laws and sets limits on government action, therefore all laws and government actions at both the federal and provincial levels (including AML/ATF legislation and regulation) must take into account these fundamental rights.

Criminal Code of Canada

The federal Government's jurisdiction in the area of combating money laundering and terrorist financing stems from the criminal law power. While a number of possible predicate offences may result in money laundering, possession of proceeds of crime and money laundering are in and of themselves criminal acts under the *Criminal Code of Canada*:

- s. 354(1), it is an offence to possess any property or the proceeds of any property knowing that all or part of it was obtained by a criminal activity;
- s. 462.31 (1), it is an offence to use, transfer the possession of, send or deliver to any person or place, transport, transmit, alter, dispose of or otherwise deal with any property with intent to conceal or convert that property knowing that such property is proceeds of crime; and
- s. 355.3 prohibits the importation or exportation of property or things obtained or derived from crime. The prohibition operates *in rem*, permitting CBSA to use *Customs Act* authority to detect and detain goods at the border that are suspected of breaching the prohibition. As the prohibition is in the *Criminal Code*, police are responsible for finally determining whether the thing is in fact derived from crime, and if so, seizing such goods.

The *Criminal Code of Canada* also includes various offences relating to terrorist financing and terrorist property:

- s. 83.02, it is an offence to provide or collect property to be used for terrorist activity or to cause death or serious bodily harm;
- s. 83.03, it is an offence to provide or make available property or services that will be used for terrorist purposes or will benefit a terrorist group;
- s. 83.04, it is an offence to use or possess property for terrorist purposes; and
- s. 83.08(1), it is an offence to knowingly deal, facilitate transactions or provide financial services in respect of terrorist property.

Additionally, as stipulated above, Canada can formally designate a person, group, trust, partnership or fund or an unincorporated association or organization as a terrorist entity under the *Criminal Code of Canada*.

Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations

The PCMLTFA is the primary piece of legislation that establishes Canada's AML/ATF framework. The overarching objective of the PCMLTFA is to detect and deter money laundering and terrorist financing activities, while facilitating the investigation and prosecution of these crimes. These objectives place equal emphasis on preventing illicit funds from entering or moving through Canada's financial system and creating a paper trail to assist law enforcement in detecting and prosecuting these crimes.

The PCMLTFA requires financial institutions and intermediaries to identify their clients, keep records, and have an internal compliance program in place, and establishes a regime for the registration of money services businesses. The Act also outlines mandatory reporting for prescribed transactions, such as suspicious financial transactions. As part of its mandate, FINTRAC ensures the compliance of reporting entities with their obligations under the PCMLTFA.

The PCMLTFA also establishes FINTRAC, and authorizes it to receive and analyze financial transaction reports and to disclose designated information to law enforcement, intelligence agencies and other disclosure recipients. Although FINTRAC shall disclose information to law enforcement and intelligence agencies for investigation, the PCMLTFA has safeguards in place to ensure the protection of the privacy rights afforded by section 8 of the *Canadian Charter of Rights and Freedoms* (the right to be secure against unreasonable search or seizure).

First, the PCMLTFA prescribes the information that FINTRAC can receive and disclose and sets out the specific law enforcement and intelligence agencies to which FINTRAC may disclose its financial intelligence. The PCMLTFA also limits the circumstances in which FINTRAC can disclose information to these agencies. FINTRAC must also have reasonable grounds to suspect that the information would be relevant to the investigation or prosecution of a money laundering or a terrorist financing offence, or relevant to the investigation of threats to the security of Canada.

Various PCMLTFA Regulations also support the Regime:

- ***The Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations*** prescribe: entities that are subject to Part I of the Act; information that must be in a suspicious transaction report or terrorist property report; time limits and format related to the submission of these reports; and the "designated information" that FINTRAC can disclose.
- ***The Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*** prescribe: customer identification requirements; reportable transactions, such as large

cash transactions, electronic funds transfers and casino disbursements; record keeping requirements; and compliance program requirements.

- **The *Cross-Border Currency and Monetary Instruments Reporting Regulations*** define “monetary instruments” and prescribe: reporting threshold for cross-border currency reports at \$10,000; penalty values for non-compliance/contraventions; and form and manner for reporting to the CBSA.
- **The *Proceeds of Crime (Money Laundering) and Terrorist Financing Registration Regulations*** prescribe: ineligible entities; the information and documents to be submitted to FINTRAC in electronic form; timing for registration renewal; and the information to be included in a money services business’ registration form.
- **The *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*** prescribe specific violations that may be subject to an administrative monetary penalty, classification of those violations as minor, serious or very serious and the penalties associated with these classifications.

Privacy Act

The *Privacy Act* defines what personal information is, and provides the basic legal framework for the collection, retention, use, and disclosure of personal information by Government institutions; in the course of providing services such as: old age security benefits; employment insurance; border security; federal policing and public safety; and tax collection and refunds. The *Privacy Act* also provides Canadian citizens or a permanent resident the right to access their personal information under the control of a government institution. The *Privacy Act* defines personal information as any recorded information about an identifiable individual including:

- Race, national or ethnic origin, colour, religion, age or marital status;
- Education, medical, criminal or employment history of an individual or information about financial transactions;
- Any assigned identifying number or symbol;
- Address, fingerprints or blood type;
- personal opinions or views except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual by a government institution;
- Private or confidential correspondence sent to a government institution;
- the views or opinions of another individual about the individual;
- the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual by an institution; and
- The name of the individual where it appears with other related personal information and where the disclosure of the name itself would reveal information about the individual.

The *Privacy Act* ensures that personal information collected in relation by a Government institution can only be disclosed with the consent of the individual, except in specific circumstances such as:

- For the original purpose for which the information was collected or a use consistent with that purpose;
- Where the disclosure is authorized in federal legislation;
- To comply with subpoenas, warrants or orders of a court or another body with authority to compel information;
- Where disclosure would clearly benefit the individual; and
- Where the public interest in disclosure outweighs any invasion of privacy.

Under the Act, the Privacy Commissioner shall receive and investigate complaints from individuals for a variety of matters, including refusal of access to one's own personal information and collection, retention or disposal of personal information by a government institution. Further, where the Commissioner is satisfied that there are reasonable grounds to investigate a matter under this Act, the Commissioner may self-initiate a complaint in respect thereof. In addition, the Privacy Commissioner may, from time to time at the discretion of the Commissioner, carry out investigations in respect of personal information under the control of government institution to ensure compliance with sections 4 to 8 of the *Privacy Act*.

Other Legislation

There are other pieces of legislation whose primary focus is not the AML/ATF, but that does impact the Regime's effectiveness and its partners. These pieces of legislation are:

- *Access to Information Act* – Subject to certain exemptions, provides the public with access to information under the control of a government institution, including information relating to money laundering and terrorist financing, as referenced in s. 59(1) and s. 60(1) of the PCMLTFA.
- *Canada Business Corporations Act* – Provides the basic corporate governance framework for federally registered corporations operating in Canada, including the requirement to keep records of shareholder information, vital for determining beneficial ownership of a corporation.
- *Canadian Security Intelligence Service Act* – Establishes CSIS and its authority to collect, investigate, analyze, and retain information and intelligence activities suspected of constituting threats to the security of Canada, and to take measures to reduce those threats.
- *Charities Registration (Security Information) Act* – Provides the legislative framework for the CRA to use security and intelligence information in deciding if an organization qualifies for registration, or continued registration, as a charity. It also provides a means by which

sensitive security information can be used in determining an organization's eligibility for registration, and yet be protected from disclosure.

- *Customs Act* – Provides legislative authority to the CBSA to administer and enforce the collection of duties and taxes imposed under separate taxing legislation, such as the *Customs Tariff Regulations*, the *Excise Tax Act*, the *Excise Act*, and the *Special Import Measures Act*; control the movement of people and goods into and out of Canada; protect Canadian industry from real or potential injury caused by dumped or subsidized goods and other forms of unfair competition; and establishes recourse provisions for recovering seized currency. In June 2009, amendments were made to support the Government of Canada's strategy to strengthen security and facilitate trade. With these changes to the *Customs Act*, the CBSA will be able to strengthen the systems used for obtaining advance data on goods and people arriving in Canada and better manage risk at air and seaports.
- *Extradition Act* – Provides that both nationals and non-nationals can be extradited for an offence relating to money laundering and terrorist financing, subject to an extradition agreement on the request of an extradition partner.
- *Freezing Assets of Corrupt Foreign Officials Act* – Enables the Governor in Council to make regulations freezing the Canadian assets of allegedly corrupt politically exposed foreign persons, at the request of a foreign country undergoing political turmoil or uncertainty. The objective is to preserve these assets on a temporary basis and provide the foreign state time to investigate and prosecute corruption and seek the recovery of proceeds of corruption related crimes.
- *Immigration and Refugee Protection Act* – Stipulates that a permanent resident or a foreign national cannot be admitted to the country for engaging in criminal activities such as money laundering across national borders.
- *Income Tax Act* – Establishes the ability to disclose taxpayer information to law enforcement or national security partners for the purpose of investigating whether a money laundering or terrorist financing offence has been committed, or whether the activity of any person may constitute threats to national security. In addition, the Act governs the registration of Canadian charities.
- *Justice for Victims of Corrupt Foreign Officials Act* – Enables Canada to impose a dealings prohibition against foreign nationals who, in the opinion of the Governor in Council, are responsible for or complicit in gross violations of internationally-recognized human rights or are foreign public officials, or their associates, who are responsible for or complicit in acts of significant corruption.
- *Library and Archives of Canada Act* – Establishes the Library and Archives of Canada and includes provisions relating to the destruction of Records. This Act is referenced in s. 54(1) of the PCMLTFA, which requires FINTRAC to destroy records after 15 years.

- *Mutual Legal Assistance in Criminal Matters Act* – Establishes the legal authority to obtain court orders on behalf of countries that are parties to mutual legal assistance agreements with Canada. These include bilateral treaties and multilateral conventions containing provisions for mutual legal assistance.
- *National Defence Act* – Establishes the Department of National Defense, the Canadian Armed Forces, and the Communications Security establishment (CSE). CSE is a disclosure recipient of FINTRAC, as referenced in 55(3)(f) of the PCMLTFA.
- *National Security and Intelligence Committee of Parliamentarians Act* – Establishes the authorities of the Committee of Parliamentarians to review the national security activities of any department or agency of the Government.
- *Personal Information Protection and Electronic Documents Act* – Sets out the criteria for privacy and data protection in the private sector and establishes legal equivalence for electronic documents. It sets the legal requirements for the protection of personal information in Canada and sets limits on the collection, use and disclosure of personal information by organizations. It also sets out limited and specific conditions under which organizations disclose personal information to government institutions and law enforcement.
- *Security of Canada Information Disclosure Act* – Facilitates timely and effective sharing of information for national security purposes by authorizing all federal government departments and agencies to disclose national security-relevant information to a select group of designated federal institutions with national security mandates or jurisdiction, in order to protect Canada against activities that undermine the security of Canada.
- *Seized Property Management Act* – Authorizes the Minister of PSPC to provide consultative and other services to law enforcement agencies in relation to the seizure or restraint of property in connection with designated offences, or property that is or may be proceeds of crime or offence-related property and also to provide consultative and other services to any person employed in the federal public administration or by a provincial or municipal authority in related to the seizure, restraint, custody, management, forfeiture or disposal of property. SPMD is responsible for disposing and sharing the proceeds upon court declared forfeitures under the Forfeited Property Sharing Regulations.
- *Special Economic Measures Act* – Enables the Governor in Council to make regulations to autonomously impose economic sanctions against a foreign state if one or many of the following circumstances has occurred: an international organization or association of states has called on its members to take measures, a grave breach of international peace and security has resulted in or is likely to result in a serious international crisis, gross and systematic human rights violations have been committed, or for acts of significant corruption.

- *State Immunity Act* – Assists individuals who have obtained a judgement against a foreign state on terrorism-related matters to request assistance in locating financial assets in Canadian jurisdiction belonging to foreign states that support terrorism.
- *United Nations Act* – Enables the Governor in Council to make regulations to give effect to decisions to impose measures made by the United Nations Security Council acting under Chapter 7 of the United Nations Charter.

4.0 International context

Canada's domestic AML/ATF efforts are reinforced and strengthened by the strong leadership role it plays in global efforts to counter terrorist financing and money laundering. Canada's international participation in AML/ATF initiatives is primarily through the work of the Financial Action Task Force (FATF), the Egmont Group, the G7, the G20. The Regime is also influenced by commitments from the broader global community, including decisions made by the United Nations Security Council, the Organisation for Economic Co-operation and Development (OECD), and other international organizations and conferences. Canada's role in these international organizations is described below.

Financial Action Task Force (FATF)

Given the transnational nature of money laundering and terrorist financing activities, international cooperation and support for effective AML/ATF regimes globally are critical. The Financial Action Task Force (FATF) was created in 1989 by the G7 to lead global efforts to adopt and implement measures designed to counter the use of the financial system by criminals. Canada is a founding member of the FATF, which currently stands at 37 member jurisdictions and 2 regional bodies,¹ representing most major financial centers around the globe.

Canada participates in the FATF through regular attendance at Plenary and working group meetings three times a year, contributions to standard setting and policy development at international level, peer reviews of countries, and support and capacity building of the global network. Members of the Canadian delegation to the FATF actively contribute to the development and delivery of Canada's positions on international AML/ATF issues and reports to the FATF, in addition to providing assessors and reviewers for mutual evaluations.

The Department of Finance leads Canada's delegation to the FATF with participation from operational and policy Regime partners. Preparing for the FATF Plenary covers many issues, therefore the Canadian Delegation to the FATF leverages expertise of all Regime partners to ensure that Canada has a coordinated view that reflects this country's operational and policy positions on AML/ATF in setting global standards. Recognizing that FATF standards and Canadian priorities, legal structures, and history may not fully align, the Canadian Delegation to

¹ The regional bodies that participate in the FATF are the European Commission and the Gulf Cooperation Council.

the FATF is also responsible for developing a clear response to address those differences to facilitate effective engagement with the FATF.

Members of the Canadian AML/ATF Regime also participate in meetings that occur annually on the sidelines of the FATF Plenary, including the Private Sector Consultative Forum and the Fintech/Regtech meetings that provide opportunities for FATF members to hear private views on global AML/ATF issues, and the Joint Experts' Meetings to discuss typologies.

The global nature of money laundering and terrorist financing threats necessitates a concerted international response. Canada also supports global implementation of these standards through its participation in two FATF-Style Regional Bodies of strategic interest, the Caribbean Financial Action Task Force (CFATF) and the Asia/Pacific Group on Money Laundering (APG).

Egmont Group

In June 2002, FINTRAC became a member of the Egmont Group of FIUs, whose purpose is to enhance cooperation and information exchange in support of member countries' anti-money laundering and terrorist financing regimes. Currently, comprised of FIUs from 155 jurisdictions,² the Egmont Group's goals are to foster communication and improve the exchange of information, intelligence, and expertise among the global network of FIUs.

As Canada's FIU, FINTRAC works with foreign financial intelligence units to protect Canadians and the integrity of Canada's financial system. Through over 100 Memoranda of Understanding (MOUs), the Centre may disclose financial intelligence to financial intelligence units worldwide when the appropriate threshold is met. At the same time, foreign intelligence units are able to share their information with FINTRAC, which broadens its analyses of international financial transactions.

Canada also provides technical assistance and shares expertise with foreign financial intelligence units, helping to enhance global knowledge of money laundering and terrorism financing issues and to strengthen international compliance and financial intelligence operations.

International Convention for the Suppression of the Financing of Terrorism

The Government of Canada is a signatory on the International Convention for the Suppression of the Financing of Terrorism since 2000. The international convention outlines signatories' requirements to prevent the financing of terrorist activity. The Convention establishes Know Your Customer requirements, the identification of legal entities to meet Know Your Customer Requirements, the identification of suspicious transactions, and a minimum 5 year retention rate for banking information.

² Source: <https://egmontgroup.org/en/content/about>



Organisation for Economic Co-operation and Development

As an intergovernmental organization, the OECD includes a program of work focused on leading the development of international tax rules, addressing tax barriers to trade and investment while also supporting developed and developing countries in tackling tax crimes, money laundering and other financial crimes.³ The CRA Criminal Investigations Directorate works with the OECD's Task Force on Tax Crimes and Other Crimes to improve co-operation between tax and law enforcement agencies, including anti-corruption and anti-money laundering authorities, to counter financial crimes more effectively. Through this work, the CID co-lead a working group to update the *Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors* (2019). The handbook seeks to provide capacity building for, and raise the awareness among, tax examiners, auditors and investigators of both money laundering and terrorist financing. More recently the CRA CID has supported the OECD in the development of the 2nd edition of *Fighting Tax Crime: The Ten Global Principles* (forthcoming) as well as the *Tax Crime Investigations Maturity Model* (2020). The *Ten Global Principles* sets out the essential principles for effectively fighting tax crimes, covering the legal, institutional, administrative, and operational aspects for fighting tax crimes and other financial crimes. The *Maturity Model* uses a set of empirically observed indicators to help jurisdictions understand where they stand in the implementation of *The Ten Global Principles*.

United Nations Effort to Counter Terrorist Financing

Since 1999, the United Nations Security Council has adopted a series of resolutions related to freezing the assets of the Taliban, Al-Qaida, and their associates. With these resolutions, the UN maintains a list of groups and individuals designated by United Nations Security Council Committees. All UN Members States have an international legal obligation to freeze assets of the designated persons and groups, and to prohibit funding to them. Canada implements these resolutions through the enactment of regulations under the *United Nations Act*, which is GAC's responsibility.

International Technical Assistance and Capacity Building

Effective implementation AML/ATF standards remains a challenge globally, especially among members of the FATF-Style Regional Bodies. Canada provides training, equipment, and technical and legal assistance to help countries develop capacity and frameworks to strengthen their AML/ATF frameworks.

Most Canadian AML/ATF foreign technical assistance is funded through two programs administered by GAC, the Anti-Crime Capacity Building Program and the Counter-Terrorism Capacity Building Program. Canada also provides technical assistance directly, through FINTRAC, the RCMP, and the Department of Justice.

³ Source: OECD/Secretary-General's Report to Ministers 2018, p.102 of the Report, at <http://www.oecd.org/about/>

Capacity building projects include training analysts from financial intelligence units, banking supervisors, prosecutors, investigative magistrates, and judges in countries of strategic interest, as well as projects implemented by international organizations.

