



**#end** snowwashing

# Ending Canada's Snow-Washing Problem with a Publicly Accessible Beneficial Ownership Registry

An Advocacy Handbook



Canadians *for*  
**Tax Fairness**  
Canadiens pour une fiscalité équitable



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## About This Handbook

This handbook provides an overview of how a publicly accessible company registry of beneficial owners can help Canada address the problems associated with the abuse of anonymous companies, including money laundering, tax avoidance and corruption. It is intended as a summary guide for advocates, referencing additional resources on the use of beneficial ownership transparency to deter illicit cash.

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## About Canadians for Tax Fairness



Canadians for Tax Fairness is a non-profit organization whose aim is to raise public awareness of crucial issues of tax justice and to change the way Canadians talk about tax. We advocate for fair and progressive government policies aimed at building a strong and sustainable economy, reducing inequalities and funding quality public services.

## About Publish What You Pay Canada



Publish What You Pay Canada is part of the global Publish What You Pay movement of civil society organisations working to make oil, gas and mineral governance open, accountable, sustainable, equitable and responsive to all people. As a movement, we envision a world where all people benefit from their natural resources, today and tomorrow. Launched in 2008, PWYP-Canada today numbers 15 members and realises its work through advocacy, research and public outreach to promote and achieve enhanced disclosure of information about extractive industry projects.

## About Transparency International Canada



Transparency International Canada (TI Canada) is the Canadian chapter of Transparency International. Since its foundation in 1996, TI Canada has been at the forefront of the national anti-corruption agenda. In addition to advocating legal and policy reform on issues such as whistleblower protection, public procurement and corporate disclosure, we design practical tools for Canadian businesses and institutions looking to manage corruption risks, and serve as an anti-corruption resource for organizations across Canada.

# Acknowledgements

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# Contents

<b>Introduction: What is beneficial ownership transparency?</b>	<b>5</b>
Canada's snow-washing problem: the abuse of anonymous companies	5
The solution: A publicly accessible company registry of beneficial owners	6
<b>Section 1: How anonymous shell companies impact Canada</b>	<b>7</b>
Secret companies enable crime and corruption	7
Anonymous funds flood Canadian real estate	9
Risks to legitimate Canadian businesses	11
Increased compliance costs for businesses	11
Tax avoidance and tax evasion	12
<b>Section 2: What is being done as Canada moves towards beneficial ownership transparency</b>	<b>13</b>
Timeline of progress	13
The global context and need for a made-in-Canada solution	14
<b>Section 3: How Canada can create an effective publicly accessible registry</b>	<b>15</b>
Setting the right threshold: how much ownership is required for disclosure?	15
Fields of information that should be collected in a publicly accessible registry	16
Enforcement and Penalties	16
Validation of information and technical solutions	16
Shining a light on corporate secrecy while preserving individual privacy	17
Accessibility is key to an effective public registry	18
What could you do with this information? Lessons learned from the UK	18
<b>Conclusion</b>	<b>19</b>
<b>References</b>	<b>20</b>

## Introduction

# What is Beneficial Ownership Transparency?

## Canada's snow-washing problem: the abuse of anonymous companies

Canada has made international headlines as an attractive money laundering destination for kleptocrats, criminals, and tax dodgers. Experts estimate \$47 billion to \$130 billion in illicit funds are funnelled through the economy every year.<sup>1</sup> That's over 5% of Canada's 2019 GDP. The trend of cleaning dirty money in Canada has grown so widespread, there's even a name for it, "snow-washing."<sup>2</sup>

It's no wonder criminals set their sights on Canada, which has some of the weakest corporate transparency laws in the world.<sup>3</sup> There are more rigorous checks to obtain a library card than to set up a shell company.<sup>4</sup>

Not everyone who owns a secret company is a criminal. Thousands of legitimate shell companies operate in the country. But gaps in Canada's laws allow the true owners of companies to remain anonymous, giving criminals entry to our economy and communities, where they do significant harm.

## Further resources on sizing up Canada's snow-washing problem

- In 2019, Canada's former RCMP deputy commissioner released a report, *Dirty Money Part 2*, on how money laundering entered the mainstream economy. It found 13,678 residential properties in British Columbia (B.C.) owned by individuals or entities had service addresses in one of 113 countries outside of Canada, more than a fifth of which are from known high-risk jurisdictions.<sup>5</sup>
- An expert panel appointed by the B.C. government released their 2019 report, *Combating Money Laundering in BC Real Estate*, which estimated more than \$7 billion was laundered in the province in 2018. The report concluded that disclosure of beneficial ownership is "the single most important measure that can be taken to combat money laundering but is regrettably under-used both internationally and in Canada."<sup>6</sup>
- Reporting by *Toronto Star* journalists Robert Cribb and Marco Chown Oved has documented Canada's snow-washing problem.<sup>7</sup>

## The solution: A publicly accessible company registry of beneficial owners

Experts have recommended greater transparency of the true owners of companies, known as beneficial owners.<sup>8</sup> Making this ownership information public can deter criminals from using anonymous companies to hide dirty money.

Federal, provincial, and territorial governments already have business registries, which are updated daily as companies are created, dissolved, amalgamated or undergo ownership, address and other information changes.<sup>9</sup>

A publicly accessible company registry of beneficial owners would provide additional information about the true owners of companies, and include basic information to identify these individuals, such as name and year and month of birth.

### Further resources on the need for a public registry and what it should contain

- *Secret Entities: A legal analysis of the transparency of beneficial ownership in Canada* by Mora Johnson, 2018.<sup>10</sup> See p. 6 on the Canadian landscape, p. 20 on provincial and federal corporate registries, and p. 29 and 40 for key recommendations.
- *Building a Transparent, Effective Beneficial Ownership Registry* by Mora Johnson, 2019.<sup>11</sup> See pages 7-8 for data sets and design considerations.





## Section 1

# How Anonymous Shell Companies Impact Canada

### Secret companies enable crime and corruption

Weak transparency laws have made Canada a haven for criminals all over the world. *Dirty Money – Part 2* points to numerous cases where proceeds from crimes abroad, such as alleged large-scale bank frauds in China,<sup>12</sup> entered Canada. More recently, Canada fell four points to 12th place in Transparency International's Global Corruption Perceptions Index, landing behind peers such as Germany and Norway. The annual index pointed to Canada's snow-washing problem as a key reason for the downgrade.<sup>13</sup>

The RCMP's success rate for convicting money laundering is a fraction of what it is for other crimes. In 80% of cases, a suspect cannot be identified and only a third of the cases that do go to trial result in conviction.<sup>14</sup> Investigators are frustrated by the inability to identify the owner of a company used to hide criminal activity. Law enforcement must request the information, which delays investigations and risks tipping off criminals. A public registry can help authorities discreetly identify culprits.



Money laundering contributes to organized crime, drug and sex trafficking, and the fentanyl crisis in Canada,<sup>15</sup> and negative consequences are felt far beyond our borders. For example:

- Shell companies are used by criminals and corrupt officials across the world, from violent dictators and drug lords to terrorists such as Hezbollah, which partly financed its activities by using companies in North Carolina to smuggle cigarettes.<sup>16</sup>
- A World Bank study found 70% of large corruption cases involved hidden ownership and the misuse of shell companies.<sup>17</sup>

Public registries can prevent corruption before it spreads. After the UK implemented a public registry, there was a significant decrease in a type of corporate arrangement commonly associated with money laundering known as Scottish Limited Partnerships (SLPs).<sup>18</sup> SLPs do not have to identify associated partners and have been used in financial scandals such as fraud or arms dealing.<sup>19</sup> After the UK created a public registry in 2016, a study by the advocacy group Global Witness found the incorporation of SLPs declined by 80% from their peak in 2015.<sup>20</sup>

Making beneficial ownership information public can curb illicit financial flows and reduce organized crime.

## Further resources on the link between anonymous shell companies, crime, and corruption

- *Why we fail to catch money launderers 99% of the time*, by Kevin Comeau, for the CD Howe Institute, May 2019.<sup>21</sup>
- *Anonymous Companies: How hidden company ownership is a major barrier in the fight against poverty and what to do about it*, by Global Witness, May 2013.<sup>22</sup>
- *Terrorism, Inc.: How Shell Companies Aid Terrorism, Crime, and Corruption*, by Diana L. Ohlbaum, Open Society Foundations, 2013.<sup>23</sup>
- *The Companies We Keep: What the UK's open data register actually tells us about company ownership* Global Witness, July 2018.<sup>24</sup> See page 3 for criminal deterrence effects.



## Anonymous funds flood Canadian real estate

The amount of money laundering in B.C. real estate hit \$5.3 billion in 2018, almost 5% of the province's real estate transactions,<sup>25</sup> according to estimates by the B.C. government-appointed expert panel on money laundering.

Transparency International Canada's 2016 report, *No Reason to Hide*, found nearly half of Vancouver's most valuable properties were hidden behind shell companies, trusts and nominee owners.<sup>26</sup>

Vancouver isn't alone. TI Canada's 2019 follow-up report, *OPACITY: Why Criminals Love Canadian Real Estate (And How to Fix It)* examined more than 1.4 million property transactions in the Greater Toronto Area, where prices have skyrocketed. The report found that companies were three times more likely than individuals to buy real estate without a mortgage. And, at least \$20 billion entered the GTA housing market in the past decade without oversight or due diligence on beneficial owners.<sup>27</sup>

Montreal also made headlines after investigative reporters in 2017 discovered nearly \$30 million in property was bought by government officials and politically exposed persons from several West African countries with endemic corruption.<sup>28</sup>

The Radio-Canada investigative program, *Enquête*, exposed the risks of dirty money entering the housing market in Montreal through an undercover investigation.<sup>29</sup>



An aerial photograph of a dense urban area in Montreal, Quebec, Canada, during winter. The streets and rooftops are covered in a layer of snow. The buildings are primarily multi-story red brick structures. A prominent church with a tall, green-roofed steeple is visible in the upper center of the image. The overall scene depicts a typical winter day in a historic city center.

Montreal made headlines after investigative reporters in 2017 discovered nearly \$30 million in property was bought by government officials and politically exposed persons from several West African countries with endemic corruption.<sup>28</sup>

## Risks to legitimate Canadian businesses

In today's complex and fast-changing business environment, it is critical that firms conduct due diligence. Knowing exactly who they are doing business with helps small and medium-sized enterprises (SMEs) make informed decisions about their supply chains and partners.

SME owners often invest everything into their businesses, but criminals who abuse shell companies have no such concern. They exist solely to hide the proceeds of crime.

Criminals want to remain anonymous for all kinds of reasons, from fraud to embezzlement – all of which could have big implications for SMEs.

Legitimate businesses have lost millions after being taken advantage of by criminals using shell companies.<sup>30</sup> It's challenging for law enforcement to track down perpetrators and recover proceeds due to the secretive structure of these entities.

## Increased compliance costs for businesses

Canadian businesses need greater transparency. An Ernst and Young fraud survey found 91% of senior executives believe it is important to know the ultimate beneficial ownership of the entities with which you do business.<sup>31</sup> Otherwise firms spend valuable time and resources on due diligence – adding another layer of red tape that stifles business investment.

A public registry would alleviate compliance costs for more than 31,000 Canadian, designated non-financial businesses and professions, and financial institutions who are required to conduct due diligence on their clients under anti-money laundering and terrorist financing laws.

Since the UK launched its public registry in 2016, a majority (64%) of businesses have found the publicly available information useful. Close to a third considered the information “very useful.”<sup>32</sup>

The minor cost to businesses to implement and maintain a registry would be eclipsed by greater compliance savings, especially among smaller companies with limited resources. The median overall cost of compliance in the UK was relatively small, at just £125<sup>33</sup> (about \$240 Canadian).

Businesses were also asked if collecting and submitting information had affected how their business operates. The majority (95%) said it had no impact at all. In fact, some said the registry's increase in corporate transparency was economically advantageous as it would likely result in improved business confidence and lead to greater investment.<sup>34</sup>

Compliance costs are also borne by financial institutions that devote vast resources to activities the government could perform with a registry. A publicly accessible and centralized registry would bring significant efficiencies across multiple sectors of the economy.<sup>35,36</sup>



## Tax avoidance and tax evasion

Governments lose billions to tax evasion and avoidance every year. Experts estimate as much as 10% of global GDP is stashed offshore.<sup>37</sup> The situation is worse in developing regions like Latin America, where more than half of all private wealth flows offshore.<sup>38</sup>

Scandals such as the Panama Papers have offered a glimpse into Canada's role in international tax dodging. Close to 900 Canadians were named in the 2016 Panama Papers<sup>39</sup> leaks and 3,000 in the 2017 Paradise Papers,<sup>40</sup> and Canada has been contributing to the global problem with its weak transparency rules.

Researchers found “a large fraction” of offshore wealth is traced back to shell companies, trusts, foundations, and personal holding companies incorporated in other tax havens.<sup>41</sup>

Major cases of international tax evasion have been linked to anonymous entities in Canada, including the largest tax fraud operation in Russian history. Between 2008 and 2013, Russian crime syndicates sprinkled illicit proceeds using entities they incorporated across Canada, from Ontario and New Brunswick to Alberta and British Columbia.<sup>42</sup>

These cases would have been easier to investigate had a public beneficial ownership registry been available to law enforcement, the Canada Revenue Agency and FINTRAC, as well as journalists, civil society, whistleblowers and the public.

Tax evaders have admitted as much. Mossack Fonseca, the law firm at the heart of the Panama Papers, used a Quebec numbered company to facilitate a tax scheme for a Peruvian mining firm.<sup>43</sup> Internal communications from the law firm revealed how Canada's lack of beneficial ownership transparency made it an appealing place to do business: “[it] is impossible for the Canada revenue governmental system to look into such information for every single company,” they wrote.<sup>44</sup>

As billions escape into an underground economy, the tax burden shifts to honest Canadians and businesses. Canada's total tax gap – how much is owed in taxes versus how much the government collects – could be as high as \$47 billion a year, according to a 2017 report from the Conference Board of Canada.<sup>45</sup> In 2019, the CRA estimated the corporate tax gap alone could be as much as \$11 billion.<sup>46</sup>

Since the explosive 2016 Panama Papers leaks, the federal government has vowed to crack down on massive offshore tax avoidance and evasion, but Canada can't tackle sophisticated global networks without strengthening secrecy laws at home. Until it lifts the veil on anonymous ownership, shell companies will be used for financial crimes, costing both federal, provincial, and territorial governments billions in lost revenues.



## Section 2

# What is being done as Canada moves towards beneficial ownership transparency

## Timeline of progress

For years, advocacy groups and anti-money laundering experts have urged the federal government to improve beneficial ownership transparency. Here is a list of major milestones in Canada as of April 2020:





## The global context and need for a made-in-Canada solution

Governments in other countries recognize that public registries can help expose the agents behind illegitimate operations and prevent them from setting up shop in the first place.

The UK, Denmark, Latvia, Slovenia, Bulgaria, and Ukraine have already introduced public registries. All EU member states have agreed to implement public registries. The UK plans to do the same with its overseas territories by 2023.<sup>55</sup> Even known tax havens such as the Cayman Islands committed to a public registry under the UK's rules.<sup>56</sup> Almost 50 countries, including the EU, have implemented or plan to roll out beneficial ownership registries, a majority of which will be public.<sup>57</sup>

Industry is moving toward greater transparency as well. The Extractive Industries Transparency Initiative (EITI), a global standard for good governance of the oil, gas and mining industry, required 52 member countries to disclose beneficial owners for extractive companies by 2020.<sup>58</sup> These countries will publish this information, enabling law enforcement, civil society and others to scrutinize the data.

At least 20 countries under the Open Government Partnership (OGP) committed to advance global norms on beneficial ownership transparency as of July 2019.<sup>59</sup> Canada is also among 37-member jurisdictions of the Financial Action Task Force (FATF), an intergovernmental body that sets international standards and assesses member policies in combating the proceeds of crime, including beneficial ownership transparency. In 2016, the FATF gave Canada low compliance scores for lax transparency of beneficial ownership information.<sup>60</sup>

Canada can learn from its international peers that have taken a proactive role in tackling corporate secrecy, and improving transparency and accountability.



## Section 3

# How Canada can create an effective publicly accessible registry

### Setting the right threshold: how much ownership is required for disclosure?

Threshold refers to the amount of ownership and control an individual must have to be considered a beneficial owner. The higher the threshold, the easier it is for criminals to hide. Experts in the US and EU have challenged the conventional notion of the ownership and control threshold being set at 25% and recommended lowering it to 10%.<sup>61</sup> An analysis by Global Witness found one in 10 companies in the UK still claimed to have no beneficial owner under this higher 25% threshold.<sup>62</sup>

A report by Open Government Partnership documented one example of how this happens: Kazakh banker Mukhtar Ablyazov hid his embezzlement crimes under the guise of eight companies by using several entities that held 9.5 to 9.96% interests to avoid passing the 10% disclosure threshold.<sup>63</sup> It took authorities over two years to build enough evidence against him.<sup>64</sup> A public registry with a lower threshold could have helped law enforcement or others link Ablyazov, his multiple companies, and the source of funds.

Canadian lawmakers should consider the B.C. government's lead. In creating the first public land registry in Canada, B.C. has set the threshold for a significant number of shares at 10%<sup>65</sup>, recognizing that 25% is too high.

## Fields of information that should be collected in a publicly accessible registry

Businesses should be required to gather and submit the following core information on their beneficial owners:

- Identifying the beneficial owner: full name and commonly known names, month and year of birth, service address, residential address, and country of current residence. Indicating countries of past residence will improve positive identification. Unique identifiers should also be assigned for all beneficial owners.
- Describing the beneficial owner relationship: information on the nature and extent of beneficial interest held.

## Enforcement and Penalties

Businesses must report changes such as sale of shares or ownership. Failure to disclose information should be subject to a financial penalty big enough to deter criminals. This is because money launderers will view small penalties as simply the cost of doing business, and will likely continue illegal activities.

Fines for willful nondisclosure run as high as €1,000,000 in Germany, and generally range from €50,000 to €200,000 for noncompliance, as well as terms of imprisonment in Gibraltar, Malta, the Netherlands, and Norway.<sup>66</sup>

An effective registry also requires a central office that is staffed with a clear mandate and powers to issue penalties. Registrars with expertise in corporate law would be skilled at detecting risks and determining when additional verification or investigation is required.<sup>67</sup>

## Validation of information and technical solutions

Beneficial owners should be verified just as individuals are required to do so to drive a car, or open a bank account. Examples of ID include passports, driver's licenses, or provincial identification cards with a photo. Proof of identity should be accessible to law enforcement or regulatory bodies but restricted from the public. Additional requirements could include a sworn statement or attestation of ownership.

Third-party verification systems, such as digital IDs, have the potential to make processing beneficial ownership information easier across jurisdictions. Several banks and financial institutions have adopted emerging technologies such as Verified.me, which allow individuals to securely confirm their identities online.<sup>68</sup> All major Canadian banks are looking to a digital framework. The Canadian Bankers Association has called for a federal digital ID system to reduce fraud and improve compliance while reducing background checks and costs.<sup>69</sup>

## Shining a light on corporate secrecy while preserving individual privacy

It is important to distinguish between secrecy and privacy. Secrecy is the act of concealing something. Privacy is an individual right. As anti-corruption advocates have pointed out, there is no justification for corporate secrecy.<sup>70</sup>

Registries should be designed to protect privacy. The UK registry contains beneficial owner details such as full date of birth, but only the month and year are publicly disclosed.

Canada should apply restrictions to safeguard privacy. Information such as country of origin could attract racial profiling and public access to such fields should be restricted.

In very rare cases, involvement in a business or associated wealth could make individuals targets for kidnapping or extortion. However, in Canada, many large profitable corporations are publicly traded and owners with 10% or more of voting shares are listed via the System for Electronic Disclosure by Insiders (SEDI). Information about wealth is already in the public domain.<sup>71</sup>

The UK uses a rigorous process for exempting information and offers no blanket exemptions for any group of people. Of more than one million companies that provided beneficial ownership information, only 270 applied to have their information withheld on the basis it would put them at risk.<sup>72</sup> In exceptional cases, the owner's information is still available to authorities, and other details are protected.<sup>73</sup>

Canada has a process in place to mitigate risks.<sup>74</sup> Anytime a federal program is created or changed, a privacy risk-assessment exercise is carried out. Assessments are reviewed by the Privacy Commissioner of Canada, which may advise additional measures to protect privacy.

Owners with nothing to hide have no reason to seek secrecy. Minimal privacy risks would ultimately be eclipsed by broader societal gains of enhanced transparency and crime prevention.

Read more in our privacy report, [A Public Beneficial Ownership Registry and the Canadian Privacy Regime: A Legal Analysis](#).



## Accessibility is key to an effective public registry

Registries should be available to everyone from tax officials and financial institutions to journalists conducting investigations and Canadian businesses doing due diligence checks. Public scrutiny can reduce errors and improve data. Users should be able to flag false or missing information using a portal or tipline.

The UK registry helped the public find incorrect information. There were 58,352 reports from the public regarding likely mistakes and discrepancies in the company register between July 2017 and March 2018.<sup>75</sup> While this may seem problematic, it is far better for incorrect information to be corrected through public disclosure and crowdsourcing than for this incorrect information to be retained privately.

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### What could you do with this information? Lessons learned from the UK:

- **Whistleblowers** could confidentially connect corruption or crimes, such as money laundering and tax evasion, to beneficial owners and their businesses by using an anonymous tip-line.
- **Civil society organizations and journalists** could use the data to investigate conflicts of interest and other matters of public interest. The open format of the UK registry helped facilitate investigations uncovering British beneficial owners of companies, including an explosive Financial Times article in 2019 that found one-third of British billionaires had moved their personal tax residency to tax havens.<sup>76</sup>
- **Foreign and domestic tax, and investigative authorities** could analyze data to detect inconsistencies across regions, enhancing government collaboration. The UK registry was cross-checked with other regions' public datasets. For example, discrepancies were found between asset declarations of Ukrainian politicians and officials and the beneficial owners listed in the PSC register."<sup>77</sup>

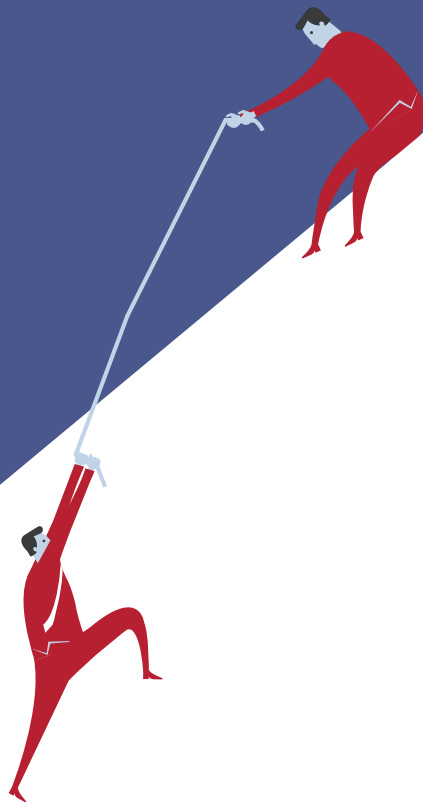


# Conclusion

When it comes to beneficial ownership, what you do not know can hurt you. Governments have learned this lesson the hard way, losing billions to money laundering and tax avoidance schemes. Crimes using shell companies leave little in the way of a paper trail, frustrating law enforcement and tax authorities who are already under-resourced.

The degree of secrecy granted to companies has come at a high cost to Canadians. Bad actors have exploited Canada's stable economy, leading to crime, housing unaffordability and increased corruption.

The Canadian government has acknowledged the problem and agreed to look at all options to fix it, including a public registry of beneficial ownership. This is a positive step, but it doesn't go far enough for a G7 country that has fallen behind its peers. Forty-five jurisdictions have already committed to implementing public registries. It's time for Canada to join the global movement towards beneficial ownership transparency.



## Take Action

To learn more and follow the campaign in Canada, visit our website at [www.endsnowwashing.ca](http://www.endsnowwashing.ca).

Follow the campaign on Twitter [@endsnowwashing](https://twitter.com/endsnowwashing) and use the hashtag [#endsnowwashing](https://twitter.com/endsnowwashing).

Speak up about this issue and contact elected officials to take action – public pressure matters. Send an email to Minister [Navdeep.Bains@parl.gc.ca](mailto:Navdeep.Bains@parl.gc.ca) and [Chrystia.Freeland@parl.gc.ca](mailto:Chrystia.Freeland@parl.gc.ca) or write to them, no postage required, at House of Commons, Ottawa, ON, K1A 0A6.



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