



## **Background Report on CPA Canada's Anti-Money Laundering Activities**

**Prepared for the Cullen Commission by the  
Chartered Professional Accountants of Canada**

## **A. Introduction**

1. Money laundering is a global issue which is illegal, unethical and harmful. In Canada, it poses threats to our national reputation, economy and society. The Chartered Professional Accountants of Canada (“**CPA Canada**”) recognizes these threats and has consistently taken a strong stand against money laundering on behalf of the chartered professional accountant (“**CPA**”) profession and in the public interest.

2. This report provides a summary of CPA Canada’s activities in relation to anti-money laundering (“**AML**”), including its internal 2014-16 Anti-Money Laundering & Terrorist Financing Committee, educational efforts and publications on AML topics, on-going extensive engagement with the federal government on strengthening Canada’s AML regime, and involvement in other Canadian and international committees that support the global efforts against unethical behaviour, corruption and money laundering.

## **B. CPA Canada’s Anti-Money Laundering Committee**

3. In 2014-2015, CPA Canada established the Anti-Money Laundering & Anti-Terrorist Financing Committee (the “**CPA Canada AML/ATF Committee**”), an internal committee devoted to AML and anti-terrorist financing (“**ATF**”) issues in the accounting profession. The CPA Canada AML/ATF Committee’s Terms of Reference are attached as Appendix “A”.<sup>1</sup> The CPA Canada AML/ATF Committee’s objectives were to:

- (a) assist CPA Canada in contributing, on behalf of the CPA profession and in the public interest, to the more effective and efficient fight against money laundering and terrorist financing;

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<sup>1</sup> CPAC00000050.

- (b) assist CPA Canada in continuing to develop a trusted reputation for the CPA profession in the area of AML/ATF;
- (c) provide CPA Canada with input into the impact on individual CPAs and CPA firms of AML/ATF legislation and related governmental consultations and initiatives;
- (d) support CPA Canada's efforts in the area of AML/ATF by identifying, prioritizing and analyzing issues that may have an impact on CPAs and CPA firms; and
- (e) assist CPA Canada with the development of timely and relevant guidance and resources that will assist CPAs and CPA firms in understanding their obligations under AML/ATF legislation and improving their level of compliance.

4. In 2014, the CPA Canada AML/ATF Committee produced resources for the CPA profession with respect to compliance with AML and ATF obligations. It prepared a Webinar presentation entitled "Compliance with Canada's Amended AML and ATF Legislation".<sup>2</sup> This presentation was designed to help CPAs determine whether and what AML obligations apply to them and their firm, recognize changes to AML obligations and update their compliance programs; and become familiar with CPA Canada's new guide for AML compliance.

5. Shortly after, CPA Canada released its updated *Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation* (the "**2014 Guide**"), which set out recent changes to Canada's AML legislation and provided practical guidance for AML compliance to accountants and accounting firms.<sup>3</sup> The 2014 Guide also contained questionnaires, checklists, copies of forms from the Financial Transactions and Reports Analysis Centre ("**FINTRAC**"), and practical guidance on how to complete those forms. The 2014 Guide was authored by Matthew McGuire,

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<sup>2</sup> A copy of this presentation is attached as Appendix "B" (CPAC00000005).

<sup>3</sup> A copy of the *Guide* is attached as Appendix "C" (CPAC00000004).

then at MNP LLP and the Chair of the CPA Canada AML/ATF Committee, and developed through contributions of the CPA Canada AML/ATF Committee. The Guide is currently being revised and updated to reflect recent changes to Regulations and CPA Canada intends to issue the revised edition in spring 2021.

6. In May 2014, CPA Canada, through Mr. McGuire in his role as Chair of the CPA Canada AML/ATF Committee, made representations on proposed amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (“*PCMLTFA*”) to the federal government’s Standing Senate Committee on Banking, Trade and Commerce,<sup>4</sup> and the House of Commons Standing Committee on Finance.<sup>5</sup>

7. At a meeting of the CPA Canada AML/ATF Committee in early 2015, FINTRAC representatives made a “FINTRAC 101” presentation titled “Anti-Money Laundering and Anti-Terrorism Financing in Canada”, which included compliance examination findings in the accounting sector.<sup>6</sup> FINTRAC reported that organizations in the accounting sector are generally assessed as lower risk, but noted that the accounting sector’s AML compliance efforts required improvement.

8. In response, the CPA Canada AML/ATF Committee considered ways to raise awareness of AML issues in the profession, including a possible bulletin or reminder of AML obligations to the membership. The CPA Canada AML/ATF Committee reviewed a draft Alert to the profession to remind them of their obligations in regards to AML legislation and regulations.<sup>7</sup> Shortly

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<sup>4</sup> A copy of the transcript from that session is attached as Appendix “D” (CPAC00000064).

<sup>5</sup> A copy of the transcript from that session is attached as Appendix “E” (CPAC00000053).

<sup>6</sup> A copy of the presentation is attached as Appendix “F” (CPAC00000051). Minutes from the March 4, 2015 meeting are attached as Appendix “G” (CPAC 00000048).

<sup>7</sup> Meeting minutes from the July 20, 2015 meeting of the CPA Canada AML/ATF Committee are attached as Appendix “H” (CPAC00000063).

afterward, in July 2015, CPA Canada released an Alert to the Profession titled “Proceeds of Crime (Money Laundering) and Terrorist Financing – Know Your Obligations”.<sup>8</sup> The Alert reminded accountants and accounting firms, as reporting entities under the *PCMLTFA*, of their obligations when they engage in triggering activities, and pointed them to FINTRAC guidance and policy interpretations to assist the profession in applying the legislation in practice, as well as CPA Canada’s 2014 Guide. Based on the results of past regulatory examinations of accounting firms conducted by FINTRAC, CPA Canada advised members to focus on and improve performance in the following two key areas to achieve better AML compliance: mandatory two-year effectiveness reviews, and risk assessment and effective risk mitigation plans.

9. The CPA Canada AML/ATF Committee was wound down in 2016, as CPA Canada refocused its AML efforts on engagement with the federal government. In 2016 and 2017, the federal government dissolved its Public/Private Sector Advisory Committee, which Mr. McGuire had participated in on behalf of the CPA Canada AML/ATF Committee, and created the public-private sector Advisory Committee on Money Laundering and Terrorist Financing (“**ACMLTF**”), of which CPA Canada is a member. CPA Canada’s involvement on ACMLTF is discussed in more detail below.

10. During 2018, at the request of the federal government, CPA Canada participated in targeted consultations regarding beneficial ownership and bearer shares.

11. CPA Canada has been active in advocating for increased beneficial ownership transparency and providing information to CPAs on the developments. In April 2019, CPA Canada and the federal government teamed up to provide CPAs with information about recent changes to comply

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<sup>8</sup> A copy is attached as Appendix “I” (CPAC00000006).

with requirements for new beneficial ownership registers under the *Canadian Business Corporations Act* to come into effect June 13, 2019. CPA Canada coordinated outreach activities and invitations to CPAs to attend CPA-only webinars hosted by Corporations Canada at the Department of Innovation, Science and Economic Development entitled “Register of individuals with significant control”.<sup>9</sup>

12. In February 2019, CPA Canada hosted a session where provincial CPA bodies and CPA Canada governance leaders of the profession from across the country gathered and heard from a panel on AML and the CPAs’ role in combatting money laundering. The panelists were Carol Bellringer, CPA, Auditor General of British Columbia, and a past member of the B20 task force on integrity and compliance advising the G20; Geneviève Mottard, CPA, President and CEO of the Quebec CPA Order, and Chair of CPA Canada’s Public Trust Committee, which oversees ethics standards and self-regulatory processes for the profession; Michele Wood-Tweel, CPA, Vice-President of Regulatory Affairs at CPA Canada, and a member of two working groups with ACMLTF; and Russell Guthrie, USCPA, Executive Director of External Affairs and CFO at the International Federation of Accountants (“**IFAC**”).<sup>10</sup>

13. More recently, on September 2, 2020, Michele Wood-Tweel, CPA Canada’s Vice President of Regulatory Affairs, gave a presentation to members of the Chartered Professional Accountants of Saskatchewan titled “Anti-Money Laundering and Terrorist Financing Update”.<sup>11</sup> The presentation explained the *PCMLTFA* regime, recent activity and developments of interest,

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<sup>9</sup> A copy of the presentation, and a copy of an online article linking to the presentation, are attached as Appendices “J” (CPAC00000008) and “K” (CPAC00000007), respectively.

<sup>10</sup> A summary of the panel’s discussion was published in the May 2019 issue of Pivot Magazine which every CPA receives (CPAC0000033) and video clips were included in a news story for members in April 2019 (CPAC00000032).

<sup>11</sup> A copy of the presentation is attached as Appendix “L” (CPAC00000009).

an overview of beneficial ownership, new amendments to the *PCMLTFA Regulation*, relevant FINTRAC guidance, and how COVID-19 was creating evolving money laundering risks.

14. In addition, CPA Canada regularly publishes information about AML to educate CPAs on recent developments and issues, either on its website, through its own magazine for the profession, *Pivot*, or through other media channels. Recent publications on the topic include the following:

- (a) CPA Canada, Media Release: CPA Canada offers input to better support federal government in fight against money laundering and terrorist financing (May 7, 2014) (CPAC00000025);<sup>12</sup>
- (b) Joy Thomas, “CPAs: International crime fighters”, *Business Ethics Blogs* (June 2017) (CPAC00000026);<sup>13</sup>
- (c) [Daniel McKenzie, “Recent developments in anti-money laundering and terrorist financing regulations strengthens fight against financial crimes”, \*News\* \(October 30, 2018\)](#) (CPAC00000027);
- (d) [Michael McCullough, “Putting an end to B.C.’s money laundering problems”, \*Pivot Magazine\* \(January 2, 2019\)](#) (CPAC00000028);
- (e) Bruce Ball, “What Ottawa’s corporate reporting overhaul means for CPAs”, *Pivot Magazine* (January 4, 2019) (CPAC00000029);<sup>14</sup>
- (f) Joy Thomas, “How CPAs fight the flow of dirty money”, *Pivot Magazine* (January 7, 2019) (CPAC00000030);<sup>15</sup>

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<sup>12</sup> Attached as Appendix “M”.

<sup>13</sup> Attached as Appendix “N”.

<sup>14</sup> Attached as Appendix “O”.

<sup>15</sup> Attached as Appendix “P”.

- (g) CPA Canada, “Budget offers broad sweep of measures to help Canadians but not a much-needed tax review”, News (March 19, 2019) (CPAC00000031);<sup>16</sup>
- (h) [Ethan Rotberg, “Feds boost anti-money laundering investments as Canada fights ‘dirty money’”, News \(April 10, 2019\)](#) (CPAC00000032);
- (i) [CPA Canada, “What it takes to clean up dirty money”, Pivot Magazine \(May 6, 2019\)](#) (CPAC00000033);
- (j) [José Hernandez, “Money laundering is a national crisis. What now?”, Pivot Magazine \(July 3, 2019\)](#) (CPAC00000034);
- (k) [Sophie Nicholls Jones, “Budget 2020 recommendations respond to call for low-carbon economy”, News \(August 12, 2019\)](#) (CPAC00000035);
- (l) [Sophie Nicholls Jones, “CPAs can help companies adapt to new beneficial ownership rules, experts say”, News \(October 29, 2019\)](#) (CPAC00000036);
- (m) Sophie Nicholls Jones, “Policy advocacy priorities remain the same with new minority government”, News (November 13, 2019) (CPAC00000037);<sup>17</sup>
- (n) [Adrienne Tanner, “Peter German is on a mission”, Pivot Magazine \(April 24, 2020\)](#) (CPAC00000038);
- (o) [Micah Toub, “Canada needs to get serious about whistleblower protections. Here’s why”, Pivot Magazine \(April 27, 2020\)](#) (CPAC00000039);

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<sup>16</sup> Attached as Appendix “Q”.

<sup>17</sup> Attached as Appendix “R”.

- (p) [Peter Shawn Taylor, “Corruption and financial crime have tarnished Canada’s reputation”, Pivot Magazine \(April 27, 2020\) \(CPAC00000040\);](#)
- (q) [Gundi Jeffrey, “How accountants can help fight money laundering”, Pivot Magazine \(April 28, 2020\) \(CPAC00000041\);](#)
- (r) [Joy Thomas, “We need all hands on deck to stop the flow of dirty money”, Pivot Magazine \(April 28, 2020\) \(CPAC00000042\);](#)
- (s) [CPA Canada and International Federation of Accountants, News Release: “As Financial Crimes Grow during the Pandemic, Accounting Groups Address Key Piece of AML Action” \(May 26, 2020\) \(CPAC00000043\);](#)
- (t) [Sophie Nicholls Jones, “Accountants offer valuable views in beneficial ownership registry discussion with new international report”, News \(May 28, 2020\) \(CPAC00000044\);](#)
- (u) [Joy Thomas, “Pandemic reinforces the need for corporate transparency to fight money laundering”, Globe and Mail \(June 2, 2020\) \(CPAC00000045\);](#)
- (v) [CPA Canada, “Pandemic reinforces the need for corporate transparency to fight money laundering”, Opinions and Events \(June 24, 2020\) \(CPAC00000046\);](#)
- (w) [Margaret Craig-Bourdin, “B.C.’s Cullen Commission on money laundering to hear from accountants next month”, News \(December 4, 2020\) \(CPAC00000054\).](#)

15. CPA Canada also has a webpage dedicated to AML policy developments, which includes CPA Canada’s submissions to government and work on beneficial ownership issues, which are further detailed below.<sup>18</sup>

16. These resources provided by CPA Canada are in addition to the AML resources provided by the provincial regulatory bodies, including the Chartered Professional Accountants of British Columbia.

### **C. Engagement with the Federal Government on Anti-Money Laundering Policy**

17. CPA Canada has steadily worked towards strengthening the Canadian AML regime by engaging in public-private consultations with the federal government.

#### **1. The Finance Canada Advisory Committee on Money Laundering and Terrorist Financing**

18. Since 2016, CPA Canada has had representation on and has actively participated on Finance Canada’s public-private sector Advisory Committee on Money Laundering and Terrorist Financing (“ACMLTF”). José Hernandez, a CPA Canada volunteer and the Chief Executive Officer of Ortus Strategies, represents CPA Canada on ACMLTF. CPA Canada also has representatives on two of ACMLTF’s public-private subcommittees. Michele Wood-Tweel, CPA Canada’s Vice President, Regulatory Affairs and Gary Hannaford, CPA Canada volunteer and past CEO of CPA Manitoba, represent CPA Canada on the Legislation and Regulations Working Group, which is chaired by Finance Canada. Ms. Wood-Tweel also represents CPA Canada on the Guidance and Policy Interpretation Working Group, which is chaired by FINTRAC.

19. Since 2017, ACMLTF and its Working Groups have met several times per year in person and/or via conference call. As a member of ACMLTF and its Working Groups, CPA Canada

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<sup>18</sup> A copy of the webpage, “Anti-Money Laundering Policy”, is attached as Appendix “S” (CPAC00000010).

representatives attend meetings and take part in discussions. They also receive information and provide input and feedback, including on updated FINTRAC guidance. Members of ACMLTF are expected to keep information discussed and documents shared within ACMLTF and its Working Groups confidential.

**2. Comments to FINTRAC on draft Money Laundering and Terrorist Financing Risk-Based Approach (RBA) Guidance for Accountants – November 10, 2014**

20. On November 10, 2014, CPA Canada provided comments to FINTRAC as part of its consultation on the draft Money Laundering and Terrorist Financing Risk-Based Approach (RBA) Guidance for Accountants.<sup>19</sup>

21. In its comments, CPA Canada identified six goals for the draft guidance: (1) fidelity to the legislation; (2) applicability and tailoring to the CPA profession; (3) rigour in incorporating accepted risk management theories and authoritative publications; (4) ease of use; (5) reasonable and sustainable use of resources, proportionate to expected outcomes; and (6) mechanisms to evaluate effectiveness. Applying these criteria, CPA Canada found that the guidance in its current form would not be useful to its members, and made 22 substantive recommendations.

**3. Comments to Department of Finance on Proposed Amendments to Regulations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act – August 28, 2015**

22. On August 28, 2015, CPA Canada made a submission to the Department of Finance on proposed regulations amending regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (“*PCMLTFA*”) in response to a Notice published in the *Canada Gazette*.<sup>20</sup>

CPA Canada recommended revisions to three aspects of the amendments, as follows:

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<sup>19</sup> A copy of these comments is attached as Appendix “T” (CPAC00000011).

<sup>20</sup> A copy of the submission is attached as Appendix “U” (CPAC00000013).

- (a) That the proposed amendment to change the standard for suspicious transaction reporting from “reasonable grounds to suspect” to “could reasonably be expected to raise reasonable grounds to suspect” was outside the Governor in Council’s jurisdiction to make regulations going to the content, form and manner of reporting, since it narrowed the common understanding of reasonable grounds to suspect to a standard based on constructive knowledge.
- (b) That the proposed amendment on non-face-to-face (NF2F) client identification scenarios, which restricted information sources to those that are original and current, and constrained the use of an electronic image of a document, would leave few remaining NF2F options. CPA Canada suggested that the amendments provide for the use of electronic images of documents only in scenarios where the reporting entity is able to verify its origin/authenticity.
- (c) That the amendments should become effective, not on final publication, but after six months to a year following the issuance of related FINTRAC guidance to allow reporting entities to implement and test their responding changes to program documentation, systems and processes.

**4. Input to the Department of Finance on efforts to combat money laundering and terrorist financing in Canada – March 31, 2017**

23. In response to a request from the Department of Finance, CPA Canada provided input on issues related to the *PCMLTFA* and Canada’s Anti-Money Laundering and Anti-Terrorist Financing regime.<sup>21</sup>

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<sup>21</sup> A copy is attached as Appendix “V” (CPAC00000014).

24. CPA Canada suggested that Canada consider developing a strategic blueprint that addresses the most pressing challenges and opportunities, including: (1) enhancing transparency of ownership of Canadian assets as a basis to improve due diligence efforts; (2) extending responsibility for AML/CTF compliance to public interest organizations; (3) encouraging individuals (and organizations) to speak up and report misconduct by providing adequate protection against retaliation; (4) streamlining and improving law enforcement efforts; and (5) benchmarking Canada's efforts against those countries that are most active in the prosecution of money laundering and terrorist financing-related offences (e.g. Switzerland and the United States).

25. Potential efforts the CPA Canada identified to consider within the blueprint included:

- (a) Development of a legal framework that would incentivize organizations in the public interest to self-report, cooperate with law enforcement, and remediate instances of misconduct;
- (b) Development of new, national standards outlining expectations for organizational integrity and compliance programs;
- (c) Establishment of a framework around whistleblowing, including secure channels for whistleblowers to report potential misconduct without fear of reprisal or discrimination;
- (d) Development of enhanced, transparent, and streamlined processes for law enforcement, prosecutors, and other parties to address allegations of misconduct; and
- (e) Creation of public registries of legal persons that enable Canadian organizations to know their customers better and gain insight into the ultimate beneficiaries of Canadian assets.

**5. Submission on the Pre-budget consultations of the House of Commons Standing Committee on Finance – August 2017**

26. CPA Canada provided its policy priorities and recommendations for the 2018 federal budget to the House of Commons Standing Committee on Finance.<sup>22</sup>

27. CPA Canada recommended that the federal government take action in five key areas:

- (a) Responsible fiscal management;
- (b) Tax reform;
- (c) Human capital development;
- (d) Innovative business environment; and
- (e) National adaptation plan.

28. Under the heading of tax reform, CPA Canada noted that it supports the government's commitment to collaborate with the provinces and territories to develop a national strategy to improve the availability of beneficial ownership information to crack down on money laundering, terrorist financing and other illegal practices.

**6. Response to Department of Finance Discussion Paper Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime – May 17, 2018**

29. CPA Canada provided input on issues raised relating to the PCMLTFA and Canada's Anti-Money Laundering and Anti-Terrorist Financing regime in the February 7, 2018 Discussion Paper Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime.<sup>23</sup>

30. In its comments, CPA Canada wrote that it supports the development of a framework that balances the burden on business with the necessity to improve the effectiveness of the regime for

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<sup>22</sup> A copy of the submission is attached as Appendix "W" (CPAC00000015).

<sup>23</sup> A copy of the input is attached as Appendix "X" (CPAC00000016).

the next decade. CPA Canada submitted that a national strategy to strengthen the transparency of legal persons and legal arrangements and improve availability of beneficial ownership information forms an integral part in helping Canadians do business in a more transparent manner and allows law enforcement's efforts to be more effective. However, CPA Canada discouraged creation of new requirements or expectations under the regime that may be duplicative or confusing. It also noted concern with the imposition of burdensome requirements and expectations on Canadian business if they bring only incremental benefits to the regime, while leaving other possible areas of greater risk unaddressed.

31. CPA Canada made specific comments on legislative and regulatory gaps addressed in the Discussion Paper, including support for corporate transparency, but noted that it was critical for the government to set out the regulatory burden, privacy implications and risks to be avoided or mitigated by such increased transparency (such as money laundering) to help Canadians and corporate Canada understand and assess the recommendations. CPA Canada also indicated that it would require detailed proposals to consult with members on certain issues, such as expanding requirements for designated non-financial businesses and professions (“**DNFBPs**”) in relation to politically exposed persons, head of international organizations and beneficial ownership, and in relation to non-transactional based activities.

32. CPA Canada also submitted that Canada would benefit from a national framework for reporting and protection of whistleblowers, and that the current “patchwork quilt” of provisions impedes familiarity with what exists, when it applies and how it works.

**7. Comments on Regulatory Amendments under the PCMLTFA – September 12, 2018**

33. In September 2018, CPA Canada provided comments on proposed regulations amending certain regulations under the *PCMLTFA*.<sup>24</sup> In addition to the comments on specific provisions, CPA Canada reiterated its support for the development of a comprehensive framework to balance the burden on business with the necessity of improving the effectiveness of the Regime for the next decade, considering developments in technology, threats and speed of business.

34. CPA Canada raised a concern with respect to a proposed amendment to aggregate reportable transactions under the 24-hour reporting rule, since “knowledge” was based on any information gathered in the reporting entity’s system. CPA Canada flagged that this could pose an unreasonable resource and financial cost, and suggested further consideration of this proposal.

35. CPA Canada also raised a concern about the proposed change to subsection 9(2), which would give the reporting entity three calendar days following when measures taken have enabled the establishing of reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering or a terrorist activity financing offence to make required reporting to FINTRAC. Specifically, CPA Canada noted the difficulties with using calendar days instead of business days, and the need to specify in the regulations what “measures taken” means. CPA Canada suggested a reporting timeline of 5 or 7 calendar days, and that the regulations specify that “measures taken” includes sign-off on the reasonable grounds and draft report by those authorized to do so.

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<sup>24</sup> A copy is attached as Appendix “Y” (CPAC00000017).

## **8. Response to request for additional information from Department of Finance on whistleblowing – February 13, 2019**

36. Following a meeting between Department of Finance Canada officials and CPA Canada representatives, CPA Canada provided additional information regarding whistleblowing, drawing on its work regarding international developments and its interests in a dialogue on how Canada's frameworks for reporting and whistleblower protections can be made more consistent and effective.<sup>25</sup>

37. CPA Canada wrote that it believed Canada would benefit from a “speak-up” culture where known or suspected wrongdoing can be reported and followed up on, and reiterated its concern with Canada's “patchwork quilt” of provisions in federal, provincial and territorial legislation that continues to evolve without a national approach or framework for reporting and protecting whistleblowers. It highlighted the key pieces needed for an effective whistleblowing system: a confidential line; protections against retaliation; follow-up by regulators or law enforcement; interactions with organizations to have them address allegations; reporting back; resolution; and awards for the whistleblowers. CPA Canada proposed that Canada look at models in other jurisdictions.

## **9. 2019 Federal Budget Analysis**

38. CPA Canada published an analysis of the federal budget tabled March 19, 2019, which included a commitment to funding and proposed legislative changes to strengthen Canada's anti-money laundering regime.<sup>26</sup>

39. The 2019 federal budget made a number of proposals in relation to anti-money laundering, including amendments intended to strengthen the *PCMLTFA* framework, and amendments to the

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<sup>25</sup> A copy of this letter is attached as Appendix “Z” (CPAC00000018).

<sup>26</sup> A copy of the analysis is attached as Appendix “AA” (CPAC00000019).

*Canada Business Corporations Act* to make beneficial ownership information “more readily available” to tax authorities and law enforcement.

40. CPA Canada commented that new plans, projects and funding to strengthen Canada’s anti-money laundering regime were welcome, subject to a detailed understanding of how they will address the current inadequacies in the federal legal framework and enforcement system and the implications for accountants in their roles in the efforts to counter money laundering.

#### **10. Pre-budget consultations in advance of the 2020 federal budget – August 2019**

41. CPA Canada also published recommendations on the 2020 federal budget directed to the House of Commons Standing Committee on Finance.<sup>27</sup> The Committee’s theme was “Climate Emergency: The Required Transition to a Low Carbon Economy”. As part of CPA Canada’s recommendations for accelerating Canada’s transition to a low-carbon, climate resilient and globally competitive economy, it recommended that the government work with the provinces and territories to strengthen Canada’s anti-money laundering regime, including through consistent beneficial ownership requirements and a new national framework around whistleblowing in the private and public sectors.

42. CPA Canada noted that money laundering was a complex issue challenging public trust, which impacted on the real estate market, tax revenues, and the integrity of Canada’s financial system. In this respect, CPA Canada urged the government to bolster federal-provincial-territorial coordination and action to ensure corporate statutes or other relevant legislation are amended to support increased corporate transparency through consistent beneficial ownership information requirements. It also recommended the development of a national framework around

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<sup>27</sup> A copy is attached as Appendix “BB” (CPAC00000020).

whistleblowing in the private and public sectors to combat potential corruption including through AML, featuring secure channels for whistleblowers to report potential misconduct without fear of reprisal or recrimination.

**11. Letter to Prime Minister Justin Trudeau on upcoming speech to the throne – November 26, 2019**

43. Following the 2019 election, CPA Canada wrote to Prime Minister Justin Trudeau to provide recommendations for moving Canada ahead in four priority areas, drawing from its recent pre-budget consultation submission.<sup>28</sup>

44. In the letter, CPA Canada reiterated that public trust was being challenged by the complex issue of money laundering. It noted its support for the government's commitment to work with interested provinces, territories and communities to establish a national approach to beneficial ownership requirements, and urged the government to expand its commitment to enhancing existing whistleblowing programs and developing a national framework around whistleblowing in the private and public sectors to combat corruption, including money laundering.

**12. Comments to the Department of Finance regarding proposed amendments under the PCMLTFA – March 16, 2020**

45. CPA Canada provided comments on proposed amendments to regulations under the *PCMLTFA* on matters of relevance to accountants and accounting firms.<sup>29</sup>

46. CPA Canada submitted that the coming into force of new beneficial ownership requirements to be applied by DNFBPs, which includes all sizes of practicing firms and members, should be effective on or after January 1, 2022, in order to provide a better opportunity for the profession to educate members through its communications, publications and educational efforts.

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<sup>28</sup> A copy of the letter is attached as Appendix "CC" (CPAC00000021).

<sup>29</sup> A copy is attached as Appendix "DD" (CPAC00000022).

It also noted that it would be in the public interest for these beneficial ownership requirements to be effective when all provinces have implemented and made effective the requirements for provincially incorporated private companies to have beneficial ownership registers, and for the new requirements for beneficial ownership reporting by trusts to the Canada Revenue Agency to also be in effect. CPA Canada further noted the importance of additional time in allowing FINTRAC to update its guidance for how the obligations are to be met, which should be available well in advance of the new requirements taking effect for the profession to educate members through its communications, publications and educational efforts.

47. Finally, CPA Canada noted the importance of FINTRAC's outreach activities to ensure awareness of the new requirements, and suggested that such outreach activities should be confirmed, without any doubt, as part of the implementation plan.

### **13. Submission in response to Strengthening Corporate Beneficial Ownership Transparency in Canada – April 2020**

48. In February 2020, the Government of Canada published a consultation paper titled *Strengthening Corporate Beneficial Ownership Transparency in Canada*. CPA Canada provided a submission in response to this paper.<sup>30</sup>

49. CPA recommended a phased transition to a public registry or registries of beneficial ownership for corporations, which would enhance the efficiency and effectiveness of the anti-money laundering and terrorist financing regime by enabling timely access to information for law enforcement, enabling Canada to cooperate with other countries, and enabling reporting entities to access relevant information to establish and/or corroborate customer and client data as required by law. CPA Canada also noted that public registries would improve deterrence, identification and

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<sup>30</sup> A copy of the submission is attached as Appendix "EE" (CPAC00000023).

prosecution by creating “daylight” regarding other illegal acts like tax evasion, and would combat corruption and foster a “speak up culture” so that individuals and companies can do their own due diligence and be informed about the organizations they do business with.

50. CPA Canada also submitted that although a central registry accessible only to competent authorities would not provide the benefits of a public registry set out above, it would still be supportable as a marked improvement on current beneficial ownership transparency, and could be the first phase of a phased approach toward the evolving international “best practices” for corporate registries. CPA Canada supported a tiered access model, allowing for the greatest amount of information to be available to competent authorities followed by reduced and restricted access to information by reporting entities under the regime and a more restricted amount of information available to the public at large.

51. CPA Canada’s submission also provided input on various issues surrounding an effective beneficial ownership regime, including optimal use of technology, the importance of consistency across Canada, individual and business privacy concerns, and international best practices.

#### **14. Approaches to Beneficial Ownership Transparency: The Global Framework and Views from the Accountancy Profession – 2020**

52. In addition to providing recommendations to the federal government on beneficial ownership transparency, CPA Canada has also provided international research that analyzes the best approaches to beneficial ownership registries and registers across jurisdictions. In 2020, CPA Canada co-authored a report with IFAC titled “Approaches to Beneficial Ownership Transparency: The Global Framework and Views from the Accountancy Profession”.<sup>31</sup>

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<sup>31</sup> A copy is attached as Appendix “FF” (CPAC00000024).

53. The report considers several approaches to beneficial ownership transparency and highlights options for policymakers and other stakeholders, including company-based beneficial ownership registers, centralized beneficial ownership registries (with varying degrees of access), and “using existing information”. The report highlights the verification and validity of information, as well as appropriate access to information, as key factors in a registry’s efficacy.

### **15. Other Consultations and Meetings**

54. In addition to CPA Canada’s public and non-public submissions to the federal government on anti-money laundering matters, CPA Canada also regularly participates in information sessions, consultations, meetings and discussions with federal government officials and representatives on these issues, often at the government’s request. Through these engagement efforts, CPA Canada provides feedback on proposed changes and potential improvements to the anti-money laundering regime in Canada, including the *PCMLTFA* and beneficial ownership requirements under the *Canadian Business Corporations Act*.

#### **D. International Anti-Money Laundering Efforts**

55. CPA Canada also engages internationally on anti-money laundering efforts on behalf of the Canadian accounting profession. It is a member of IFAC, which is the global organization for the accountancy profession. IFAC has been engaged as an anti-corruption partner in the B20, the official business community engagement forum for the Group of Twenty (“G20”). Canada’s Carol Bellringer, a CPA and former auditor general of British Columbia, served on the B20 Taskforce on Integrity and Compliance in 2016-18. Internationally, IFAC encourages governments to work with the profession in building an ecosystem to fight fraud and corruption. In July 2018, in advance of the G20 meeting of leaders, IFAC and the International Bar

Association (“**IBA**”) announced their shared commitment to continue their work combating corruption in all its forms and released the IBA and IFAC Anti-Corruption Mandate.

56. Most recently, in December 2020, CPA Canada and the International Ethics Standards Board for Accountants (IESBA) National Standards Setters released an alert to professional accountants internationally, *COVID-19 and Evolving Risks for Money Laundering, Terrorist Financing and Cybercrime*.<sup>32</sup> CPA Canada also provided comments into the IFAC Point of View document, *Fighting Corruption and Money Laundering*.<sup>33</sup>

57. In May 2019, Mr. Hernandez and Ms. Wood-Tweel attended the Financial Action Task Force’s (“**FATF**”) Private Sector Consultative Forum on behalf of CPA Canada as part of the Canadian public-private sector delegation.<sup>34</sup> This two-day meeting is a global gathering of public-private sectors that participate in the fight against money laundering and terrorist financing world-wide. At the forum, an updated draft FATF publication, *Guidance for a Risk-Based Approach for the Accounting Profession*, was considered. This updated publication was released in June 2019.<sup>35</sup> CPA Canada representatives also participated in the 2020 FATF Private Sector Consultative Forum which was held virtually on November 24, 2020.<sup>36</sup>

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<sup>32</sup> A copy is attached as Appendix “GG” (CPAC00000055).

<sup>33</sup> <https://www.ifac.org/what-we-do/speak-out-global-voice/points-view/fighting-corruption-and-money-laundering>

<sup>34</sup> See CPAC00000056, CPAC00000049, CPAC00000059, CPAC00000058.

<sup>35</sup> DOC-00001525.

<sup>36</sup> See CPAC00000060.

**Anti-Money Laundering & Anti-Terrorist Financing Committee  
of the  
Chartered Professional Accountants of Canada**

**TERMS of REFERENCE**

**Objectives**

The objectives of the Anti-Money Laundering & Anti-Terrorist Financing ('AML/ATF') Committee ('Committee') of the Chartered Professional Accountants of Canada ('CPA Canada') are to:

- a. Assist CPA Canada in contributing, on behalf of the CPA profession and in the public interest, to the more effective and efficient fight against money laundering and terrorist financing.
- b. Assist CPA Canada in continuing to develop a trusted reputation for the CPA profession in the area of AML/ATF.
- c. Provide CPA Canada with input into the impact on individual Chartered Professional Accountants ('CPA's) and CPA firms of AML/ATF legislation and related governmental consultations and initiatives.
- d. Support CPA Canada's efforts in the area of AML/ATF by identifying, prioritizing and analyzing issues that may have an impact on CPAs and CPA firms.
- e. Assist CPA Canada with the development of timely and relevant guidance and resources that will assist CPAs and CPA firms in understanding their obligations under AML/ATF legislation and improving their level of compliance.

**Responsibilities**

The responsibilities of the Committee include supporting CPA Canada and Research, Guidance and Support staff in:

- a. Developing the future strategy of CPA Canada's objectives with respect to AML/ATF on an ongoing basis.
- b. Evaluating the potential policy implications of government and regulatory consultations or other proposed or actual amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* or other relevant legislation.
- c. Providing input on public or private submissions to the relevant governmental body on such consultations or proposed or actual amendments.
- d. Preparing draft submissions and other communications on behalf of CPA Canada, as appropriate.
- e. Developing guidance and other resources related to AML/ATF for the accounting profession.
- f. Performing reviews of materials under development.
- g. Providing guidance on communications to be undertaken with members.
- h. Promoting and supporting staff in educational activities related to AML/ATF.
- i. Representing CPA Canada before relevant bodies as needed.
- j. Making recommendations to or aligning with other advisory groups of CPA Canada to help address the full range of AML/ATF issues faced by CPAs and CPA firms.

## **Composition and Term**

Members will be nominated by the CPA Canada Principal responsible for the Committee in consultation with the Lead Principal and Vice President, Research, Guidance and Support.

The Committee will normally comprise six to eight members as follows:

- a. One Chairperson ('Chair') with a two year term of office.
- b. Five to seven other members with a term of three years, renewable for one term. Members will have expertise, experience and an interest in AML/ATF and the *PCMLTFA*.

In exceptional circumstances, a Chair or Committee member may be invited to extend their term beyond their normal or renewable term.

The Committee also includes the following staff of CPA Canada as non-voting members:

- a. The Principal, Corporate Oversight and Governance, in Research, Guidance and Support, who is responsible for the Committee ('Principal').
- b. The Lead Principal, Corporate Oversight and Governance, in Research, Guidance and Support, who oversees the AML/ATF area ('Lead Principal').
- c. The Vice President, Research, Guidance and Support ('Vice President') will participate, as needed, to provide the Committee with input and clarity on CPA Canada-related matters

CPA Canada staff will endeavor to identify Committee members such that no fewer than one-half of the Committee will be members of CPA Canada. Given the specialist nature of the Committee, however, Committee members will be selected based on the skill sets required to accomplish the mandate, while maintaining an appropriate diversity of background and experience.

## **Removal of Members**

Members of the Committee are expected to participate in substantially all meetings. The schedules of members will be accommodated as much as reasonably possible when setting meeting dates. Any member who fails to participate in three consecutive meetings may be removed from membership at the discretion of the Chair and the Principal.

## **Accountability**

The Committee reports to and is accountable to the Principal and Lead Principal who are accountable to the Vice President.

## **Decision Making**

Final decisions will be made by CPA Canada after consultation and input from the Committee.

**Meetings**

The Committee will meet on an as-needed basis. It is anticipated the Committee will meet no more than four times in person during the year with conference calls to be arranged as necessary and as agreed to by the Committee.

# CPA Magazine

WEBINAR SERIES

## **Compliance with Canada's Amended AML and ATF Legislation**

Matthew McGuire  
MNP LLP



# Our Objectives and Agenda

After the session, the CPA will...	Agenda
be able to determine whether AML obligations apply to their firm	(1) Canada's national AML program, and the role of professional accountants (2) Determining whether AML obligations apply to your accounting firm (3) Determining whether your firm performs activities that trigger requirements
recognize the changes to AML obligations applicable to accountants, and update their programs for complying with AML obligations	(5) Changes to our AML obligations (6) Updating your compliance program to reflect the changes (7) Expected enforcement of the changes
be familiar with CPA Canada's new guide for AML compliance and its uses for compliance program development	(8) CPA Canada's legacy guide (9) Our new guide and its expected release date

*n.b. This session is designed to help you update your program rather than design one.*

# Overview

- Canada's national AML program enlists individuals and companies in the fight against money laundering and terrorist financing, and accounting firms have been part of that program and contributing for about a decade.
- Accounting firms are responsible to identify clients, keep certain records and report transactions in prescribed circumstances, and to maintain a compliance program.
- Changes to our obligations came-into-force on February 1, 2014 and will be enforced this summer. Generally they involve isolating clients that perform certain activities and monitoring them.
- CPA Canada is releasing an updated guide to help accountants and accounting firms comply with their obligations.

# Canada's National AML Program

- Taking the profit out of crime to increase public safety and meet international commitments
  - Creating a hostile environment for money launderers
  - Investigating and sanctioning criminals that do launder money
- Hostile environment includes enlisting the financial, real estate, insurance, accounting, casino, precious metals sectors (known as “Reporting Entities”) to keep information about clients and transactions, and to report suspicious and large transactions
- Reports and records can also be used to assist in investigations

# Canada's National AML Program

- The Financial Transaction Reports and Analysis Centre (FINTRAC) is Canada's Financial Intelligence Unit, and has two roles
  - Collecting, analyzing and disclosing money laundering and terrorist financing intelligence to law enforcement, tax, and other intelligence agencies
  - Enforcing Reporting Entity compliance with their obligations

# The Role of Accountants in AML

- When AML requirements are applicable, Accountants and Accounting Firms must:
  - (A) Perform certain responsibilities in their day-to-day activities
  - (B) Maintain a program to ensure that they comply with their responsibilities

# The Role of Accountants in AML

- When AML requirements are applicable, Accountants and Accounting Firms must:
  - Perform certain responsibilities in their day-to-day activities

Circumstance	Receipt of Funds Record	Client Identification	Large Cash Transaction Report	Third Party Determination	Suspicious Transaction Report	Terrorist Property Report
Receiving funds of \$3,000 or more	•	•				
Receiving \$10,000 or more in cash	•	•	•	•		
Suspicious activity or transaction		•			•	
Knowledge of terrorist property						•

# The Role of Accountants in AML

- When AML requirements are applicable, Accountants and Accounting Firms must
  - (B) Maintain a program to ensure that they comply with their responsibilities
    - A person designated to implement and maintain the program (Chief Anti-Money Laundering Officer, or CAMLO)
    - An assessment of AML risk and risk mitigation plan
    - Policies and procedures
    - A program to train all employees and agents
    - A bi-annual effectiveness review

# Applicability to Your Firm

- There is a two part test, first:
  - (1) Does your firm qualify as an accounting firm?
  - (2) Does your firm conduct any triggering activities, that aren't otherwise exempted?

# Applicability to Your Firm

- There is a two part test, first:
  - (1) Does your firm qualify as an accounting firm?
    - Does your firm provide accounting services to the public?
      - Bankruptcy/Insolvency generally exempted
    - At least of the entity's partners, employees or administrators is a professionally designated accountant?

# Applicability to Your Firm

- There is a two part test, first:
  - (2) Does your firm conduct or instruct any triggering activities on behalf of a client?
    - Receiving, paying or transferring funds
    - Purchasing or selling real property, business assets, or entities
    - Purchasing, transferring or selling securities

Important considerations:

(1) Instructions versus advice, and assurance engagements

(2) Even one triggering activity obligates your firm to have a program... It's important that you have one in place if only to isolate triggering activities

# Changes to Our Obligations

- Legislation which came into force on February 1, 2014 obligates Accountants and Accounting Firms to track and monitor “Business Relationships”
- A “Business Relationship” is established for every client for which two or more triggering activity transactions occur over a five year period involving: a receipt of funds record; large cash report, or suspicious transaction report

# Changes to Our Obligations

- Within 30 days of the inception of a “Business Relationship”, the Accounting Firm must document the “Purpose and Intended Nature of a Business Relationship”, which may be described as:
  - Transferring funds or securities
  - Paying or receiving funds on behalf of a client
  - Purchasing or selling assets or entities
- That documentation may be maintained in your regular records (e.g. An engagement letter).

# Changes to Our Obligations

- All Business Relationships must be subject to “Ongoing Monitoring” on a risk-sensitive basis
- Ongoing Monitoring consist of periodically:
  - reviewing transactions to assess whether there are any suspicious transactions, or those that are otherwise inconsistent with our expectations of the client;
  - Keeping client identification information up to date, such as their address, principal business or occupation, and other information collected when you identify them (but not necessarily re-identifying the client); and,
  - Re-assessing the level of client risk.
- All Ongoing Monitoring efforts must be documented

# How to Update Your Program

- Update your mechanism for identifying triggering activities to track all triggering activity transactions by clients over time, together with a risk rating/tracking system.
- Design and Implement a program to document the client's purpose and intended nature of their business relationship on the second triggering transaction, or by which routine documents will be referenced.
- Design and implement a program to initiate and document reviews of client identification information, transaction and risk, with greater frequency for higher risk clients.
- Change procedures to reflect the above.
- Update training to reflect the above for impacted individuals.

# Expected Enforcement

- FINTRAC released guidance related to the new Business Relationship requirements on January 31, 2014, the day before the related regulations came-into-force (see below)
- FINTRAC has signalled that, because of the delay in producing guidance, examinations will begin addressing the new requirements around August 2014
- Policy and procedure deficiencies are subject to maximum penalties of \$100,000
- Client identification information deficiencies are subject to maximum penalties of \$1,000 per client

English: <http://www.fintrac.gc.ca/publications/guide/Guide6/6D-eng.asp>

French: <http://www.canafe.gc.ca/publications/guide/Guide6/6D-fra.asp>

# CPA Canada's Legacy AML Guide

## Canada's Anti-Money Laundering & Anti-Terrorist Financing Requirements

A GUIDE FOR CHARTERED ACCOUNTANTS

JUNE 2008



<http://www.cica.ca/publications/list-of-publications/manual/item13720.pdf>

# CPA Canada's New AML Guide

- Expected publication in June/July 2014
- Addresses all existing AML obligations
- Contains guidance and sample forms related to:
  - Determining the application of AML obligations
  - Performing required tasks
  - Designing and implementing a compliance program
  - Dealing with FINTRAC examinations
  - Addressing privacy concerns

# Questions

# Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation





# Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation

Prepared by MNP LLP

## **DISCLAIMER**

This publication was prepared by the Chartered Professional Accountants of Canada (CPA Canada) as non-authoritative guidance.

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# Preface

The Anti-Money Laundering Committee (AML Committee) of the Chartered Professional Accountants of Canada (CPA Canada) has commissioned this publication *Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation* to help CPA Canada members and Accounting Firms deal with recent changes in AML regulatory requirements. Accountants and Accounting Firms are reporting entities under Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* with specific regulatory requirements when they engage in certain activities.

This *Guide* sets out recent changes to Canada's AML Legislation and provides practical guidance for AML compliance that is relevant to Accountants and Accounting Firms.

Accountants and Accounting Firms are at risk of penalties (both monetary and criminal) for non-compliance with the AML Legislation in the event of, for example, failure to report suspicious transactions. An effective AML compliance program is key to mitigating this risk.

This publication aids Accountants and Accounting Firms by addressing comprehensive topics including:

- AML standards and regime
- who and what activities fall within the AML obligations
- money laundering risk assessment
- development of a compliance regime
- AML and privacy obligations
- Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) examinations
- ongoing monitoring of business relationships

Throughout the *Guide* there are questionnaires and checklists to help Accountants and Accounting Firms ask the right questions, FINTRAC forms, and practical guidance on how to complete the forms.

CPA Canada thanks the author, Matthew McGuire of MNP LLP, and acknowledges the contribution of the CPA Canada AML Committee. Particular gratitude is extended to Mr. McGuire's colleague at MNP LLP, Iain Kenny, who provided valuable input and assistance throughout the project.



Gordon Beal, CPA, CA, M.Ed.  
Vice-President  
Research, Guidance & Support  
CPA Canada

### **Anti-Money Laundering Committee**

Matthew McGuire, MAcc, CPA, CA, DIFA, CAMS, AMLP, *Chair*  
Michael Ecclestone, LL.B., CAMS  
Monica Stark, CA, CAMS

### **Author**

Matthew McGuire, MAcc, CPA, CA, DIFA, CAMS, AMLP

### **Project Direction, CPA Canada**

Gigi Dawe, LL.M.  
*Principal*, Research, Guidance & Support  
*Leader*, Corporate Oversight & Governance

Rayna Shienfield, J.D.  
*Principal*, Research, Guidance & Support  
Corporate Oversight & Governance

Marial Stirling, CPA, CA, LL.B.  
*Principal*, Research, Guidance & Support  
Corporate Oversight & Governance

Gordon Beal, CPA, CA, M.Ed.  
*Vice-President*, Research, Guidance & Support

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## CHAPTER 1

# Motivation for the Guide

Since 2000, professional accountants in Canada have been an official part of the country's fight against money laundering and terrorist financing.<sup>1</sup> Our part in the fight generally involves keeping specified records about transactions and identifying clients from which we receive funds<sup>2</sup> in case that information should be needed for investigations; collecting, retaining and reporting large cash transactions;<sup>3</sup> as well as reporting attempted and completed suspicious transactions<sup>4</sup> and terrorist property<sup>5</sup> to add to the national money laundering intelligence database. AML Legislation was recently amended with changes to obligations effective February 1, 2014.<sup>6</sup> Those amendments also require Accountants and Accounting Firms to conduct ongoing monitoring of the relationships with clients involved in Triggering Activities.<sup>7</sup>

Canada codified obligations for Accountants and Accounting Firms in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and its Regulations (collectively referred to in this document as "AML Legislation"). The regulator responsible for ensuring adherence to that legislation is the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). FINTRAC issues its own guidance to assist individuals and entities to comply with their obligations.<sup>8</sup>

1 Details about the offences of money laundering and terrorist financing, and Canada's anti-money laundering and counter terrorist financing initiatives and their history are included in Appendix A—Canada's AML Legislation.

2 See section 3.1.1 for details.

3 See section 3.1.2 for details.

4 See section 3.1.3 for details.

5 See section 3.1.4 for details.

6 Those changes are incorporated into this guidance, and summarized in Appendix C—Summary of Changes Effective February 1, 2014.

7 See section 3.2 for details.

8 A listing of links to FINTRAC guidance relevant to Accountants and Accounting Firms is included in Appendix B—Links to FINTRAC Guidance.

The obligations only apply to Accountants and Accounting Firms in certain circumstances, generally instances where they are dealing with assets on behalf of their clients.<sup>9</sup> Once it is determined that they do apply, fulfilling the obligations may seem complex. Failing to comply with applicable AML Legislation in the prescribed circumstances can result in significant fines, penalties and jail time for Accountants and Accounting Firms.<sup>10</sup>

CPA Canada and its members are mandated to maintain the reputation of our profession. The profession's reputation can be tainted by non-compliance with legislation designed to combat crime, and worse, by association with activities that enable crime.

With that in mind, this *Guide* has three main purposes:

1. To help Accountants and Accounting Firms determine if AML obligations are applicable to their activities.
2. To guide Accountants and Accounting Firms to which AML Legislation applies in the development of a program to comply with their obligations.
3. To educate Accountants and Accounting Firms about the enforcement methods by the regulator FINTRAC and risks of non-compliance.

This *Guide* itself does not constitute an AML program. Each Accountant and Accounting Firm must develop its own policies and procedures, risk assessment and training program, as applicable.

9 These circumstances are described in section 2.2.

10 See section 7.4 for details.

## CHAPTER 2

# Determining if the Obligations Are Applicable

AML Legislation is applicable to Accountants and Accounting Firms engaging in Triggering Activities (described in section 2.2). Accountants and Accounting Firms have ongoing obligations to identify the performance of Triggering Activities and to perform all prescribed measures within specified timelines. As a practical matter, Accounting Firms are advised to perform annual training to make their organization aware of Triggering Activities in order that those in their firm are equipped to self-identify those circumstances. As a safeguard, Accounting Firms are advised to conduct an annual self-assessment to determine whether individuals in their organizations are involved in Triggering Activities, and to evaluate conformance of the related documentation to AML standards. Questionnaires aimed at assisting that determination are included in section 2.3.

## 2.1 Definition of Accountant and Accounting Firm

An “Accountant” is defined by AML Legislation as being a Chartered Accountant (CA), Certified General Accountant (CGA), or a Certified Management Accountant (CMA).<sup>11</sup> We expect that AML Legislation may be amended to include the new Chartered Professional Accountant (CPA) designation. This *Guide* has been prepared as though CPAs are covered.

<sup>11</sup> Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) subsection 1(2).

An “Accounting Firm” is defined by AML Legislation as being an entity that is engaged in the business of providing accounting services<sup>12</sup> to the public and has at least one partner, employee or administrator that is an accountant.<sup>13</sup>

The definition of Accountant does not require the professional to be engaged in providing professional accounting services to the public to be covered by the AML Legislation, only that they are a designated Accountant that performs, however infrequently, Triggering Activities.

An Accountant is not subject to AML Legislation if they only perform Triggering Activities on behalf of their employer.<sup>14</sup> That employer could be an Accounting Firm, or any other entity. An Accountant performing any Triggering Activities for any client in addition to, or outside of their regular employment relationship would still be subject to AML Legislation, in respect of those outside activities.

## 2.2 Definition of Triggering Activities

Generally, Triggering Activities involve dealing with client assets on their behalf. Dealing with client assets might involve actually conducting transactions on their behalf, or giving instructions to a party to conduct the transactions.<sup>15</sup> Exceptions and other considerations are explained in section 2.2.2.

There are three categories of Triggering Activities which are listed below with illustrative examples. These examples do not represent an exhaustive list of all possible Triggering Activity scenarios.

1. Receiving, Paying or Transferring Funds<sup>16,17</sup>
  - a. Your Accounting Firm performs bookkeeping services and has signing authority over the account of a not-for-profit organization client and pays invoices from that account on its behalf.

12 “Accounting services” is not defined in the PCMLTFR. In Alberta, the *Regulated Accounting Profession Act* paragraph 1(oo) defines “public accounting practice” to include the providing or offering to provide one or more of the following services to the public: (i) an assurance engagement; (ii) a specified auditing procedures engagement; (iii) a compilation engagement; (iv) accounting services; (v) forensic accounting, financial investigation or financial litigation support services; (vi) advice about or interpretation of taxation matters; (vii) preparation of a tax return or other statutory information filing, if prepared in conjunction with any service referred to in subclauses (i) to (vi).

13 PCMLTFR subsection 1(2).

14 PCMLTFR subsection 34(2).

15 The concept of “giving instructions” is explained in more detail in section 2.2.1.

16 PCMLTFR paragraphs 34(1)(a)(i)(iii).

17 “Funds” are defined in the PCMLTFR 1(2) as meaning “cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate a person’s or an entity’s title or interest in them”.

- b. A client issues a cheque to you as a sole practitioner Accountant in an amount equal to their income tax payable and your accounting fees. You then deposit the cheque and wire the income tax payable to the Canada Revenue Agency from your account.
    - c. A client instructs their vendor to settle their invoice by remitting funds to your Accounting Firm and then asks that your firm issues a cheque for the difference between the value of the wire and your outstanding fees.
    - d. A client requests assistance in transferring funds from a sanctioned country into Canada, in respect of which an Accountant arranges for Canadian accounts and wire transfers through intermediate countries.
  2. Purchasing or Selling Real Property, Business Assets, or Entities<sup>18</sup>
    - a. The leader of the corporate finance group of your Accounting Firm travels to the U.S. to finalize the purchase of a business on behalf of their client.
    - b. Acting as the trustee for an estate, an Accountant instructs a real estate broker to sell a piece of land owned by the estate.
  3. Purchasing, Transferring or Selling Securities<sup>19</sup>
    - a. An Accountant within your Accounting Firm has been engaged by the lawyer of a client without capacity to manage their investments, and exercises discretionary authority to buy and sell securities on their behalf.
    - b. As part of a tax restructuring engagement, an Accountant opens investment accounts in other countries on behalf of their clients and orders domestically-held securities transferred there.
    - c. In connection with a corporate reorganization, an Accountant documents and executes share transfers in a minute book on behalf of their client.

### 2.2.1 Giving Instructions Versus Giving Advice

An interpretation notice from FINTRAC<sup>20</sup> distinguishes the concept of “giving instructions”, which would constitute a Triggering Activity in respect of any of the three categories, from “giving advice”, which would not constitute a Triggering Activity. Giving instructions is synonymous with “ordering” a specific transaction in this context (e.g. “Based on my client’s instructions, I request that you transfer \$600 from my client’s account 12345 to his other

18 PCMLTFR 34(1)(a)(ii)(iii).

19 *Ibid.*

20 See the Interpretation Notice No. 2 at Appendix D—FINTRAC Interpretation Notice No. 2.

account 67890"). Giving advice involves a recommendation to the client or their advisors rather than giving instructions to take action with respect to their assets (e.g. "For tax purposes, we recommend that you transfer your money into long-term investments").

### 2.2.2 Specified Exemptions and Considerations

Once it has been determined that you are an Accountant or an Accounting Firm that engages in Triggering Activities, AML Legislation is applicable unless one of three exemptions apply:

1. In the case of an Accountant, when all Triggering Activities are performed on behalf of an employer.
2. In the case of an Accountant or an Accounting firm, where all Triggering Activities are performed in respect of an audit, review or compilation engagement.
3. In the case of an Accountant or Accounting firm acting solely in the capacity of a Trustee in Bankruptcy.

Additionally, for risk and other legislative reasons, some Accounting Firms have incorporated a separate entity through which they conduct Triggering Activities. Those entities are typically subject to other provisions of the same AML Legislation.

#### 2.2.2.1 *Employment Relationship*

As mentioned earlier, an Accountant who performs Triggering Activities only for their employer is not subject to the AML Legislation. Triggering Activities performed by an Accountant outside of their employment relationship would not be exempted by this provision. An Accountant who both worked as full-time employee controller *and* maintained bookkeeping clients on whose behalf they transferred funds, would be covered by AML Legislation because of the latter activity, and only in respect of that latter activity.

#### 2.2.2.2 *Assurance Related Activities*

AML Legislation holds that what would otherwise constitute Triggering Activities do not subject an Accountant or an Accounting Firm to its obligations in cases where those activities are performed in respect of "audit, review or compilation engagements carried out in accordance with the recommendations set out in the CICA Handbook".<sup>21</sup> Given the nature and standards governing those types of engagements, it is unlikely in any event that any Triggering Activities would be performed in connection with them.

21 PCMLTFR subsection 34(3). Also refer to Footnote 51.

### 2.2.2.3 *Trustee in Bankruptcy Services*

FINTRAC issued an interpretation notice<sup>22</sup> advising that Accountants and Accounting Firms appointed by a Court, or acting solely as a trustee in bankruptcy, are not considered to be acting on behalf of any other individual or entity, and therefore, are not engaged in Triggering Activities.

Additionally, FINTRAC advised in the notice that practices that only provide the services listed below are not considered to be “providing accounting services to the public”, and therefore would not be considered to be an Accounting Firm subject to AML Legislation:

1. As a receiver, pursuant to the provisions of a Court order or by way of a private letter appointment pursuant to the terms of a security interest.
2. A trustee in bankruptcy.
3. As monitor under the provisions of the *Companies' Creditors Arrangement Act* or any other proceeding that results in the dissolution or restructuring of an enterprise or individual and to which the firm, individual or insolvency practitioner serves as an officer of the Court or agent to one or more creditors or the debtor.

Notwithstanding, a firm which provides any accounting services to the public outside of the scope of those three listed services will be deemed to be an Accounting Firm. An insolvency practice may, for instance, also perform restructuring and interim controller services outside of the context of an appointment which would bring their firm into the definition of an Accounting Firm. In that case, Triggering Activities performed by that practice, such as the sale of real property in the capacity of an interim controller, would subject them to the obligations of prevailing AML Legislation.

### 2.2.2.4 *Implications of Organizational Structure*

For risk management purposes and to comply with other legislation, it is common practice for Accounting Firms to incorporate separate entities—such as a corporate finance division—for activities that relate to purchasing or selling real property, business assets, entities or securities. If these entities do not offer accounting services to the public, then they would not be considered to be Accounting Firms and therefore not subject to AML Legislation on that basis. However, other obligations arise from AML Legislation for entities that are considered to be “securities dealers”<sup>23</sup> or real estate brokers. Firms that

22 See Interpretation Notice No. 7 at Appendix E—FINTRAC Interpretation Notice No. 7.

23 PCMLTFR subsection 1(2) defines “securities dealers” as being: a person or entity that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services.

organize separate entities should comply with laws relevant to their activities, and take care not to provide or offer accounting services to the public from those entities.

**2.2.2.5 A Note on Client Fees**

For clarity, Triggering Activities give rise to the obligations of AML Legislation whether or not professional fees are received for those activities.

Receiving payment for client fees does not in itself constitute a Triggering Activity as the funds are not received on behalf of a client—they are received on behalf of the firm itself. However, payments from clients where the amount is comprised of both fees and value for further payment to a third party, such as the Canada Revenue Agency, would be considered a Triggering Activity.

## 2.3 Questionnaires to Assist in Determining Applicability

### 2.3.1 Do I Have Obligations as an Accountant?

Question	Response	Comment/Direction
1. Are you a professionally designated Accountant (CPA, CA, CMA, CGA)?	Yes	Designated professional Accountants have responsibilities if they perform Triggering Activities.  Proceed to Question 2.
	No	Non-designated accountants do not have responsibilities to AML Legislation by virtue of being accountants.  
2. Do you perform transactions or give instructions for transactions that involve any of these Triggering Activities on behalf of a client (on a compensated or non-compensated basis)? a. Receiving, Paying or Transferring Funds b. Purchasing or Selling Real Property, Business Assets, or Entities c. Purchasing, Transferring or Selling Securities	Yes	Performing Triggering Activities gives rise to obligations defined in AML Legislation, unless exceptions apply.  Proceed to Question 3.
	No	If no Triggering Activities are performed or offered, no obligations arise from AML Legislation by virtue of being an Accountant.  

Question	Response	Comment/Direction
<p>3. Are <b>all</b> Triggering Activities you perform or offer done so as part of your employment?</p>	Yes	<p>If all Triggering Activities are performed in the course of an employment relationship, the obligations defined by AML Legislation are not applicable.</p> 
	No	<p>If any one Triggering Activity is performed outside of an employment relationship, obligations set out in AML Legislation are applicable, unless other exemptions apply.</p> <p>Proceed to Question 4.</p>
<p>4. Are <b>all</b> Triggering Activities performed in connection with assurance engagements or as part of trustee in bankruptcy appointments?</p>	Yes	<p>If all Triggering Activities are performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are not applicable.</p> 
	No	<p>If any one Triggering Activity is conducted that is not performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are applicable.</p> 

### 2.3.2 Do We Have Obligations as an Accounting Firm?

Question	Response	Comment/Direction
1. Does your firm provide accounting services to the public?	Yes	An entity that provides <b>any</b> accounting services to the public may be considered an Accounting Firm if it has at least one partner, employee or administrator that is an Accountant. Note that insolvency related engagements that involve appointments as: receiver, trustee in bankruptcy, or as monitor under the provisions of the <i>Companies’ Creditors Arrangement Act</i> are not considered to constitute accounting services.  Proceed to Question 2.
	No	An entity that does not provide <b>any</b> accounting services to the public is not considered to be an Accounting Firm, and therefore would not have obligations pursuant to AML Legislation on that basis.  
2. Is at least one of your entity’s partners, employees or administrators a professionally designated Accountant (CPA, CA, CMA, CGA)?	Yes	Any entity that offers accounting services to the public and has at least one designated professional Accountant as a partner, employee or administrator is considered to be an Accounting Firm, and would have responsibilities if they perform Triggering Activities.  Proceed to Question 3.
	No	Any entity that offers accounting services to the public, but has no designated Accountant partners, employees or administrators, is not considered to be an Accounting Firm, and therefore would not be subject to AML Legislation obligations on that basis.

Question	Response	Comment/Direction
3. Does your firm perform transactions or give instructions for transactions that involve any of these Triggering Activities on behalf of a client (on a compensated or non-compensated basis)? a. Receiving, Paying or Transferring Funds b. Purchasing or Selling Real Property, Business Assets, or Entities c. Purchasing, Transferring or Selling Securities	Yes	Performing <b>any</b> Triggering Activity, for any fees or no fees, gives rise to obligations defined in AML Legislation, unless exceptions apply. Receiving client fees does not itself constitute a Triggering Activity.  Proceed to Question 4.
	No	If the firm performs no Triggering Activity, no obligations arise from AML Legislation by virtue of being an Accounting Firm.  
4. Are <b>all</b> Triggering Activities performed in connection with assurance engagements or as part of trustee in bankruptcy appointments?	Yes	If all Triggering Activities are performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are not applicable.  
	No	If any one Triggering Activity is conducted that is not performed in connection with assurance engagements or as part of trustee in bankruptcy appointments, obligations defined by AML Legislation are applicable.  

## 2.4 Determination of Triggering Activities in Larger Firms

Once it is determined that you are an Accountant or an Accounting Firm, there is an ongoing risk that you or your firm conducts a Triggering Activity (even if it is determined at a point in time that no Triggering Activity has occurred in the past or is not expected in the future). The engagement in one single Triggering Activity gives rise to the full scope of obligations under AML Legislation applicable to Accountants and Accounting firms, including training obligations, policies and procedures, risk assessments, etc. AML Legislation does not address the issue of how long obligations apply following an Accountant's or Accounting Firm's engagement in a single Triggering Activity.

Given the extent of effort required to maintain a Compliance Regime, and the significance of consequences for non-compliance, it is advisable that Accounting Firms direct resources to the determination of engagement in Triggering Activities across their firm at a point in time and then annually thereafter. A sole-practitioner Accountant may just complete the questionnaire provided above annually. At an Accounting Firm with less than ten partners, that determination may be limited to adding the item to the annual partner meeting agenda for discussion and declaration. At larger firms, education coupled with questionnaires, engagement checklists, and internal audit procedures may be more appropriate.

Some Accounting Firms have adopted a policy to prohibit engagement of Triggering Activities because of the risk and resource they entail, or to conduct them by authorized exception only. To satisfy examiners, those firms may wish to engage in an annual and documented self-assessment exercise to assess adherence to that prohibition policy. Even Accounting Firms that prohibit Triggering Activities or believe that they do not engage in such activities adopt a program to comply with AML Legislation in case Triggering Activities are inadvertently performed.

## CHAPTER 3

# What to Do if the Obligations Are Applicable

Accountants and Accounting Firms that engage in Triggering Activities are subject to the obligations of AML Legislation. Those obligations include the requirement to perform certain tasks when engaging in Triggering Activities that are associated with certain types of transactions, and to implement and maintain a program to ensure that those tasks are performed.

### 3.1 Required Tasks When Engaged in Triggering Activities

Being engaged in a Triggering Activity by itself does not trigger any required transaction-related tasks.<sup>24</sup> Certain tasks must be performed if engaged in a Triggering Activity **and** one or more of the following situations (or “Special Cases”) arise in connection with the Triggering Activity: the receipt of C\$3,000 or more;<sup>25</sup> the receipt of C\$10,000 or more in cash; reasonable grounds to suspect money laundering or terrorist financing; and, knowledge of terrorist property. The following table summarizes those situations and the associated task obligations.

24 Notwithstanding, engaging in any Triggering Activity gives rise to the obligation to implement and maintain a compliance program.

25 All amounts are expressed in Canadian dollars. Amounts received in foreign currencies must be translated to Canadian dollar equivalents using the official conversion rate of the Bank of Canada for that currency as published in the Bank of Canada’s Daily Memorandum of Exchange Rates that is in effect at the time of the transaction to assess whether applicable thresholds have been met (PCMLTFR paragraph 2(a)).

Special Case	Receipt of Funds Record	Client Identification	Large Cash Transaction Report	Third Party Determination	Suspicious Transaction Report	Terrorist Property Report
Receiving funds of C\$3,000 or more (section 3.1.1)	•	•				
Receiving C\$10,000 or more in cash (section 3.1.2)	•	•	•	•		
Suspicious activity or transaction (section 3.1.3)		•			•	
Knowledge of terrorist property (section 3.1.4)						•

### 3.1.1 Receiving Funds of \$3,000 or More

If funds<sup>26</sup> of C\$3,000 or more are received by an Accountant or Accounting Firm in a single transaction in connection with a Triggering Activity, two task obligations are triggered:

1. Keep a receipt of funds record.
2. Identify the client from whom the funds are received.

Those funds might be received in respect of fees, or for any other reason connected with the Triggering Activity. AML legislation does not specify that the funds must be received from the client for which the Triggering Activity is being performed.

#### 3.1.1.1 Exemptions

The obligations noted do not apply if the funds are received from a client that is a financial entity<sup>27</sup> or a public body.<sup>28</sup>

26 “Funds” are defined in the PCMLTFR 1(2) as meaning “cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate a person’s or an entity’s title or interest in them.”

27 “Financial Entity” means an authorized foreign bank, as defined in section 2 of the *Bank Act*, in respect of its business in Canada or a bank to which that Act applies, a cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial Act, an association that is regulated by the *Cooperative Credit Associations Act*, a financial services cooperative, a credit union central, a company to which the *Trust and Loan Companies Act* applies and a trust company or loan company regulated by a provincial Act. It includes a department or agent of Her Majesty in right of Canada or of a province when the department or agent is carrying out an activity referred to in section 45.

28 “Public Body” means (a) any department or agent of Her Majesty in right of Canada or of a province; (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them; and (c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital authority under the *Excise Tax Act*, or any agent of such an organization.

If the funds received involve C\$10,000 or more in cash, a Large Cash Transaction Report should be completed, retained and filed with FINTRAC instead of producing a receipt of funds record (see section 3.1.2—Receiving funds of \$10,000 or More in Cash).

### **3.1.1.2** *Receipt of Funds Record*

A sample receipt of funds record is shown in Appendix F—Sample Receipt of Funds Record. All fields on that form are mandatory. An Accountant or Accounting Firm may choose to maintain the information required in a receipt of funds record as part of its regular records (on paper or electronically in order that a paper copy can be readily produced from it),<sup>29</sup> as long as all information can be produced to FINTRAC within 30 days of a request.<sup>30</sup> The receipt of funds record must be retained for five years following the date of its creation. Receipt of funds records should not be filed with FINTRAC, however, their details might be subsequently referenced as necessary in Large Cash Transaction Reports (see section 3.1.2.4) or Suspicious Transaction Reports (section 3.1.3).

### **3.1.1.3** *Client Identification*

Client identification must occur at or before the time of the transaction to which the receipt relates, although it should occur as soon as practical after being engaged to conduct a Triggering Activity. In instances where funds are received unexpectedly and without the client present, and where the client had not been previously identified, the Accountant or Accounting Firm should identify the client prior to processing or returning the funds (both to meet regulatory obligations and to establish ownership over the property).

The purpose of client identification is to verify the identity of the person (name, address and date of birth) with whom you are dealing, in the case of a natural person, and, in the case of an entity, to verify the existence of the entity with which you are dealing and to verify the identity of the individual who is dealing on its behalf (with reference to corporate/other entity documentation).

29 PCMLTFR subsection 68(a).

30 PCMLTFR section 70.

AML Legislation permits client identification to occur in the following ways:

1. For individuals (natural persons):
  - a. Face-to-face: If the client is met in person, AML Legislation permits Accountants and Accounting Firms to verify their identity with reference to one piece of original government-issued valid and unexpired identification. See Appendix G—Identification of Individuals in Person: Method and Form.
  - b. Non-Face-to-Face: When a client is identified remotely (i.e., they are not physically present when you inspect their original, valid, and unexpired piece of government-issued identification), AML Legislation permits reference to a combination of one necessary and one sufficient identification method. The necessary methods include reference to credit checks or an attestation by a limited class of professionals, and the acceptable sufficient identification methods generally include confirmation against a Canadian deposit account. See Appendix H—Identification of Individuals Non-Face-to-Face: Methods.
  - c. Using an Agent or Mandatary: It is possible to contract a third party to conduct face-to-face identification measures on your behalf (i.e. have a third party pre-contracted to verify the identity of a client with reference to one piece of original government-issued valid and unexpired identification. While the task can be delegated to an agent, the responsibility for client identification rests with the Accountant/Accounting Firm. See Appendix I—Identification of Individuals by Third Parties: Methods.

Individual client information records must be maintained for five years following the date on which they were created. It may be prudent to retain those records for a longer period in case of the need for subsequent reliance in other identification scenarios, and on account of other obligations and uses, while respecting privacy obligations.

2. For entities: Where an entity is the client for Triggering Activities, the Accountant or Accounting Firm must confirm the existence of the entity with reference to its incorporation records, organizing agreements, and retain a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation. See

Appendix J— Confirming the Existence of an Entity. Information collected in respect of this obligation must be maintained for five years following the date the last business transaction is conducted.

Successful client identification need not be repeated for subsequent transactions if the Accountant/Accounting Firm recognizes the client.<sup>31</sup>

### **3.1.2 Receiving Funds of \$10,000 or More in Cash**

When you receive an amount of C\$10,000 or more in cash<sup>32</sup> over one or more transactions over 24 consecutive hours, in respect of a Triggering Activity, by, or on behalf of the same person or entity, you must (a) keep a large cash transaction record; (b) file a large cash transaction report with FINTRAC within 15 days; and (c) take reasonable measures to determine whether there is third party involvement.

While an Accountant or Accounting Firm might prohibit the acceptance of cash by policy or practice, cash may still be received inadvertently (by mail or otherwise). As a consequence, it is advisable to adopt a policy and procedure to deal with that eventuality. Some firms have adopted a policy whereby the sender will be invited to identify themselves to the firm in person and retrieve the funds intact within a certain number of days following receipt, and notified that the funds will be returned intact otherwise by the same method by which they were received. Depositing the funds into the Accountant's or Accounting Firm's account and then remitting them back to the sender may assist in achieving money laundering objectives, given the apparent legitimacy of payments received from an Accountant/Accounting Firm. It has been the administrative practice of FINTRAC that obligations described below still apply if the funds are returned, since the cash has been received.

#### **3.1.2.1 Exemptions**

The noted obligations do not apply if the funds are received from a client that is a financial entity or a public body.

#### **3.1.2.2 Client Identification**

Client identification must occur at or before the time the funds are received, although it should occur as soon as practical after being engaged to conduct a Triggering Activity. In instances where funds are received unexpectedly and without the client present, the Accountant or Accounting Firm should identify the client prior to processing or returning the funds (both to meet regulatory obligations and to establish ownership over the property).

31 FINTRAC's administrative position is that "recognizing the client" involves recognizing the face or voice of an individual.

32 "Cash" means coins or notes issued by the Bank of Canada or coins or bank notes of countries other than Canada.

The purpose of client identification is to verify the identity of the person (name, address and date of birth) with whom you are dealing, in the case of a natural person, and, in the case of an entity, to verify the existence of the entity with which you are dealing and to verify the identity of the individual who is dealing on its behalf (with reference to corporate/other entity documentation).

AML Legislation permits client identification to occur in the following ways:

1. For individuals (natural persons):
  - a. Face-to-face: If the client is met in person, AML Legislation permits Accountants and Accounting Firms to verify their identity with reference to one piece of original government-issued valid and unexpired identification. See Appendix G—Identification of Individuals in Person: Method and Form.
  - b. Non-Face-to-Face: When a client is identified remotely (i.e., they are not physically present when you inspect their original, valid, and unexpired piece of government-issued identification), AML Legislation permits reference to a combination of one necessary and one sufficient identification method. The necessary methods include reference to credit checks or an attestation by a limited class of professionals, and the acceptable sufficient identification methods generally include confirmation against a Canadian deposit account. See Appendix H—Identification of Individuals Non-Face-to-Face: Methods.
  - c. Using an Agent or Mandatary: It is possible to contract a third party to conduct face-to-face identification measures on your behalf (i.e., have a third party pre-contracted to verify the identity of a client with reference to one piece of original government-issued valid and unexpired identification). See Appendix I—Identification of Individuals by Third Parties: Methods.

Individual client information records must be maintained for five years following the date on which they were created.

2. For entities: Where an entity is the client for Triggering Activities, the Accountant or Accounting Firm must confirm the existence of the entity with reference to its incorporation records, organizing agreements, and retain a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation. See

Appendix J—Confirming the Existence of an Entity. Information collected in respect of this obligation must be maintained for five years following the date the last business transaction is conducted.

Successful client identification need not be repeated for subsequent transactions if the Accountant/Accounting Firm recognizes the client.<sup>33</sup>

### **3.1.2.3 Third Party Determination**

Third party determination involves taking measures to confirm whether or not the person from whom the cash is received is acting on someone else's instructions, and then collecting details about that instructing party. The instructing party may be an individual or an entity. The required details include:

- name, address and principle business or occupation of the third party
- if the third party is an individual, their date of birth
- if the third party is a corporation, the incorporation number and place of incorporation
- the nature of the relationship between the third party and the individual who gives you the cash

This information can be recorded on the Large Cash Transaction Record, and must be maintained for five years following the transaction.

An employee is not considered to be a third party with respect to their employer.

### **3.1.2.4 Large Cash Transaction Record and Report**

AML Legislation requires that Accountants and Accounting Firms create a Large Cash Transaction Record and retain it for five years following the transaction, and also that they file a Large Cash Transaction Report with FINTRAC on paper or electronically within 15 days following the transaction. Client identification and third party determination should precede the completion of the record and report to obtain all necessary details (as long as those steps can be completed and the report filed within the 15 day timeline).

A sample of the Large Cash Transaction Report form is included in Appendix K—Large Cash Transaction Report Form.<sup>34</sup> All fields marked with an asterisk are mandatory fields. All other fields are “reasonable efforts” fields, which mean that they must be completed if the information is available to the Accountant or Accounting Firm. Maintaining a copy of the Large Cash

33 FINTRAC's administrative position is that “recognizing the client” involves recognizing the face or voice of an individual.

34 An electronic version can be obtained from FINTRAC's website by following this link: [www.fintrac.gc.ca/publications/LCTR-2008-eng.pdf](http://www.fintrac.gc.ca/publications/LCTR-2008-eng.pdf).

Transaction Report can serve as a Large Cash Transaction Record, since the mandatory fields of the report cover all the requirements of the record. Field-by-field guidance on completing the report is included after the sample in Appendix K—Large Cash Transaction Report Form.

A suspicious transaction report (explained in section 3.1.3) may also be filed in respect of the transactions reported as large cash transactions if circumstances warrant.

### 3.1.3 Suspicious Transaction or Activity

Within 30 days of the detection of facts first giving rise to suspicion, Accountants and Accounting Firms must report electronically or on paper attempted and completed suspicious transactions which relate to Triggering Activities to FINTRAC using the prescribed forms. A sample form is included at Appendix L—Suspicious Transaction Report Form.<sup>35</sup> The occurrence of a suspicious transaction also gives rise to an obligation to take reasonable measures to ascertain the identity of a person that attempts or conducts the suspicious transaction unless that person had been previously identified according to the AML Legislation standards, or if conducting the identification would make the person aware that a report was being filed (known as “Tipping Off”).

#### 3.1.3.1 Establishing Reasonable Grounds for Suspicion

According to AML Legislation, Accountants and Accounting Firms are required to report to FINTRAC, using the prescribed form, every financial transaction that occurs or is attempted in the course of Triggering Activities and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission or the attempted commission of (a) a money laundering offence; or (b) terrorist activity financing offence.<sup>36</sup>

The offence of money laundering in Canada broadly involves a person who deals with property or proceeds of any property they know or believe was derived directly or indirectly as a result of a designated offence committed in Canada or elsewhere, with the intent to conceal or convert<sup>37</sup> that property or those proceeds.<sup>38</sup> Designated offences include all manner of offences that can generate proceeds and could result in jail sentences of two years or more (even murder for hire). Particularly, they include offences related to:

35 An electronic version can be obtained from FINTRAC's website by following this link: [www.fintrac.gc.ca/publications/STR-2008-eng.pdf](http://www.fintrac.gc.ca/publications/STR-2008-eng.pdf).

36 PCMLTFA section 7.

37 Convert means to change or transform, and does not require an element of concealment (R. v. Daoust, [2004] 1 SCR 217, 2004 SCC 6).

38 Criminal Code of Canada subsection 462.31.

drugs, fraud, theft, robbery, tax evasion, copyright, as well as break and enter. According to FINTRAC, the person reporting the transaction need not have knowledge or suspicion of the specific offence that gave rise to the proceeds, only reasonable grounds to suspect that reported transactions are related to money laundering or terrorist financing.<sup>39</sup>

The offence of terrorist financing generally involves providing or collecting property intending or knowing that it will be used in whole or in part to carry out a terrorist activity. Terrorist activity includes such things as acts committed for a political, religious, ideological purpose with the intention of intimidating the public with regard to economic or physical security, or compelling any person, government or international organization to do or to refrain from doing any act, and that intentionally causes or endangers health, property, services, facilities or systems.<sup>40</sup> The government maintains a list of entities they have reasonable grounds to believe have knowingly carried out, attempted to carry out, participated in or facilitated terrorist activity; or knowingly acting on behalf of such an entity.<sup>41</sup>

Research has found that the methods employed for money laundering and terrorist financing are similar.

Reasonable grounds to suspect has been held to be equivalent to a “sufficient reasonable articulable suspicion,”<sup>42</sup> which must rely on a “constellation of objectively discernible facts”.<sup>43</sup> A “hunch based on intuition gained by experience”<sup>44</sup> is not sufficient. The discernible facts can consist of information collected about the client, their historical and expected transaction behaviour, and research conducted. One way of identifying potentially suspicious transactions is to be vigilant about indicators of money laundering (see section 3.1.3.3) at the time of the transaction. Another is through the conduct of ongoing monitoring and enhanced due diligence of clients and their activities (discussed in section 3.2).

### **3.1.3.2 How Money is Laundered**

Money laundering methods are often described in three stages: placement, layering and integration. A money launderer’s first problem is typically placing cash into the financial system. The placement stage attracts the most

39 FINTRAC Frequently Asked Questions: [www.fintrac.gc.ca/questions/FAQ/2-eng.asp?ans=65](http://www.fintrac.gc.ca/questions/FAQ/2-eng.asp?ans=65).

40 Criminal Code of Canada section 2.

41 [www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx](http://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx)

42 R. v. Mann, [2004] 3 SCR 59, 2004 SCC 52.

43 R. v. Simpson (1993), 12 O.R. (3d) 182.

44 R. v. Mann, [2004] 3 SCR 59, 2004 SCC 52.

attention, and is the one at which most money laundering laws and risk mitigation tools are directed, and is therefore one of the hardest stages. Even if just this one stage is accomplished, money is laundered—since the proceeds of crime have been converted. Placement is so critical to money laundering because once nefariously generated funds are in the system, it becomes difficult to distinguish a good dollar from a bad dollar. Placement is sometimes accomplished by simply depositing illicitly generated funds at a financial institution, while others involve converting cash into commodities like gold and diamonds before selling them into the financial system.

More sophisticated schemes also try to create further distance and obscurity between that original transaction and the ultimate use of the money—ideally severing the audit trail, a process called layering. Layering might involve changing the domicile of money, or transferring it in ways that obscures the origin or destination of the funds. Integration is commonly known as the final stage of money laundering—it is the stage during which the proceeds of crime are used to buy assets or pay for further criminal operations. For a money launderer, it is ideal that the assets and payments funded by criminal activities have an alternative legitimate explanation for their origin.

The methods and techniques employed at any of those stages vary in complexity and sophistication and will depend on the jurisdiction, the origins and amount of money that needs to be cleaned. A report issued by the Egmont Group,<sup>45</sup> a worldwide association of Financial Intelligence Units, suggests five general categories of means by which money is laundered (known as “typologies”): Concealment within Business Structures; Misuse of Legitimate Businesses; Use of False Identities, Documents, or Straw Men; Exploiting International Jurisdictional Issues; and the Use of Anonymous Asset Types.

#### **3.1.3.2.1** *Concealment within Business Structures*

Money laundering schemes can involve concealing illicit proceeds of crime within the structure of an existing business owned or controlled by the criminal organization. The funds can be intermingled with legitimate transactions of the business and moved throughout the financial system. Detecting this type of activity is difficult as it may take great amounts of analysis to distinguish between legitimate business transactions and those above and beyond which would be from criminal activities. False invoices and receipts can be utilized to demonstrate to their financial institution that the transactions have in fact “occurred”. However, the funds being deposited are in fact proceeds of crime disguised as legitimate business profits.

45 FIU's in Action: 100 cases from the Egmont Group.

#### **3.1.3.2.2 *Misuse of Legitimate Businesses***

A similar scheme is through legitimate businesses which are not controlled by the criminal organization. One advantage over the previous scheme is that this method provides additional separation for the criminal organization as the criminal funds would be linked to the legitimate business and not the criminals misusing the business. For instance, illicit funds may be deposited with a financial institution and transferred to an account held at a foreign financial institution.

#### **3.1.3.2.3 *Use of False Identities, Documents, or Straw Men***

False identities, documents and “straw men” are another common method utilized to launder proceeds of crime. This involves separating the assets from a criminal and associating the funds with an individual who had no involvement with the initial criminal activity. For instance, false documents and identities can be used to open bank accounts and create a buffer between the criminal and the illicit funds. Even if the criminal is prosecuted and has all assets under their name seized, the assets held under a false identity will be available.

#### **3.1.3.2.4 *Exploiting International Jurisdictional Issues***

On a larger scale, international jurisdictions are exploited for the benefit of laundering money. Criminals will take advantage of differing legislation in foreign jurisdictions to successfully launder illicit proceeds of crime. For instance, identification requirements, disclosure requirements, company formation laws and secrecy laws all provide avenues that are exploited for the benefit of disguising and laundering funds. In favourable jurisdictions, criminals can open bank accounts, form corporations and send funds with ease and secrecy and, therefore, distort the true source and ownership of the illicit funds.

#### **3.1.3.2.5 *Use of Anonymous Asset Types***

Similarly, the use of anonymous asset types allows criminals to separate the ownership of the assets from themselves and any law enforcement actions related to those assets. Cash, jewellery and precious metals are all anonymous asset types favoured by criminals. This explains the prevalence of conducting drug trafficking in cash as opposed to other payment methods which can be traced back to the criminal.

#### **3.1.3.3 *Indicators of Money Laundering and Terrorist Financing***

In its Guideline 2 in respect to suspicious transaction reports, FINTRAC provides a number of indicators about which Accountants and Accounting Firms should be vigilant.<sup>46</sup> The presence of an indicator is one factor which may lead to the consideration of a suspicious transaction report, but by itself is

46 [www.fintrac.gc.ca/publications/guide/Guide2/2-eng.asp](http://www.fintrac.gc.ca/publications/guide/Guide2/2-eng.asp)

not definitive. Contextual information about the client, the transaction(s) and historical behaviour will assist in determining whether there are sufficient grounds to suspect the transactions are relevant to a money laundering or terrorist financing offence.

- Client appears to be living beyond his or her means.
- Client has cheques inconsistent with sales (i.e., unusual payments from unlikely sources).
- Client has a history of changing bookkeepers or accountants yearly.
- Client is uncertain about location of company records.
- Company carries non-existent or satisfied debt that is continually shown as current on financial statements.
- Company has no employees, which is unusual for the type of business.
- Company is paying unusual consultant fees to offshore companies.
- Company records consistently reflect sales at less than cost, thus putting the company into a loss position, but the company continues without reasonable explanation of the continued loss.
- Company shareholder loans are not consistent with business activity.
- Examination of source documents shows misstatements of business activity that cannot be readily traced through the company books.
- Company makes large payments to subsidiaries or similarly controlled companies that are not within the normal course of business.
- Company acquires large personal and consumer assets (i.e., boats, luxury automobiles, personal residences and cottages) when this type of transaction is inconsistent with the ordinary business practice of the client or the practice of that particular industry.
- Company is invoiced by organizations located in a country that does not have adequate money laundering laws and is known as a highly secretive banking and corporate tax haven.

#### **3.1.3.4 Tipping Off**

It is an offence to disclose that a suspicious transaction report has been filed, or to disclose the content of such a report, with the intent to prejudice a criminal investigation, whether or not a criminal investigation has begun.<sup>47</sup> However, it is common practice in other industries for reporting entities to request clarifying information about transactions for the purpose of enhanced due diligence, without reference to suspicious transaction reporting obligations.

47 PCMLTFA section 8.

### 3.1.3.5 *Client Identification*

The occurrence of a suspicious transaction gives rise to an obligation to take reasonable measures to ascertain the identity of a person that attempts or conducts the suspicious transaction unless that person has been previously identified according to the AML Legislation standards. Identification should not be attempted if that attempt risks tipping off the client to the consideration or filing of a report. The policy of conducting identification at the engagement stage for a Triggering Activity helps to alleviate both the need to identify following a suspicious transaction and the risk that doing so will tip off a client to the filing of a report.

The purpose of client identification is to verify the identity of the person (name, address and date of birth) with whom you are dealing, in the case of a natural person, and, in the case of an entity, to verify the existence of the entity with which you are dealing and to verify the identity of the individual who is dealing on its behalf (with reference to corporate/other entity documentation).

AML Legislation permits client identification to occur in the following ways:

1. For individuals (natural persons):
  - a. Face-to-face: If the client is met in person, AML Legislation permits Accountants and Accounting Firms to verify their identity with reference to one piece of original government-issued valid and unexpired identification. See Appendix G—Identification of Individuals in Person: Method and Form.
  - b. Non-Face-to-Face: When a client is identified remotely (i.e., they are not physically present when you inspect their original, valid, and unexpired piece of government-issued identification), AML Legislation permits reference to a combination of one necessary and one sufficient identification method. The necessary methods include reference to credit checks or an attestation by a limited class of professionals, and the acceptable sufficient identification methods generally include confirmation against a Canadian deposit account. See Appendix H—Identification of Individuals Non-Face-to-Face: Methods.
  - c. Using an Agent or Mandatary: It is possible to contract a third party to conduct face-to-face identification measures on your behalf (i.e., have a third party pre-contracted to verify the identity of a client with

reference to one piece of original government-issued valid and unexpired identification). See Appendix I—Identification of Individuals by Third Parties: Methods.

Individual client information records must be maintained for five years following the date on which they were created.

2. For entities: Where an entity is the client for Triggering Activities, the Accountant or Accounting Firm must confirm the existence of the entity with reference to its incorporation records, organizing agreements, and retain a copy of the part of official corporate records that contains any provision relating to the power to bind the corporation. See Appendix J—Confirming the Existence of an Entity. Information collected in respect of this obligation must be maintained for five years following the date the last business transaction is conducted.

### **3.1.3.6 *Completing the Suspicious Transaction Record and Report***

Completed and attempted suspicious transactions can be reported to FINTRAC either electronically, if the Accountant/Accounting Firm has the technical capability to do so, or, otherwise, in paper format. A copy of the paper form is attached in Appendix L—Suspicious Transaction Report Form along with field-by-field guidance on completing the report. A copy must be retained for five years following the transaction(s), and filed with FINTRAC within 30 days of the detection of facts first giving rise to suspicion. All fields marked with an asterisk are mandatory fields. All other fields are “reasonable efforts” fields, which mean that they must be completed if the information is available to the Accountant or Accounting Firm.

Maintaining a copy of the Suspicious Transaction Report can serve as a Suspicious Transaction Record, since the mandatory fields of the report cover all the requirements of the record.

Client identification, if possible, should precede the completion of the record and report to obtain all necessary details (so long as those steps can be completed and the report filed within the 30 day timeline).

FINTRAC has identified the suspicious transaction narrative portion of the report (known as section G) as being the most critical to their intelligence objectives. In addition to detailing reasons for suspicion, FINTRAC desires these information elements in the narrative: the names of individuals and entities involved in transactions; directorships and signing authorities for business entities; account numbers and other key identifiers (e.g., date of birth,

government-issued ID, addresses, telephone numbers); the flow of funds; historical transaction activity; and associated entities and individuals and relationships between them (e.g., family members, business associates).<sup>48</sup>

### **3.1.4 Knowledge of Terrorist Property**

In the context of performing Triggering Activities, Accountants and Accounting Firms are required to report to FINTRAC using the prescribed paper form without delay when they know they are in possession or control of property that is owned or controlled on behalf of a terrorist or terrorist group, and when they believe they are in possession or control of property that is owned or controlled by or on behalf of a designated person. It is an offence to deal with such property, and imperative that it be reported without delay to the RCMP and the Canadian Security Intelligence Service (CSIS). AML Legislation does not impose a duty on Accountants or Accounting Firms to screen the names of their Triggering Activities clients against terrorist lists. An Accountant or Accounting Firm may, for example, become aware of such a situation because of research conducted during engagement acceptance procedures, through press clippings, or based on the advice of law enforcement.

If the Accountant or Accounting Firm is not sure that the property is owned or controlled on behalf of a terrorist, terrorist group or designated person, FINTRAC encourages the filing of a suspicious transaction report (see section 3.1.3) instead of a terrorist property report.

#### **3.1.4.1 Terrorists, Terrorist Groups, and Designated Persons**

Canada's listings of terrorists, terrorist groups, and designated persons are available on the Public Safety Canada website ([www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx](http://www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-eng.aspx)) and from the Office of the Superintendent of Financial Institutions' website ([www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx](http://www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx)).

#### **3.1.4.2 Definition of Property**

Property means any type of real or personal property which includes any deed or instrument giving title or right to property, or giving right to money or goods (for example, cash, bank accounts, insurance policies, money orders, real estate, securities, precious metals and stones, and traveler's cheques).

48 FINTRAC Feedback on Suspicious Transaction Reporting.

### **3.1.4.3 Filing a Terrorist Property Report**

The Terrorist Property Form included as Appendix M—Terrorist Property Form<sup>49</sup> must be filed with FINTRAC without delay by faxing it to 1.866.226.2346. A copy must be retained for five years following the transaction, and it is advisable to maintain a record of successful transmission of the fax. Instructions to complete the form are included on the pages following the form. All fields marked with an asterisk are mandatory fields. All other fields are “reasonable efforts” fields, which mean that they must be completed if the information is available to the Accountant or Accounting Firm.

### **3.1.4.4 Advising the RCMP and CSIS**

Concurrent with the filing of a terrorist property report, the Accountant or Accounting Firm must send the information to the RCMP and CSIS without delay. That may be accomplished by faxing the completed terrorist property report to the RCMP Anti-Terrorist Financing Team at 613.949.3113 and to the CSIS Financing Unit at 613.231.0266. It is advisable to maintain a record of the successful transmission of both faxes.

## **3.2 Ongoing Monitoring of Triggering Activity Business Relationships**

Pursuant to regulatory amendments known as SOR/2013-15, Accountants and Accounting Firms must recognize the establishment of a “business relationship” with any client for which two or more Triggering Activities are performed and client identification is required after January 31, 2014, within any rolling five year period. That is, a business relationship is established for every client for which two or more transactions occur involving the creation of a receipt of funds record and a large cash or suspicious transaction report is filed within any rolling five year period. The establishment of a business relationship gives rise to the immediate obligation to keep a record that sets out the “purpose and intended nature of the business relationship”, and then the ongoing obligations to periodically monitor the business relationship, on a risk-sensitive basis, for the purpose of:

1. Detecting any reportable suspicious transactions or attempted suspicious transactions.
2. Keeping client identification information up-to-date.
3. Reassessing the level of risk associated with the client's transactions and activities.

<sup>49</sup> An electronic version can be obtained from FINTRAC's website by following this link: [www.fintrac.gc.ca/publications/TPR-2008-eng.pdf](http://www.fintrac.gc.ca/publications/TPR-2008-eng.pdf).

4. Determining whether transactions or activities are consistent with the information obtained about the client, including the risk assessment of the client.

All of the measures and the definition of purpose and intended nature of the business relationship are with reference only to Triggering Activities. Non-Triggering Activities (such as the performance of an audit engagement) are to be excluded from the analysis.

Measures undertaken to conduct ongoing monitoring, as well as findings and outcomes, must be documented. Ideally, all ongoing monitoring for any given client is conducted on the same cycle to achieve efficiencies.

### **3.2.1 Defining the Purpose and Intended Nature of a Business Relationship**

In FINTRAC's Guideline 6D, a non-exhaustive list of three potential "Purpose and Intended Nature of Business Relationship" descriptions is suggested:

- transferring funds or securities
- paying or receiving funds on behalf of a client
- purchasing or selling assets or entities

The Purpose and Intended Nature of Business Relationship must be recorded in a Business Relationship Record created at the inception of the business relationship. FINTRAC guidance suggests that the information recorded is meant to assist in understanding the client's activities over time, and that a determination could be achieved through a combination of information on hand and inquiries of the client. In professional accounting scenarios, the engagement letter typically documents the client's objectives (purpose of the business relationship) and services to be offered (nature of the business relationship). It is critical that policies and procedures reflect the adoption of that information source for the determination if that is the approach taken by the Accountant or Accounting Firm.

### **3.2.2 Ongoing Monitoring: Detecting Suspicious Transactions and Assessing Consistency of Transactions with Client Knowledge and Risk**

An ongoing monitoring exercise to detect suspicious transactions for a client with which an Accountant or Accounting Firm has established a business relationship for Triggering Activities would generally involve a historical review of Triggering Activities conducted in the period under the review. The review frequency and scope would depend on the assessment of the client's risk, and should be documented. Triggering Activity transactions would generally

be compared against expectations and in view of suspicious transaction indicators, for a perspective that might not have arisen for consideration of each Triggering Activity transaction in isolation.

### **3.2.3 Ongoing Monitoring: Keeping Client Identification Information Up-To-Date**

Keeping client identification up-to-date for clients with which the Accountant or Accounting Firm has established a business relationship must occur with a frequency commensurate with the client's money laundering risk. Updating client information does not involve re-identifying the client—re-identification should generally occur only when the veracity of identification is in question, or when a client is not recognized in the course of a transaction attempt. Client information updates, rather, involve re-confirming and updating information regarding client identification which might change over time, such as legal name, address and occupation. The measures taken and outcomes must be documented contemporaneously.

### **3.2.4 Ongoing Monitoring: Reassessing Client Risk Levels**

As explained in the section titled 3.3.2 *Risk Assessment and Mitigation*, client risk levels are determined with reference to their characteristics, products and services, relevant geographies and other relevant factors. Through ongoing monitoring with a frequency determined by the pre-existing risk level, client risk is re-evaluated against risk factors established by the Accountant or Accounting Firm. Based upon a review of the client's activities and transactions and the updated client information, it may result in a higher or lower risk assessment for the client. For instance, if the client has reduced the amount of activity and their transactions have become less frequent, all else being equal, their risk level may be reduced to low from medium. The opposite is also true where based on a change in client information and activity, the level of risk can be raised from low to medium or high. The rationale for changes to the risk level should reflect the risk assessment methodology established when the risk assessment documentation was created.

### 3.3 Implementing and Maintaining a Program to Ensure Performance of Compliance Tasks

AML Legislation requires that Accountants and Accounting Firms implement and keep an up-to-date program to achieve compliance with required tasks. The Compliance Regime is comprised of five mandatory components:

1. a designated compliance officer
2. an inherent risk assessment and risk mitigation plan
3. policies and procedures
4. an ongoing training program
5. an effectiveness review

#### 3.3.1 Designated Compliance Officer

As part of the Compliance Regime, you are required to appoint a person who is responsible for the implementation of the Compliance Regime. The Compliance Officer has an overall accountability for the Compliance Regime. The person that is appointed the role of the Compliance Officer should be adequately qualified and maintain relevant anti-money laundering and counter terrorist financing knowledge.

##### 3.3.1.1 *Sample Role Description of a Compliance Officer*

- The Compliance Officer is to ensure that the AML policies and procedures are kept up-to-date and that all changes are approved by Senior Management and the Board of Directors.
- The Compliance Officer is to ensure that the risk-based training program is documented and tailored to meet the AML roles and responsibilities of different staff.
- The Compliance Officer is to ensure that the effectiveness review of the organization's Compliance Regime will be conducted at least every two years.
- The Compliance Officer is to conduct an assessment of the inherent risk of money laundering and terrorist financing on an ongoing basis.
- The Compliance Officer should understand and monitor the effectiveness of the technology used to enable AML compliance to ensure that transactional alerts and regulatory reports generated are accurate, complete and reflect the actual operations of the organization.

### **3.3.1.2 *Sample Qualifications of a Compliance Officer***

The person that is appointed the role of the Compliance Officer should be adequately qualified and maintain relevant anti-money laundering and counter terrorist financing knowledge. The Compliance Officer should have the following:

- Thorough working knowledge of money laundering and counter terrorist financing risks and controls of the organization.
- Knowledge of the anti-money laundering and counter terrorist financing regulatory requirements.
- Broad knowledge of the operations of the organization.
- Appropriate professional qualifications, experience and strong leadership skills.

The appointment of the Compliance Officer, and any changes to that appointment, should be formally documented.

## **3.3.2 Risk Assessment and Mitigation**

### **3.3.2.1 *Accountants and Accounting Firms' Risk of Money Laundering/Terrorist Financing***

Accountants are considered “gatekeepers” of the financial system. Gatekeepers, as defined by the Financial Action Task Force (FATF), are individuals that protect the gates to the financial system through which potential users of the system, including launderers, must pass in order to be successful.

According to studies conducted by international organizations, accountants are highly susceptible to money laundering risk and have been exploited by money launderers, with and without the accountant's knowledge of the illicit operations or objectives. Money launderers increasingly rely on the advice or services of specialized professionals to help facilitate their financial operations. Accountants have specific skills and expertise and can provide specialized services, advice and access to industry insiders.

Accountants provide a wide range of services that are most useful to potential money launderers. These services include:

- buying and selling real estate
- management of client money, securities or other assets
- management of bank, savings or securities accounts
- organization of contributions for the creating, operation or management of companies
- creation, operation or management of legal person or arrangements, and buying and selling of business entities

According to the *Global Money Laundering and Terrorist Financing Threat Assessment* published by the FATF in 2010, the most significant cases involved sophisticated schemes that were only possible with the assistance of skilled professionals that were able to set up corporate structures to disguise the source and ownership of the money.

### **3.3.2.2 Requirement for a Risk Assessment**

Accountants and Accounting Firms are obligated to include in their Compliance Regimes the conduct and documentation of a money laundering and terrorist financing risk assessment, and to adopt measures which mitigate identified risks.

Risk assessment requirements are prescribed at subsection 9.6(2) of the PCMLTFA, and paragraph 71(1)(c) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* (PCMLTFR). Those provisions require that Accountants and Accounting Firms assess and document the risk (likelihood and significance) of money laundering or terrorist financing activity occurring in the course of their activities. It must take into account the organization's:

1. clients and business relationships
2. products and delivery channels
3. geographic location of activities
4. other relevant factors

Neither the FATF nor FINTRAC advocate a particular method or format for risk assessments, but expect that the risk-based approach will lead to greater diversity in practice which can lead to innovation and improved compliance.

The PCMLTFA at subsection 9.6(3) and the PCMLTFR at section 71.1 require that prescribed special measures be taken for higher risk activities, including policies and procedures for periodic client identification updates, ongoing monitoring for the purpose of detecting suspicious transactions, and others that mitigate identified risks.

Ultimately, risk assessments should lead to controls designed to make it more difficult for criminal elements to use Accountants and Accounting Firms to launder their illicit proceeds.

### **3.3.2.3 Risk Assessment Process**

The risk assessment process is a consultative process throughout the organization which allows for a thorough understanding of the business structure along with all areas of risk. The first step in the risk assessment process is identifying where within your organization Triggering Activities are being

conducted and classifying those activities into the correct category. For instance, the business consulting team at an Accounting Firm may purchase and sell businesses on behalf of their clients. To determine what activities are being conducted can involve interviews with partners or service line leads to obtain an adequate understanding of the business to determine if Qualifying Activities are being conducted or could be conducted in the future. A questionnaire can be used if the organization is large with offices across the country. Once it has been determined where the activities are being conducted and which specific ones they are, a risk rating can be completed on each specific Qualifying Activity.

FINTRAC guidance provides assistance with the risk rating process and allows for objective classification using established criteria. For instance, services that allow for client anonymity are recommended to be rated as high risk services. This criterion can be applied to Triggering Activities because it is not a requirement to identify a client unless they have provided funds of \$3,000 and above, conducted a large cash transaction or conducted/attempted a suspicious transaction. Therefore, any Triggering Activity that does not involve a trigger for ascertaining identification may be classified as high risk. This example is meant as a guide and, in practice, many other factors can be considered in the risk rating process of all products and services.

Regardless of the risk rating, it is important to provide rationale for the rating and to ensure that the reasons provided are reasonable. The level of risk associated to each Triggering Activity will determine if any additional enhanced due diligence needs to be taken. For activities deemed to be low or medium risk, it is not a requirement to have enhanced due diligence measures, but if the risk of the activity is high, enhanced due diligence measures are mandatory. In the example above, if the transaction is conducted without requiring identification and it is deemed high risk, additional enhanced due diligence measures should be documented and conducted.

#### **3.3.2.4 Risk Assessment**

The Compliance Regime is to include a documented risk assessment of the risk of money laundering and the terrorist financing offence. The risk assessment involves assessing and documenting the risks, taking into consideration the following risk categories:

##### **3.3.2.4.1 Clients and business relationships**

This factor should fully explain all clients that you are dealing with and it should consider the nature of the relationship with the clients. It is about understanding your clients and the types of activities and transactions that

they normally conduct. The nature of the relationships should consider things such as the length of the relationship and how the client was acquired or introduced. Certain client industries are considered a higher risk of money laundering and/or terrorist financing such as cash-intensive businesses, and these elements should be considered within the risk of each client. For instance, the risk level of a client with a convoluted legal structure based in a known client offshore secrecy jurisdiction would, all else being equal, be a higher risk client than an individual client engaged in a personal tax return service. It is recommended that a list of low, medium and high risk business types be created that can be used objectively for all future clients. The same process is recommended for occupation types.

#### **3.3.2.4.2 *Products and delivery channels***

Elements to consider within this factor include itemizing all products and services that are offered and assessing the risk of money laundering and/or terrorist financing associated with each specific product and service. For instance, the risk associated with a short tax engagement may be lower than the risk of an extensive investment advisory engagement spanning several years. The delivery channels through which products and services are offered also need to be analyzed within this risk factor. Specifically, you need to consider how the products and services are actually delivered to your clients. For instance, are all clients serviced through face-to-face meetings or are there any offerings available through non-face-to-face methods. The risk of having non-face-to-face delivery methods would, all else being equal, be higher than face-to-face as the ability to disguise identification becomes easier with the increase in distance between the service/product supplier and the client. It is recommended that a list of all products and services be created along with their associated risk. Any products or services that are determined to be a high risk of money laundering and/or terrorist financing would require your organization to document enhanced due diligence measures when those products or services are offered.

#### **3.3.2.4.3 *Geographic location of the activities***

It is important to consider the geographic locations in which your organization operates in addition to the geographic location of your clients. Specific to area of operations, the level of detail may be as high-level as a breakdown by province or as granular as an office-by-office risk assessment. The crime level and prevalence of specific criminal activities are elements to consider when completing the assessment of geographic risk of your operations. As well, the same framework will guide your organization in assessing the geographic

location of your clients. However, the geographic location of the client may be included in their specific risk assessment. It is recommended that a risk scoring be done on all office locations to rank them according to risk.

#### **3.3.2.4.4 Any other relevant factor**

Within this “catch-all” remaining factor, things to consider include all elements outside of the first three factors. For instance, what is the level of turnover within your organization? Is there a restriction placed on staff members before they successfully complete AML training? The risk of money laundering and/or terrorist financing will increase for these elements if the turnover is high and there are no restrictions to staff responsibilities prior to completing training. It is recommended that for staff working in areas more prone to money laundering and/or terrorist financing risks, restrictions or oversight be placed upon their day-to-day activities until such a time as their training has been successfully completed.

#### **3.3.2.4.5 Risk Mitigation**

The purpose of the risk assessment is to apply a risk-based approach where resources are appropriately allocated to address high risk areas. The risk assessment should also include risk mitigation measures. This means that where you have identified areas of high risk, you have to take special measures to mitigate the risks to a level to which you are comfortable.

The AML Legislation prescribes special measures that are to be applied for identified areas of high risk, also known as enhanced due diligence measures. These measures can be specific to the prescribed factor or can be applied directly to the clients if they are deemed high risk.

### **3.3.3 Enhanced Due Diligence and Ongoing Monitoring**

Where a client conducts a transaction that requires you to identify them, there are specific AML obligations that require you to conduct ongoing monitoring. Where you have identified a client to be high risk, you must also conduct enhanced due diligence measures to mitigate those risks.

Where you have identified the client to be high risk based on your ongoing monitoring, you must apply enhanced due diligence measures to mitigate the risk. The AML Legislation prescribes specific enhanced due diligence measures that are to be applied where there are high risk clients. This includes applying the following:

- Taking enhanced measures to ascertain client identification that are in addition to the standard client identification requirements.

- Taking any other enhanced measures to mitigate the identified risks including:
  - keeping client identification information and beneficial ownership information up-to-date
  - enhanced ongoing monitoring of business relationships for the purpose of detecting suspicious transactions to be reported to FINTRAC

### **Enhanced Due Diligence—Client Specific**

The following enhanced due diligence measures can be utilized for high risk clients:

- Requiring that only an acceptable **photo** identification be accepted when required to ascertain the client's identification.
- Requiring a second piece of identification when required to ascertain the client's identification.
- Confirming the address of the client by requesting affirming documentation such as a utility bill or cable bill with a matching name.
- Confirming the occupation by requesting affirming documentation such as an employment letter or recent pay stub to confirm the current occupation.
- When dealing with an entity:
  - requiring that a status of corporation be provided instead of articles of incorporation to ensure the corporation is still active
  - ascertaining the identification of all directors or authorized signers of the entity
  - confirming the entity's operations by conducting a physical drive-by of the premises
  - asking for beneficial ownership information on all clients
- Reviewing the client's activity on a pre-determined frequency, such as every six months or annually, for any suspicious transactions.
- Internet searches for any negative news matches on individual clients or directors/signing officers from an entity client.
- Checking names against a reputable names list such as World-Check for potential Politically Exposed Foreign Persons (PEFP) upon the creation of an engagement.
- Extending the PEFP determination to include any domestic positions.

### **Enhanced Due Diligence—Products, Services, Delivery Channels, Geographical**

The following enhanced due diligence measures can be utilized for high risk factors:

- For geographical areas ranked high risk, require secondary approval of all transactions.
- Prohibiting certain transactions if the client is domiciled in a high risk geographical area.
- Requesting source of funds/source of wealth documentation for clients in high risk areas.
- Requesting additional identification when offering products or services deemed high risk.

Ultimately the enhanced due diligence taken is a measure that goes above and beyond what is required for regular transactions to satisfy standard legislative requirements. It should be noted that a combination of measures may be used depending on the specific situation and when warranted.

## **3.3.4 Policies and Procedures**

Accountants and Accounting Firms are required to have written and up-to-date compliance policies and procedures in support of the Compliance Regime. The compliance policies and procedures should document applicable legislative requirements and the organization's procedures to satisfy those requirements. Procedures should also include those that were developed as part of the risk-based approach program.

The compliance policies and procedures should be approved by a Senior Officer and kept up to date, taking into consideration:

- changes to AML legislative requirements
- changes to internal processes and procedures
- changes in products and services that have an effect on AML requirements (for example, new services that will trigger a qualifying activity)
- changes in organizational structures that could affect reporting procedures

### **3.3.4.1 Minimum Policies**

Considering the parameters and organization of AML Legislation in respect to Accountants and Accounting Firms, we would expect that, at a minimum, the policies listed below would form part of their compliance program. In the immediately following section, we have listed expected headers in a set of policies and procedures for an Accountant or Accounting Firm.

#### **3.3.4.1.1 General Policies**

- “We will identify all Qualifying Activities as they occur within our organization.”
- Definitions of Qualifying Activities along with explanations of where within the organization such activities are being conducted.

#### **3.3.4.1.2 Reporting**

- “All large cash transactions will be reported to FINTRAC within 15 calendar days of receipt whether received at one time or within 24 hours.”
- “All suspicious transactions, whether completed or attempted, will be reported to FINTRAC within 30 days of suspicion.”
- A listing of all suspicious transaction indicators which will lead to reporting.
- “Any terrorist property will be reported to FINTRAC immediately upon knowing.”

#### **3.3.4.1.3 Record Keeping**

- “All required records will be documented and stored for at least five years.”
- “All records will be stored in such a way that allows for their retrieval within 30 days of notice by FINTRAC.”
- “A receipt of funds record will be kept for every transaction where we accept \$3,000 or more from a client.”
- “A large cash transaction record will be kept for every transaction where we accept \$10,000 or more in cash from a client, whether at one time or within 24 hours.”
- “Copies of official corporate records will be kept for all transactions that require the confirmation of the existence of a corporation.”
- “All suspicious transaction reports will be stored on file.”

#### **3.3.4.1.4 Ascertaining Identification**

- “When a large cash transaction is conducted, the identity of the conductor will be ascertained.”
- “All clients who are the subject of suspicious transactions will have their identification ascertained except when doing so would tip off the client that a suspicious report is being sent to FINTRAC.”
- “When a receipt of funds record is created, the client’s identification will be ascertained and if the individual is acting on behalf of an entity, the entity’s existence will also be confirmed.”

#### 3.3.4.1.5 *Third Party Determination*

- “For every large cash transaction, a third party determination will be made and if there is a third party connected to the transaction, a record will be kept documenting their details.”

#### 3.3.4.2 *Sample List of Policies and Procedure Headings*

Policies and Procedures need to include all legislative requirements under the PCMLTFA and be specific to your organization. The factors below can be used to determine the framework of a complete set of Policies and Procedures.

- Policy Statement
  - *Objective*—explains the objective of the policy.
  - *Responsibility*—explains who is responsible for the compliance program.
  - *Background* (including relevant legislative requirements and guidance)—provides a summary of legislation that is applicable to the document.
  - *Policy application*—explains to whom the policies are applicable.
- Procedures
  - *Responsibilities*—explanation of all accountable parties.
  - *Appointment of Compliance Officer*—statement explaining how the appointment is made and who is the current compliance officer.
  - *Procedure Application*—explains to whom the procedures are applicable.
  - *Foreign Currency Translation*—explanation of how transactions in a foreign currency will be treated.
- Compliance Operations
  - *Identifying Triggering Activities*—explanation of how these activities will be found in the organization.
  - *Receipt of funds of \$3,000 or more*—explains the record keeping and ascertaining identification steps taken when these occur.
  - *Receipt of cash of \$10,000 or more*—explains the record keeping, ascertaining identification and reporting steps taken when these occur.
  - *Completed and Attempted Suspicious Transactions*—explains how these transactions are initially detected and the measures taken when they are detected.

- *Terrorist Property Reports*—explains the process for determining if property is held and the steps taken when a positive match is found.
- *Business Relationship Establishment and Ongoing Monitoring*—explains the concept and what measures are taken to satisfy the requirements.
- *Enhanced Due Diligence*—establishes the measures taken and when they would be applicable.
- Risk-Based Approach
  - *Responsibility and Application*—explains who is accountable for this and how it applies.
  - *Risk Assessment*—includes the four prescribed factors and classifies all areas into a specific risk category.
  - *Risk Mitigation*—explains the enhanced due diligence measures taken for areas deemed to be high risk.
- Training Program
  - *Responsibility and Application*—explains who this applies to and the person/team accountable for this program.
  - *Program Content*—summarizes the training material.
- Effectiveness Review
  - *Responsibility and Application*—explains who is accountable for this program component.
  - *Requirements*—explains the methodology and frequency that will apply.

### 3.3.5 Ongoing Training Program

If you have employees, agents or other persons authorized to act on the company's behalf, you must develop and maintain a written ongoing compliance training program for those employees, agents or persons.

#### 3.3.5.1 Who Must Take the AML Training?

- Anyone who interacts with clients.
- Anyone who sees client transaction activities.
- Anyone who handles cash or funds in any way.
- Anyone who is responsible for implementing or overseeing the Compliance Regime.

### **3.3.5.2** *What Should Be Included in the Ongoing Training Program?*

The ongoing compliance training program is required to be in writing. Although the AML Legislation does not state what specifically is to be included in the written training program, there are certain expectations of what the ongoing training program should cover. Below are sample headings to include in the ongoing training program:

- content of training material
- how training is to be delivered
- frequency of training
- how training is to be tracked and documented
- who is to receive training
- new hire training and any restrictions on their responsibilities prior to completion of training
- how to address individuals that were not present for training

The actual content of the training program should focus on the areas of greatest importance, and would ideally be role-specific. In an Accounting Firm, the most important concept to teach all staff members is the definition of a Triggering Activity and how to recognize one when it occurs. This key piece of information is a prerequisite to all requirements that come as a result of the Triggering Activity being conducted and should be understood by all staff at your organization. The various indicators of suspicious transactions should be taught to all staff as well. Staff members are the first line of defense in regards to flagging suspicious transactions to the compliance team and being aware of what types of transactions to flag will go a long way in the goal of having an effective Compliance Regime. Finally, the training material should also include a step-by-step process for all staff upon receiving funds for an engagement that includes Triggering Activities. These three areas are a must for all staff to understand and should be expanded on depending on the specific role that the staff member has at your organization.

### **3.3.5.3** *Sample Training Schedule*

A training schedule shows that you have ongoing training in place. It also provides a summary of your ongoing training program that can be used to manage internal resources when it comes to training. The training schedule should align with your ongoing training program and indicate who is to receive training and when training is to roll out. It is important to ensure that the material provided to staff is in context to their role within the organization. The following is a sample training schedule. It is recommended that the date of each training effort be documented.

Type of Staff	Identifying Triggering Activities	Ascertaining Identification and Record Keeping	Money Laundering Methods and Detection	Reporting Transactions	FINTRAC Exam Process
Leadership	Annual		Annual		
Compliance Administrators	Annual	Annual	Annual	Annual	Annual
Professional Staff	Annual	Bi-Annual	Annual	Bi-Annual	
Administrators	Annual	Annual	Annual	Annual	

### 3.3.6 Effectiveness Review

Accountants and Accounting Firms are required to have an effectiveness review done every two years. The review can be conducted by your internal or external auditor or by you or the firm if you do not have an auditor.

*Important Note: The effectiveness review should be reported to a Senior Officer within 30 days after the assessment and is to include:*

- *The findings of the review.*
- *Any updates made to the policies and procedures based on the assessment.*
- *The status of the implementation of the updates that were made to those policies and procedures.*

#### 3.3.6.1 What Does the Effectiveness Review Cover?

The effectiveness review is a documented review of the effectiveness of the following areas of the Compliance Regime:

- policies and procedures
- risk assessment
- training program

The review must be documented into a report that includes information about the methodology that was used to conduct the review; the scope of the review; what was reviewed; and the findings. When testing the effectiveness of each specific Compliance Regime element above, there are several factors to consider.

Within the Policies and Procedures, testing the effectiveness should include:

- Checking for the presence of all legislative requirements within the document and that they include a policy statement.
- Checking for the presence of specific procedures that satisfy each policy statement.
- Verifying that the procedures are actually being adhered to by staff on a consistent basis throughout the organization.
- Reviewing documentation such as client information records and transaction records to test the procedures.
- Reviewing reported transactions such as LCTRs and STRs to verify the timing and quality component.

The Risk Assessment can be tested in a similar method except the verification process would be tailored with different documentation reviews:

- Checking for the presence of all four prescribed factors within the risk assessment documentation.
- Checking for the presence of inherently low, medium and high risk factors and analyzing whether the risk rankings are current and accurate to the organization.
- Checking for the presence of policy statements related to the risk-based approach specific to high risk areas that require mitigation measures.
- Testing high risk areas through a review of client information and transactions to verify whether the risk mitigation measures have been followed.
- Reviewing reported STRs and any transactions flagged as unusual to verify the process specific to high risk clients.

The Training Program is tested for effectiveness through several measures including:

- Comparing the training material against the specific recipient role within the organization to test the applicability.
- Testing whether all applicable staff are receiving training and whether any gaps exist through a comparison of current and past employees against a training tracking sheet.
- Reviewing any testing materials in place to ensure that appropriate questioning is being used.
- Checking staff quiz/test scores to test the process of adequate retention of material.
- Interviewing staff to test their understanding and retention of training material along with the practical applicability of the material specific to their role.

### 3.3.6.2 *Sample Scope*

The effectiveness review should include the scope of the review that takes into account the required component of the Compliance Regime. Below is a sample scope that can be used to ensure that all components are being covered in the effectiveness review:

Required Components	Scope	Items to Test
Policies and Procedures	Document Evaluation	AML Policies and Procedures
	Operational Evaluation	Client identification records FINTRAC reports Receipt of funds records
Risk Assessment	Document Evaluation	Risk assessment document <ul style="list-style-type: none"> <li>• Procedures/methodology of risk assessment</li> <li>• Procedures on enhanced due diligence for high risk clients</li> <li>• Documented risk assessment of organization</li> </ul>
	Operational Evaluation	High risk clients Application of enhanced due diligence Monitoring processes
Training Program	Document Evaluation	Ongoing training program Training materials
	Operational Evaluation	Training log Interviews with staff to test knowledge of AML

Included in Appendix N—Self-Review Checklist is a checklist against which an Accountant or Accounting Firm can evaluate their progress towards an effective compliance program.



## CHAPTER 4

# AML and Privacy Obligations

In Canada, Accountants and Accounting Firms have both AML and privacy obligations. One of the privacy principles is to “minimize collection.” This means Accountants and Accounting Firms must only collect personal information that you need.

The AML Legislation requires certain information to be collected by reporting entities and prescribes certain measures for “Know Your Client” (KYC) and “Customer Due Diligence” (CDD). These measures align with privacy principles as the information that is required is for KYC purposes.

### 4.1 Summary of KYC/CDD Requirements

KYC/CDD Requirements	Not Required for KYC/CDD
<ul style="list-style-type: none"> <li>• Identification information (type of identification document, identification reference number, place of issue)</li> <li>• Occupation information</li> <li>• Date of birth</li> <li>• Address</li> </ul>	<ul style="list-style-type: none"> <li>• Copy of the identification document</li> <li>• The inclusion of your client’s Social Insurance Number in a report to FINTRAC</li> </ul>

### 4.2 Where AML and Privacy Get Complicated

The AML legislation requires that reporting entities apply a risk-based approach. This means that resources are allocated to areas of high risk in order to mitigate the risks. Based on the risk assessment that is required to be conducted and documented by all reporting entities, clients that have been identified as a high risk for money laundering or a terrorist financing offence should be subjected to enhanced due diligence (EDD) measures. However, the AML Legislation is not prescriptive when it comes to defining EDD measures.

### 4.3 What Does the AML Legislation Say About EDD Measures?

The AML Legislation requires enhanced measures be applied and prescribes certain measures that should be included as part of EDD. The Legislation also states that “any other enhanced measures” are to be applied to mitigate the risks. This allows reporting entities to apply their own controls, on top of the prescribed EDD.

### 4.4 What Is Required for EDD Measures?

When applying “other enhanced measures” for high risk clients, it is important that these measures be defined in the compliance policies and procedures and that these measures are clearly articulated with documented reasoning for collecting additional information.

### 4.5 What Information Should Be Documented?

1. Rationale—For collecting information that is in addition to the standard request.
2. Process—What information is to be collected for EDD, when EDD is to be applied, and when and how information is to be collected.

The Privacy Commissioner of Canada has issued two publications about privacy obligations and the PCMLTFA, a guide for point of service workers ([www.priv.gc.ca/information/pub/faqs\\_pcmltfa\\_02\\_e.asp](http://www.priv.gc.ca/information/pub/faqs_pcmltfa_02_e.asp)), and a questions and answers page ([www.priv.gc.ca/information/pub/faqs\\_pcmltfa\\_01\\_e.asp#001](http://www.priv.gc.ca/information/pub/faqs_pcmltfa_01_e.asp#001)).

*Important Notes: Remember that it is acceptable to let the client know that the information that you are asking for is required under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, unless disclosing this would tip off the client about a completed or attempted suspicious transaction report.*

## CHAPTER 5

# Interactions with Other Reporting Entities

There are several things to keep in mind when you are dealing with other reporting entities. All reporting entities, as defined in the AML Legislation, have specific AML obligations that are unique to their type of entity, as with Accountants and Accounting Firms. In the course of your interactions with other financial entities, when you are conducting services on behalf of your clients, you may be called upon to provide other information based on the activities of your clients.

Be aware that AML obligations require that reporting entities are adequately identifying their clients, understanding their clients' activities and are applying a risk based approach to their clients' activities. Information that may be requested will have to do with complying with these obligations.



## CHAPTER 6

# FINTRAC Examinations

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is Canada's financial intelligence unit. It is an independent agency that was established to ensure compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA). The PCMLTFA allows FINTRAC to conduct examinations on reporting entities.

The exam involves a review of records and inquiries into the business for the purpose of ensuring compliance with the AML Legislation.

### 6.1 FINTRAC's Powers

FINTRAC examinations are legislated under section 62(1) of the PCMLTFA. It specifically states that "An authorized person may, from time to time, examine the records and inquire into the business and affairs of any person or entity referred to in section 5 for the purposes of ensuring compliance with Part 1..."

This power includes allowing an authorized person to enter any premises where there are records related to the business and access any computer system to examine any data and to reproduce those records. Authorized persons would be FINTRAC Compliance Officers who have been authorized by the Director to ensuring compliance under the legislation. In section 62(2) of the PCMLTFA, it explicitly states that reasonable assistance shall be given to authorized persons.

### 6.2 How to Prepare

FINTRAC may select you or your firm to conduct a compliance exam. These exams are to ensure that you are complying with the PCMLTFA and its enacted Regulations. When you receive confirmation from FINTRAC that

they will be conducting an exam, there are a few points to keep in mind. The FINTRAC Compliance Officer will call and explain the process after notification of a compliance examination. A notification letter will be received shortly after the initial conversation outlining what documentation FINTRAC will require. Before receiving the letter, it is suggested that all compliance documentation be assembled and a review of past FINTRAC interactions be completed. The logistics of the examination should be finalized to ensure all documentation is assembled as quickly as possible and that sufficient staff is available to answer any regulator questions. A room should be set aside for FINTRAC staff if they are coming to the premises and a photocopier should be made available for their use. Here are some additional things to keep in mind if you are having a FINTRAC compliance examination:

- Be aware of the deadlines that are noted in the letter from FINTRAC.
- If uncertain of any process, do not hesitate to call the FINTRAC Officer conducting the exam.
- Provide all documents and transactions that are listed in the letter from FINTRAC.
- Answer all questions calmly and honestly. Have resources available on hand during the exam.

### 6.3 What to Expect

The following list provides a summary of the exam process that you can expect during the exam.

1. Notification of Exam: You will receive a call from FINTRAC notifying that they will be conducting a compliance exam. The call may include questions regarding your “Triggering Activities.”
2. Information Request: Following the call, FINTRAC will send a letter requesting specific information.

*Important Note: You have 30 days from the date of the letter to provide all the information to FINTRAC.*

3. Date of Exam: The letter will also indicate the date when they will be conducting the exam. This can be either via conference call or on-site.

4. Exam: During the exam, FINTRAC will be asking the Compliance Officer specific questions. These questions can range from the following about your organization:
  - general business information
  - compliance regime
  - AML policies and procedures
  - risk assessment
  - ongoing training program
  - effectiveness compliance review
  - receipt of funds transactions
5. Exit Interview: At the end of the exam, FINTRAC will summarize deficiencies that were noted from the exam. They will also mention that a letter summarizing the deficiencies will be sent to you. Any questions stemming from deficiencies should be asked at this time including obtaining suggestions on how best to remedy all deficiencies.

## 6.4 Follow Up

After FINTRAC's exam, you should expect to receive a letter from FINTRAC summarizing all deficiencies found during the exam. The language of the letter will clearly communicate the expectations that FINTRAC has from you in addition to any further actions being considered by FINTRAC. An action plan should be developed and implemented internally to rectify all deficiencies in a timely manner. At a later date, FINTRAC may decide to conduct a follow-up exam to ensure that you have addressed the deficiencies and have implemented your action plan. Therefore, it is important that you follow your action plan and that you document what has been done to address those deficiencies.

The consequences of non-compliance vary from minor such as the issuance of a findings letter asking for continued cooperation to the severe with the issuance of a monetary penalty and a public naming summarizing all areas of non-compliance. The penalty amounts can be quite severe and it is not uncommon to see penalties in the six figure range. When egregious non-compliance has been observed by FINTRAC, the findings letter will explicitly state that administrative monetary penalties (AMPs) are being considered. Regardless of the decision, FINTRAC will send additional correspondence notifying your organization of their final decision. Should no AMP be pursued, the letter will state that fact explicitly. However if, FINTRAC decides to pursue an AMP based on its analysis, a notice of violation will be issued to your organization.

If a notice of violation is received, your organization has several options available. Paying the penalty would close the proceedings and result in an admission of all violations from the non-compliance, and give FINTRAC the right to publically report the penalty in most cases. Another option is to appeal the penalty directly with FINTRAC's Director by providing explanations or arguments for any or all violations cited. This involves a secondary review of all violations to determine if any of the reasons within the appeal are reasonable. However, the request for a review must be in writing and submitted within 30 days of receiving the notice of violation. If this appeal is unsuccessful, a second appeal can be made to the Federal Court. It is prudent to obtain legal advice and professional AML assistance to help manage responses and appeals.

*Important Note: Always document your progress. Documentation is important when it comes to showing FINTRAC that you are complying with the AML Legislation and that you have addressed those deficiencies as stated in your action plan letter to FINTRAC.*

## 6.5 Compliance Assessment Report

All reporting entities, including Accountants and Accounting Firms, may be asked by FINTRAC to complete a compliance assessment report (CAR). The CAR is essentially a questionnaire which attempts to obtain a high level overview of your organization's operations and if applicable, current level of compliance. The first section of the questionnaire will ask questions related to your scale of operations including financial information. The next section will ask questions regarding Qualifying Activities to determine whether your organization is subject to the PCMLTFA. If the response to the Qualifying Activities questions is positive, the remainder of the questionnaire will be specific to your legislative obligations and whether a Compliance Regime has been developed and implemented. It is important to answer these questions truthfully as FINTRAC relies on this to populate their understanding of your organization and may contact your organization in the future to verify any information. If any part of the CAR is not fully understood, it is recommended that your organization contacts FINTRAC for clarification.

## CHAPTER 7

# Appendix A — Canada's AML Legislation

### 7.1 Provenance

Canada is a founding member of the Financial Action Task Force (FATF), the international standard setting body for anti-money laundering and anti-terrorist financing activities. The objective of the FATF is to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

As a member of the FATF, Canada has made a political commitment to implement the FATF Recommendations that includes implementing measures to ensure that the financial institutions and intermediaries are adequately able to identify their customers; to understand their activities; and to conduct ongoing scrutiny of customers' activities.

The PCMLTFA and its enacted Regulations sets out Canada's AML regime whereby designated financial and non-financial entities that provide access to Canada's financial system are obligated to comply with these standards.

### 7.2 Purpose

The objective of the PCMLTFA is to implement specific measures to detect and deter money laundering and the financing of terrorist activities and to facilitate the investigation and prosecution of money laundering offences and terrorist activity financing offences.

Canada’s AML regime was developed to respond to the threat posed by organized crime by providing law enforcement officials with the resources they need and to assist Canada in fulfilling its international commitment in protecting the integrity of the international financial system.

### 7.3 Players

There are a wide range of players that are part of Canada’s AML regime. They range from individuals to entities and from federal departments to international entities. Below is summary of the players:

<p>Who has reporting requirements to FINTRAC?</p>	<p>Reporting Entities:</p> <ul style="list-style-type: none"> <li>• financial institutions</li> <li>• life insurance companies and life insurance brokers or agents</li> <li>• legal counsel and legal firms</li> <li>• securities dealers</li> <li>• money service businesses</li> <li>• Accountants and Accounting Firms</li> <li>• British Columbia notaries</li> <li>• real estate brokers, sales representatives and developers</li> <li>• dealers in precious metals and stones</li> <li>• casinos</li> </ul> <p>Entities that may also report:</p> <ul style="list-style-type: none"> <li>• public</li> <li>• federal agencies (e.g. Canada Border Services Agency, Canada Revenue Agency, Canadian Security Intelligence Service)</li> <li>• foreign financial intelligence units</li> </ul>
<p>What is FINTRAC?</p>	<p>All reporting entities have reporting requirements to FINTRAC.</p> <p>FINTRAC is Canada’s financial intelligence unit and is responsible for the overall supervision of reporting entities to determine compliance with Canada’s AML regime.</p> <p>FINTRAC reports to the Department of Finance and is overseen by the following departments:</p> <ul style="list-style-type: none"> <li>• Office of the Privacy Commissioner of Canada</li> <li>• Office of the Auditor General of Canada</li> </ul>

Who does FINTRAC share information with?	<p>FINTRAC may disclose information if it has reasonable grounds to suspect that the information would be relevant to an investigation or prosecution of a money laundering or terrorist activity financing offence, or relevant to threats to the security of Canada.</p> <p>The following is a list of agencies FINTRAC may disclose information to:</p> <ul style="list-style-type: none"> <li>• law enforcement</li> <li>• Canadian Security Intelligence Service</li> <li>• Canada Revenue Agency</li> <li>• Canada Border Services Agency</li> <li>• foreign financial intelligence units</li> </ul>
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## 7.4 Penalties and Criminal Fines for Non-Compliance

FINTRAC has legislative authority to issue criminal and administrative penalties against the entity and other persons where non-compliance has been identified.

### Administrative Monetary Penalty (AMPs)

AMPs allow for a measured and proportionate response to particular instances of non-compliance. Violations are classified as follows:

Classification	Penalty
Minor	Carries maximum penalties up to \$1,000
Serious	Carries maximum penalties up to \$100,000
Very Serious	Carries maximum penalties up to \$500,000

Penalties are determined in relation to the degree at which the violation obstructs the ability to detect and deter money laundering and terrorist activities.

### Criminal Penalties

FINTRAC may disclose cases of non-compliance to law enforcement when there is excessive non-compliance or little expectation of immediate or future compliance. Criminal penalties include:

- Failure to report suspicious transactions: up to \$2 million and/or five years imprisonment.
- Failure to report a large cash transaction: up to \$500,000 for the first offence, and \$1 million for subsequent offences.
- Failure to meet record keeping requirements: up to \$500,000 and/or five years imprisonment.

- Failure to provide assistance or provide information during compliance investigation: up to \$500,000 and/or five years imprisonment.
- Disclosing a fact that a suspicious transaction report was made, or disclosing contents or the report, with the intent to prejudice a criminal investigation: up to two years imprisonment.

## CHAPTER 8

# Appendix B— Links to FINTRAC Guidance<sup>50</sup>

FINTRAC Guidelines for the accounting sector are divided into separate sections specific to the subject matter. The following Guidelines are applicable to Accountants and Accounting Firms:

Guideline 1—Backgrounder:

[www.fintrac-canafe.gc.ca/publications/guide/Guide1/1-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide1/1-eng.asp)

Guideline 2—Suspicious Transactions:

[www.fintrac-canafe.gc.ca/publications/guide/Guide2/2-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide2/2-eng.asp)

Guideline 3A—Submitting Suspicious Transaction Reports to FINTRAC Electronically:

[www.fintrac-canafe.gc.ca/publications/guide/Guide3A/str-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide3A/str-eng.asp)

Guideline 3B—Submitting Suspicious Transaction Reports to FINTRAC by Paper:

[www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp)

Guideline 4—Implementation of a Compliance Regime:

[www.fintrac-canafe.gc.ca/publications/guide/Guide4/4-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide4/4-eng.asp)

Guideline 5—Submitting Terrorist Property Reports:

[www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp)

Guideline 6—Record Keeping and Client Identification:

[www.fintrac-canafe.gc.ca/publications/guide/Guide6/6-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide6/6-eng.asp)

<sup>50</sup> Please note that the information on FINTRAC's website is subject to change and is not intended to replace the PCMLTFA and associated Regulations.

Guideline 7A — Submitting Large Cash Transaction Reports to FINTRAC Electronically:

[www.fintrac-canafe.gc.ca/publications/guide/Guide7A/lctr-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide7A/lctr-eng.asp)

Guideline 7B — Submitting Large Cash Transaction Reports to FINTRAC by Paper:

[www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp](http://www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp)

Please note that the Guidelines are periodically updated to reflect any changes in the legislation or any significant guidance that FINTRAC issues.

## CHAPTER 9

# Appendix C— Summary of Changes Effective February 1, 2014

Regulatory amendments known as SOR/2013-15 were published on January 31, 2013 in the *Canada Gazette* (<http://gazette.gc.ca/rp-pr/p2/2013/2013-02-13/html/sor-dors15-eng.html>) with an effective date of February 1, 2014. They have created new requirements for Accountants and Accounting Firms which have been incorporated into this guidance that include:

1. The requirement to recognize the establishment of a “business relationship” with clients for which a first Triggering Activity is performed following the effective date of the amendments, and to document the “purpose and intended nature of the business relationship.”
2. The requirement to conduct and document “ongoing monitoring” measures in respect of all business relationships established following the effective date of the amendments for the purpose of:
  - Detecting reportable transactions.
  - Keeping client identification up-to-date.
  - Re-assessing the level of risk associated with the client’s transactions and activities.
  - Determining if the transactions and activities are consistent with the information received from the client (including the “purpose and intended nature of the business relationship”).



## CHAPTER 10

# Appendix D— FINTRAC Interpretation Notice No. 2

Source: [www.fintrac-canafe.gc.ca/publications/FINS/2008-07-08-eng.asp](http://www.fintrac-canafe.gc.ca/publications/FINS/2008-07-08-eng.asp)

**NOTE:** As of November 1, 2013, the name of the Canadian Institute of Chartered Accountants (CICA) Handbook changed to the Chartered Professional Accountants of Canada (CPA Canada) Handbook.

Financial Transactions and Reports Analysis Centre of Canada  
www.fintrac-canafe.gc.ca

Home | Contact Us | Help | Search | Canada.ca

Home > Publications > FINTRAC Interpretation Notices > FINTRAC Interpretation Notice No. 2

### FINTRAC Interpretation Notice No. 2

July 8, 2008

#### Accountants - Giving Instructions Versus Providing Advice

The purpose of this notice is to clarify the difference between **providing advice** to a client as opposed to **giving instructions** on behalf of a client, within the context of accountants' activities.

#### Accountants' activities

If you are an accountant or an accounting firm, you are subject to certain requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* and its regulations. This applies only when you engage in any of the following activities on behalf of any individual or entity (other than your employer), **or give instructions** in respect of those activities on behalf of any individual or entity (other than your employer):

- receiving or paying funds (for example you receive funds in trust to pay bills on behalf of your client);
- purchasing or selling securities, real estate property, business assets or entities; or
- transferring funds or securities by any means.

You are subject to the requirements when you engage in those activities, regardless of whether or not you receive any fee or have a formal letter of engagement to do so. In other words, even if you carry out these activities on a volunteer basis, you are subject to the PCMLTFA's requirements. Effective June 23, 2009, the receipt of professional fees themselves for the above-mentioned activities does not trigger your requirements under the PCMLTFA.

**Note:** Activities of accountants or accounting firms other than those listed above, such as audit, review or compilation engagements carried out according to the recommendations in the Canadian Institute of Chartered Accountants (CICA) Handbook, are not subject to the PCMLTFA or its regulations.

publications Multimedia	<b>Giving instructions versus providing advice</b>	
Frequently asked questions Careers	<p>When you <b>give instructions</b> for any of the above-mentioned activities, it means that you actually direct the movement of funds. By contrast, when you <b>provide advice</b> to your clients, it means that you make recommendations or suggestions to them. Providing advice is not considered to be giving instructions.</p>	
	<p><b>Example of giving instructions:</b> "Based on my client's instructions, I request that you transfer \$15,000 from my client's account, account number XXX, to account number YYY at Bank X in Country Z."</p>	
	<p><b>Example of providing advice:</b> "For tax purposes, we recommend that you transfer your money into a certain investment vehicle."</p>	
	<p>For more information about the requirements applicable to accountants and accounting firms, see the series of guidelines prepared by PDNTRAC.</p>	
<hr/>		
Date Modified: 2011-09-20	<a href="#">Top of Page</a>	<a href="#">Terms and Conditions</a>

# CHAPTER 11

## Appendix E— FINTRAC Interpretation Notice No. 7

Source: [www.fintrac-canafe.gc.ca/publications/FINS/2011-02-17-eng.asp](http://www.fintrac-canafe.gc.ca/publications/FINS/2011-02-17-eng.asp)

The screenshot shows the FINTRAC website interface. At the top, there are logos for the Government of Canada and the Financial Transactions and Reports Analysis Centre of Canada. The main header includes the organization's name and website URL. A navigation bar contains links for 'Français', 'Home', 'Contact Us', 'Help', 'Search', and 'Canada.ca'. Below this, a breadcrumb trail reads 'Home > Publications > FINTRAC Interpretation Notices > FINTRAC Interpretation Notice No. 7'. The left sidebar contains a 'FINTRAC' menu with links to 'Who we are', 'Media room', 'What you need to know', 'The Act', 'Regulations', 'Guidelines', 'Reporting', 'Money services businesses registry', 'Penalties', 'Reviews and appeals', 'Access to information and privacy protection', 'Publications', 'Reporting publications', and 'General publications'. The main content area features the title 'FINTRAC Interpretation Notice no. 7' and the date 'February 17, 2011'. The primary heading is 'Insolvency Practitioners Providing Trustee in Bankruptcy Services'. The text explains that paragraph 5(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and subsections 34(1), sections 35 and 36 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations apply. It states that the purpose of the notice is to clarify the application of the PCMLTFA relating to insolvency practitioners offering bankruptcy services. It notes that insolvency practitioners provide trustee in bankruptcy services, which are not triggering activities for any obligations under the PCMLTFA. However, if you are an insolvency practitioner and you are an accountant or an accounting firm, you may have obligations relating to other activities. The notice is specifically for 'Insolvency practitioners who are accountants'. It states that if you are an individual accountant or an accounting firm offering trustee in bankruptcy services or acting as an insolvency practitioner, you may have obligations under the PCMLTFA if you engage in certain triggering activities other than bankruptcy services. However, as explained above, bankruptcy services you provide as an insolvency practitioner, including acting as a trustee in bankruptcy, do not fall within the triggering activities under our legislation. The 'Definition of accountants' section states that an accountant means a chartered accountant, a certified general accountant or a certified management accountant, and an accounting firm means an entity that provides accounting services to the public that has at least one partner, employee or administrator that is an accountant.

<p><a href="#">Multimedia</a></p> <p><b><a href="#">Frequently asked questions</a></b></p> <p><a href="#">Careers</a></p>	<p>In this context, if you are an insolvency practitioner, whether a chartered insolvency and restructuring professional or otherwise, you would not be considered to be "providing accounting services to the public" if you only provide such services as follows:</p> <ul style="list-style-type: none"><li>• As receiver, pursuant to the provisions of a Court order or by way of a private letter appointment pursuant to the terms of a security interest</li><li>• As trustee in bankruptcy</li><li>• As monitor under the provisions of the Companies' Creditors Arrangement Act or any other proceeding that results in the dissolution or restructuring of an enterprise or individual and to which the firm, individual or insolvency practitioner serves as an officer of the Court or agent to a creditor(s) or the debtor.</li></ul> <p><b>Triggering activities for accountants</b></p> <p>If you are an accountant or an accounting firm, as explained above, you have obligations under the PCMLTFA if you engage in any of the following activities on behalf of any individual or entity (other than your employer) or give instructions in respect of those activities on behalf of any individual or entity (other than your employer):</p> <ul style="list-style-type: none"><li>• receiving or paying funds;</li><li>• purchasing or selling securities, real property or business assets or interests; or</li><li>• transferring funds or securities by any means.</li></ul> <p>In this context, an accountant or an accounting firm appointed by a Court, or acting as a trustee in bankruptcy, is not considered to be acting on behalf of any other individual or entity.</p> <p>Obligations under the PCMLTFA, as referred to throughout this interpretation notice, include reporting, client identification, record keeping, and implementing a compliance regime. For more information about these, see FINTRAC's guidelines.</p> <hr/> <p>Date Modified: 2011-09-20 <a href="#">▲</a> <a href="#">Top of Page</a> <a href="#">Terms and Conditions</a></p>
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## CHAPTER 12

# Appendix F— Sample Receipt of Funds Record

RECEIPT OF FUNDS RECORD					
The following information must be collected, retained and recorded for each prescribed transaction where the organization receives funds with a value of CAD 3,000 or more in any form from a client in respect of Triggering Activities.					
INFORMATION ON THE INDIVIDUAL FROM WHOM YOU RECEIVED THE FUNDS					
Last Name			First Name		
Street Address				Apartment/Unit #	
City		Prov.		Postal Code	
Date of Birth		Nature of Principal Business or Occupation			
TRANSACTION INFORMATION					
Transaction Date		Amount		Currency	
Purpose, Details and Type of Transaction		Other Persons or Entities Involved			
If funds were received in cash, how the cash was received					
IF AN ACCOUNT WAS AFFECTED BY THE TRANSACTION					
Account #			Type of Account		
Accountholder's Full Name			Currency of Transaction		
ENTITY INFORMATION, IF APPLICABLE					
Name of Entity			Nature of Principal Business		
Street Address			Apartment/Unit #		
City		Prov.		Postal Code	
If the receipt of funds record is about a corporation, you also need to keep a copy of the part of the official corporate records showing the provisions relating to the power to bind the corporation regarding the transaction.					

## Instructions on completing the Receipt of Funds Record

Information on the person providing the funds should be included on this form and be as specific as possible. Specifically:

- The address should be their physical location and not a PO Box.
- The occupation should be as specific as possible and should avoid vague occupations such as “self-employed,” “consultant” and “import export.”
- The purpose of the transaction should explain the whole transaction such as “received funds from client to wire.”
- If the funds are in cash form, this should be explained using such wording as “in person” “mailed” or “courier.”
- The sections on accounts would be applicable if the funds were received in a form other than cash. For instance, if the client gave you a cheque, the account information related to that cheque should be recorded.
- The section on entity information would be applicable if the client is not an individual. In that case, information on the individual conducting the transaction on behalf of the entity and the information on the entity would both be required.

If the client is an entity that is incorporated, a copy of their record that binds them to the transaction needs to be kept.

## CHAPTER 13

# Appendix G— Identification of Individuals in Person: Method and Form

### 13.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 13.2 Method

Face-to-face client identification means that you can physically meet the client and can refer to their identification document. For an identification document to be valid, it must include the following:

- Not be prohibited by provincial or territorial legislation for identification purposes.
- Must have a unique identifier number.
- Must have been issued by a provincial, territorial or federal government.
- Cannot have been expired.
- Must be an original and not a copy of the document.

Some examples of identification documents that FINTRAC has provided include:

- Insurance Corporation of British Columbia
- Alberta Registries
- Saskatchewan Government Insurance
- Department of Service Nova Scotia and Municipal Relations
- Department of Transportation and Public Works of the Province of Prince Edward Island
- Service New Brunswick
- Department of Government Services and Lands of the Province of Newfoundland and Labrador
- Department of Transportation of the Northwest Territories
- Department of Community Government and Transportation of the Territory of Nunavut

**What information needs to be collected when referring to the identification document?**

When you refer to a client's identification document, you must keep a record of the following information:

- The type of identification document.
- The reference number on the identification document.
- The place of issue of the identification document.

You do not need to take a copy of the identification document, as long as you keep the required information about the identification document.

## 13.3 Form

Collect the following information for each individual (personal) client or for individuals who can authorize a transaction on behalf of the entity.

Acceptable identification must be an original (not a copy), valid (not expired), bear a unique reference number and be issued by a provincial, federal or similar government.

The name and address information here must match the identification documents and the address must be a physical address and not a PO Box or general delivery address.

Last Name		First	
Home Address			Apartment/Unit #
City	Prov.	Postal Code	
Date of Birth	Occupation		
ID Type	<input type="checkbox"/> Driver's License	<input type="checkbox"/> Passport	<input type="checkbox"/> Other (Specify)
ID number	Place of issue (Province or Country)		

### EXAMPLES OF ACCEPTABLE IDENTIFICATION DOCUMENTS

- Insurance Corporation of British Columbia
- Alberta Registries
- Saskatchewan Government Insurance
- Department of Service Nova Scotia and Municipal Relations
- Department of Transportation and Public Works of the Province of Prince Edward Island
- Service New Brunswick
- Department of Government Services and Lands of the Province of Newfoundland and Labrador
- Department of Transportation of the Northwest Territories
- Department of Community Government and Transportation of the Territory of Nunavut



## CHAPTER 14

# Appendix H— Identification of Individuals Non-Face-to-Face: Methods

### 14.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 14.2 Methods

If you are unable to identify a client face-to-face, there are prescribed non-face-to-face methods that can be used. Non-face-to-face identification involves a combination method that gives you the option of selecting two of the following five options.

1. Identification Product Method: Refer to an independent and reliable identification product that is based on personal information and Canadian credit history about the individual of at least six months duration.
2. Credit File Method: With the individual's permission, refer to a credit file. The credit file must have been in existence for at least six months.

3. Attestation Method: Obtain an attestation that an original identification document for the individual has been seen by a commissioner of oaths or a guarantor.
4. Cleared Cheque Method: Confirm that a cheque drawn on a deposit account that the individual has with a financial entity has cleared.
5. Deposit Account Method: Confirm that the individual has a deposit account with a financial entity. This requirement would be specific to an account held with a Canadian financial institution and it must be a deposit account (e.g., a chequing or savings account and not a credit card account). To confirm that a client has a deposit account, you can either receive confirmation from the financial institution or ask your client for a copy of their deposit account statement (paper or electronic versions are both acceptable).

The AML Legislation restricts the type of combinations that you can use depending on the options. The following is a list of combinations that can be used for non-face-to-face client identification:

- identification product and attestation
- identification product and cleared cheque
- identification product and confirmation of deposit account
- credit file and attestation
- credit file and cleared cheque
- credit file and confirmation of deposit account
- attestation and cleared cheque

## CHAPTER 15

# Appendix I— Identification of Individuals by Third Parties: Methods

### 15.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 15.2 Methods

You can also rely on an agent or mandatary (a person engaged to perform a mandate on your behalf) to conduct client identification for you using the face-to-face method. This requires that you have in place a written agreement with the agent or mandatary that sets out what you expect from them and that you obtain from them the client identification information prior to the performance of the identification function. It is recommended that the effective date of the agreement and the signature of the agent/mandatary and the Accountant or Accounting Firm also be included on the agreement. An agent or mandatary can be any individual or entity.

An agent/mandatary agreement should explicitly state that the agreement is for the purpose of ascertaining client identification on behalf of the Accountant or Accounting Firm under the obligations of the PCMLTFA. It should also describe what will be done to confirm the identification (e.g., original ID will be reviewed and compared to the client to confirm that it is the person in question). It should also obligate the agent/mandatary to remit to the Accountant or Accounting Firm details collected in respect of each identification conducted.

When an agent/mandatary ascertains the client's identification under the agreement, a record should document the client's personal information including their name, address, occupation and date of birth, and details of the identification include the identification type, reference number and place of issue. The form included in Appendix G—Identification of Individuals in Person: Method and Form can be adapted for that purpose.

## CHAPTER 16

# Appendix J— Confirming the Existence of an Entity

### 16.1 Requirements

A client's identification must be ascertained when any of the following occur as part of an engagement for which Triggering Activities have occurred.

- receipt of funds of \$3,000 or above
- large cash transaction
- suspicious transaction (completed or attempted)

When dealing with an entity, both the entity and the individual conducting the transaction on the entity's behalf must be identified.

### 16.2 Method

Where you are required to identify an entity, you must identify that entity within 30 days of the transaction associated to the record. Identifying an entity involves the following:

1. Confirming the existence of the entity.
2. For entities that are corporations
  - a. obtain the corporation's name, address
  - b. the names of its directors

To confirm the existence of the entity, you can refer to following documents:

- partnership agreement
- articles of association
- business registration
- trust agreement

To confirm the existence of a corporation, and the corporation's name and address, you can refer to the following documents:

- corporation's certificate status
- record that has to be filed annually under provincial securities legislation
- letter or notice of assessment for the corporation from a municipal, provincial, territorial or federal government
- corporation's published annual report signed by an independent audit firm

If you received funds from an entity, you must obtain and keep a copy of the official corporate records that contains any provisions relating to the power to bind the corporation.

## 16.3 Form

ENTITY INFORMATION		
Name of Entity		
Street Address		Apartment/Unit #
City	Prov.	Postal Code
Country		
Principal Business		
Names of Directors (if entity is a corporation)		
COPY OF RECORD CONFIRMING EXISTENCE OF ENTITY		
To confirm the existence of a Corporation, refer to the articles of incorporation, certification of corporate status, published annual report or government notice of assessment.		
To confirm the existence of an entity that is not a corporation, refer to partnership agreement, articles of association or applicable documentation that confirms the formation/existence of the entity.		
If record is paper format, a copy must be kept. If electronic version, a record of the entity's registration number and type and source of record must be indicated on this form.		
If you received funds from an entity, you must obtain and keep a copy of the official corporate records that contains any provisions relating to the power to bind the corporation.		
Type of entity		
Type of verification record		
Source of verification record		
Registration number of entity		

**CHAPTER 17**

# Appendix K— Large Cash Transaction Report Form

This form is reproduced with permission from the Financial Transactions and Reports Analysis Centre of Canada and was up-to-date at the time of printing. As this form may change, we recommend you check the website to ensure you are using the latest version.

Source: [www.fintrac-canafe.gc.ca/publications/LCTR-2008-eng.pdf](http://www.fintrac-canafe.gc.ca/publications/LCTR-2008-eng.pdf)

# Large Cash Transaction Report

**If you have the capability to report electronically, DO NOT use this paper form. Refer to the reporting section of FINTRAC's Web site — <http://www.fintrac-canafe.gc.ca>**

Use this form if you are a reporting entity and you have to report a large cash transaction to FINTRAC. A large cash transaction is the receipt of an amount of \$10,000 or more in cash in the course of a single transaction. A large cash transaction also includes the receipt of two or more cash amounts of less than \$10,000 made by or on behalf of the same individual or entity within 24 consecutive hours of each other that total \$10,000 or more.

For more information about this or about who is considered a reporting entity and for instructions on how to complete this form, see *Guideline 7B: Submitting Large Cash Transaction Reports to FINTRAC by Paper* or call FINTRAC's toll-free enquiries line at 1-866-346-8722.

Send completed form by mail: FINTRAC, Section A, 234 Laurier Avenue West, 24th Floor, Ottawa, Ontario K1P 1H7  
 or send completed form by fax: 1-866-226-2346

**24-hour rule**

Is this report about a transaction of **less than \$10,000** that is part of a group of two or more such cash transactions made **within 24 consecutive hours** of each other that **total \$10,000 or more**?

**NO**  
 Include each large cash transaction in a separate report.

**YES**  
 Include each transaction that is part of a 24-hour rule group in the same large cash transaction report, unless they were conducted at different locations.

Is this Report a correction to a Report previously submitted?

**NO**

**YES** • Enter the original Report's Date and Time  
 Date 21 0 /    /    Time       /        
YEAR MONTH DAY HOUR MINUTE

- COMPLETE PART A – whether the information has changed or not
- Provide the new information **ONLY** for the affected fields in Part B through Part G
- If removing information from a field, strike a line through the field

**REPORTING DATE** 21 0 /    /    **TIME**       /        
YEAR MONTH DAY HOUR MINUTE

All fields of the report marked with an asterisk (\*) must be completed. The ones that are also marked "if applicable" must be completed if they are applicable to you or the transaction being reported. For all other fields, you have to make reasonable efforts to get the information.

## PART A — Information about where the transaction took place

1. Reporting entity's identifier number\* (if applicable)  
 \_\_\_\_\_

2. Reporting entity's full name\*  
 \_\_\_\_\_

**Where did the transaction take place?**

3. Street address\*  
 \_\_\_\_\_

4. City\*  
 \_\_\_\_\_

5. Province\* \_\_\_\_\_ 6. Postal code\*  
 \_\_\_\_\_

**Whom can FINTRAC contact about this report?**

6A. Reporting entity report reference number  
 \_\_\_\_\_

7. Contact – Surname\* \_\_\_\_\_ 8. Contact – Given name\* \_\_\_\_\_ 9. Contact – Initial/Other  
 \_\_\_\_\_

10. Contact – Telephone number (with area code)\* \_\_\_\_\_ 10A. Contact – Telephone extension number  
 \_\_\_\_\_

11. Which one of the following types of reporting entities best describes you?\*

<input type="checkbox"/> Accountant	<input type="checkbox"/> Casino	<input type="checkbox"/> Dealer in Precious Metals and Stones	<input type="checkbox"/> Provincial Savings Office
<input type="checkbox"/> Bank	<input type="checkbox"/> Co-op Credit Society	<input type="checkbox"/> Life Insurance Broker or Agent	<input type="checkbox"/> Real Estate
<input type="checkbox"/> British Columbia Notary	<input type="checkbox"/> Credit Union	<input type="checkbox"/> Life Insurance Company	<input type="checkbox"/> Securities Dealer
<input type="checkbox"/> Caisse Populaire	<input type="checkbox"/> Crown Agent (Sells/Redeems Money Orders)	<input type="checkbox"/> Money Services Business	<input type="checkbox"/> Trust and/or Loan Company





NOTE: Please copy this page for each additional, related, disposition (per transaction) (if required).

Transaction  Disposition  of

PART B2 — Information about how the transaction was completed

Indicate whether this transaction was conducted on behalf of anyone other than the individual who conducted it. If not, indicate "not applicable."

On behalf of:  not applicable  an entity (other than an individual) (also complete PART F)  another individual (also complete PART G)  employee depositing cash to employer's business account

8. Disposition of funds\*

Grid of checkboxes for disposition types: Cash out, Conducted currency exchange, Deposit to an account, Life insurance policy purchase/deposit, Outgoing electronic funds transfer, Purchase of bank draft, Purchase of casino chips, Purchase of diamonds, Purchase of jewellery, Purchase of money order, Purchase of precious metals, Purchase of precious stones (excluding diamonds), Purchase of traveller's cheques, Real estate purchase/deposit, Securities purchase/deposit, Other.

9. Amount of disposition\*

Amount of disposition input field

10. Disposition currency code\* — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper.

Additional information about the funds described in field 8 above

11. Other institution name and number or other entity or person name\* (if applicable)

12. Other entity or person account number or policy number\* (if applicable)



**NOTE: Please copy this page for each additional disposition (if applicable).**

**PART C — Account information, if the transaction involved an account**

Transaction  Disposition

**Complete this Part ONLY if the transaction involved an account.**

1. Branch or transit number where the account is held\* (if this part is applicable)

\_\_\_\_\_

2. Account number\* (if this part is applicable)

\_\_\_\_\_

3. Type of account\* (if this part is applicable)

Personal    Business    Trust    Other \_\_\_\_\_  
DESCRIPTION (OTHER)

4. Account currency code\* (if this part is applicable) — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper.*

\_\_\_\_\_

5. Full name of each account holder (the individual(s) or the entity that hold the account)\* (if this part is applicable)

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_



**NOTE: Please copy this page for each additional transaction (if applicable).**

Transaction

**PART D — Information about the individual conducting the transaction if it is not a deposit into a business account (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Surname\* (if this part is applicable)  2. Given name\* (if this part is applicable)  3. Other/Initial

4. Client number assigned by reporting entity\* (if applicable and if this part is applicable)

5. Street address\* (if this part is applicable)

6. City\* (if this part is applicable)

7. Province or State\* (if this part is applicable)  8. Country\* (if this part is applicable)

9. Postal or Zip code\* (if this part is applicable)

10. Country of residence

11. Home telephone number (with area code)

12. Individual's identifier\* (if this part is applicable)

Birth certificate    Driver's licence    Passport    Provincial health card    Record of landing / Permanent resident card

Other  DESCRIPTION (OTHER)

13. ID number (from question 12)\* (if this part is applicable)

14. Place of issue – Province or State\* (if this part is applicable)  15. Place of issue – Country\* (if this part is applicable)

16. Individual's date of birth\* (if this part is applicable)

YEAR MONTH DAY

17. Individual's occupation\* (if this part is applicable)

18. Individual's business telephone number (with area code)  18A. Telephone extension number



**NOTE: Please copy this page for each additional transaction (if applicable).**

Transaction

**PART E — Information about the individual conducting the transaction if it is a deposit into a business account —  
other than a night deposit or quick drop (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Surname\* (if this part is applicable)

\_\_\_\_\_

2. Given name\* (if this part is applicable)

\_\_\_\_\_

3. Other/Initial

\_\_\_\_\_



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction  Disposition

**PART F — Information about the entity on whose behalf the transaction was conducted (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Name of corporation, trust or other entity\* (if this part is applicable)

\_\_\_\_\_

2. Type of business\* (if this part is applicable)

\_\_\_\_\_

3. Street address\* (if this part is applicable)

\_\_\_\_\_

4. City\* (if this part is applicable)

\_\_\_\_\_

5. Province or state\* (if this part is applicable)

\_\_\_\_\_

6. Country\* (if this part is applicable)

\_\_\_\_\_

7. Postal or Zip code\* (if this part is applicable)

\_\_\_\_\_

8. Business telephone number (with area code)

\_\_\_\_\_

8A. Telephone extension number

\_\_\_\_\_

9. Incorporation number\* (if applicable and if this part is applicable)

\_\_\_\_\_

10. Place of issue – Province or State\* (if applicable and if this part is applicable)

\_\_\_\_\_

11. Place of issue – Country\* (if applicable and if this part is applicable)

\_\_\_\_\_

12. Individual(s) authorized to bind the entity or act with respect to the account (up to three)

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction  Disposition

**PART G — Information about the individual on whose behalf the transaction was conducted (if applicable)**

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for any mandatory fields in this part was not obtained at the time of the transaction (and is not available from your records), you can leave those fields blank.

1. Surname\* (if this part is applicable) \_\_\_\_\_ 2. Given name\* (if this part is applicable) \_\_\_\_\_ 3. Other/Initial \_\_\_\_\_

4. Street address\* (if this part is applicable) \_\_\_\_\_

5. City\* (if this part is applicable) \_\_\_\_\_

6. Province or State\* (if this part is applicable) \_\_\_\_\_ 7. Country\* (if this part is applicable) \_\_\_\_\_

8. Postal or Zip code\* (if this part is applicable) \_\_\_\_\_

9. Home telephone number (with area code) \_\_\_\_\_

10. Business telephone number (with area code) \_\_\_\_\_ 10A. Telephone extension number \_\_\_\_\_

11. Individual's date of birth  
YEAR MONTH DAY

12. Individual's identifier  
 Birth certificate     Driver's licence     Passport     Provincial health card     Record of landing / Permanent resident card  
 Other \_\_\_\_\_  
DESCRIPTION (OTHER)

13. ID number (from question 12) \_\_\_\_\_ 14. Country of residence \_\_\_\_\_

15. Place of issue of individual's identifier – Province or State \_\_\_\_\_ 16. Place of issue of individual's identifier – Country \_\_\_\_\_

17. Individual's occupation \_\_\_\_\_

**Relationship**  
 18. Relationship of the individual named in Part D or Part E to the individual named above (fields 1 to 3)  
 Accountant     Borrower     Customer     Friend     Relative  
 Agent     Broker     Employee     Legal counsel     Other \_\_\_\_\_  
DESCRIPTION (OTHER)

The information on this form is collected under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act). It will be used for analytical purposes and may also be used for the purposes of ensuring compliance with the Act. Any personal information is protected under the provisions of the *Privacy Act*. For more information, consult the Financial Transactions and Reports Analysis Centre of Canada chapter in the *Sources of Federal Government Information* publication, available on the Government of Canada Info Source Web site (<http://www.infosource.gc.ca>).

Source: [www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp#s441](http://www.fintrac-canafe.gc.ca/publications/guide/Guide7B/7b-eng.asp#s441)

## 5. Instructions for Completing a Large Cash Transaction Report

The fields in this section correspond with the paper form called the Large Cash Transaction Report. As explained in section 3.4, completing a paper report is only permitted if you do not have the capability to report electronically.

Fields in reports are either mandatory, mandatory where applicable, or require "reasonable efforts" to complete, as follows:

- **Mandatory:** All fields of a report marked with an asterisk (\*) **have to be completed.**
- **Mandatory where applicable:** The fields that have both an asterisk and "where applicable" next to them have to be completed if they are applicable to you or the transaction being reported.
- **Reasonable efforts:** For all other fields that do not have an asterisk, you have to make reasonable efforts to get the information. "Reasonable efforts" means that you tried to get the information requested on the report. If the information is available to you, you must provide it in the report. If the information was not available at the time of the transaction, and it is not contained in your files or records, the field may be left blank.

In certain circumstances, only as directed in the instructions for certain fields, if you need to indicate that a required field in a report is not applicable, enter "N/A" or "n/a". Do not substitute any other abbreviations, special characters (e.g., "x", "-" or "\*\*\*") or words (e.g., unknown).

As explained in subsection 3.1, a large cash transaction report can be about multiple transactions of less than \$10,000 each conducted within 24 consecutive hours of each other that add up to \$10,000 or more. Because those individual transactions were under \$10,000, the information for some mandatory fields in the report may not be available in your records or from the time of the transaction. In this case, "reasonable efforts" applies to those otherwise mandatory fields.

There are eight parts to the large cash transaction report, but some are only to be completed if applicable. To report a large cash transaction follow the following four steps:

- **Step 1** - Complete Part A to provide information about the reporting entity and about where the transaction took place.
- **Step 2** - Complete Part B1 to provide details about the transaction. If you have to include more than one transaction in your report (for cash transactions of less than \$10,000 each made within 24 consecutive hours of each other that total \$10,000 or more), repeat steps 2, 3 and 4 for each one.

If the transaction was a night deposit or a quick drop to a business account, make sure to indicate this in field B3.

- **Step 3** - Complete Part B2 to provide details about the transaction's disposition. If the transaction's disposition was related to an account, also complete Part C. If the transaction's disposition was on behalf of a corporation or other entity (other than an employee depositing cash into his or her employer's business account), also complete Part F. If the transaction's disposition was on behalf of an individual (other than an employee depositing cash into his or her employer's business account), complete Part G.

If there was more than one disposition for the transaction, repeat this step for each disposition.

- **Step 4** - Complete Part D or E to provide information about the individual conducting the transaction, depending on whether or not the transaction's disposition was a deposit to a business account. If the transaction had no other dispositions than deposits to a business account, complete Part E. If the transaction involved a disposition that was **not** a deposit to a business account, complete Part D. However, if the transaction was a night deposit or a quick drop to a business account, **neither** Part D nor Part E is required.

The rest of this section will cover each part of the Large Cash Transaction Report form.

When completing the paper form, enter the date and time when you begin completing it at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see [section 4](#).

### 24-hour-rule

If this report is about one transaction of \$10,000 or more, answer **no** to the 24-hour-rule question. In this case, your report should only include one transaction.

If this report is about a transaction that is part of a group of two or more cash transactions of less than \$10,000 each made within 24 consecutive hours of each other that total \$10,000 or more, answer **yes** to the 24-hour-rule question. Include each such transaction in the same large cash transaction report, unless they were not all conducted at the same location. If the transactions in such a group were conducted at different locations, separate large cash transaction reports would be required to group them for each location.

### Part A: Information about where the transaction took place

This part is for information about the reporting entity required to report the transaction to FINTRAC. It is also for information about the physical location where the transaction took place.

If you need more information about what type of individual or entity is a reporting entity, see section 2 of this guideline.

If you have multiple branch or office locations, the information in this part should refer to the branch or office location where the transaction took place. Transactions that happened at different branch or office locations should be reported on separate reports.

Some reporting entities have contractual arrangements with someone outside their entity to conduct transactions on their behalf. For example, a money services business arranges for transactions, such as electronic funds transfers, to be conducted for them at a grocery store. If you have this type of arrangement, as the reporting entity, your name belongs in Part A. However, since the transaction was conducted at someone else's place of business, it is that address that must appear in Part A.

#### Field A1\* Reporting entity's identifier number (if applicable)

This is the institution or licence number, or other identification number for the reporting entity, as outlined below. If you are a reporting entity that has multiple branch or office locations, the identification number should refer to the branch or office where the transaction took place.

- If you are an **accountant**, enter your provincial chartered accountant (CA), provincial certified management accountant (CMA), or provincial certified general accountant (CGA) number.
- If you are a **bank, caisse populaire, cooperative credit society or credit union**, enter your financial institution number issued by the Canadian Payments Association (CPA).
- If you are an **agent of the Crown that sells or redeems money orders**, enter your post office or similar number.
- If you are a **life insurance broker or agent**, enter your provincial broker or agent licence number.
- If you are a **federally regulated life insurance company**, enter your Office of the Superintendent of Financial Institutions (OSFI) Institution Code.
- If you are a **life insurance company that is not federally regulated**, enter your provincial licence number.
- If you are a **provincial savings office**, enter your financial institution number issued by the CPA.
- If you are a **real estate broker or sales representative**, enter your provincial broker number.
- If you are a **securities dealer**, enter your provincial dealer licence number.
- If you are a **trust and loan company**, enter your financial institution number issued by the CPA.
- If you are a **provincial trust and loan** that is not a member of the CPA, enter your registration number.
- If you are a **money services business**, enter your money services business registration number issued by FINTRAC.
- If you are a **dealer in precious metals and stones**, leave this field blank.
- If you are a **British Columbia public notary**, enter your membership number. If you are a **notary corporation of British Columbia**, enter your permit number.
- If you are a **real estate developer**, enter your provincial licence number if you have one. Otherwise, leave this field blank.

#### Field A2\* Reporting entity's full name

Enter the full legal name of the business or corporation that is the reporting entity. If you are a reporting entity that does not have a business name (for example, you are a reporting entity that is an individual), enter your full name.

#### Fields A3\* to A6\* Reporting entity's full address

Enter the civic address, town or city, province and postal code where the transaction took place. If you have more than one location, this information should refer to where the transaction took place. As explained above, transactions that happened at different branch or office locations should be reported on separate reports.

#### Field A6A Reporting entity report reference number

If you use a reference number for your own internal purposes, you can enter it in your report to FINTRAC. This field can contain up to 20 alpha or numeric characters and must be unique for each of your reporting entity's reports.

If you do not wish to use such an internal reference number, leave this field empty.

#### Fields A7\*, A8\* and A9 Contact name

Enter the name of the individual FINTRAC can contact for clarification about this report.

#### Field A10\* Contact telephone number

Enter the telephone number, including the area code, of the individual FINTRAC can contact for clarification. Include the extension, if applicable, in field A10A.

**Field A11\* Which one of the following types of reporting entities best describes you?**

Enter the type of activity applicable to you. If you are involved in more than one activity type, indicate the one applicable to the transaction being reported. If there is more than one activity for one or more transactions on the report, check only one box to indicate your principal type of activity.

**Part B1: Information about how the transaction was initiated**

This part is for information about how the transaction was initiated (i.e., where the money came from).

You should make separate large cash transaction reports for each single transaction of \$10,000 or more.

If you are reporting two or more cash transactions of less than \$10,000 each made by or on behalf of the same individual within 24 consecutive hours of each other that total \$10,000 or more, you should group those in the same report. If the information in Part A is different for any of those multiple transactions, however, you will have to send separate reports to group them by location.

When you need to report more than one transaction, complete a separate Part B1 for each transaction. To do this, you can copy Part B1. Fill in the "Transaction \_\_\_ of \_\_\_" area at the top of Part B1 to distinguish between each transaction. When you provide the details of the transaction in Part D or E, the details of disposition in Part B2, as well as the additional details of disposition in Parts C, F and G, as applicable, indicate to which transaction that information applies.

**Fields B1\*, B2 and B3\* When the transaction took place**

Enter the date (yyyy-mm-dd) and time (hh:mm:ss) of the large cash transaction. Use a 24-hour format for time. For example, enter "15:30:00" to represent 3:30 p.m.

The time of the transaction (field B2) can be left blank if it is not available from the moment of the transaction or in your records.

The date of transaction (field B1) is mandatory. However, if the transaction was a night deposit, and you do not provide the date, you can leave field B1 blank. In this case, make sure to use the night deposit indicator at field B3 and make sure to provide the date of posting in field B4.

If the transaction was either a **night deposit** or a **quick drop** to a business account, make sure to select the appropriate indicator at field B3. In this case, neither of Parts D, E, F or G will apply to the transaction.

**Field B4 Date of posting**

Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided in field B1. In the case of a night deposit, if you do not provide the date of transaction at field B1, you must provide the date of posting for the transaction in field B4.

**Field B5\* Amount of transaction**

Enter the total amount of cash involved in the transaction. This is the total cash amount received to start the transaction. What happens as a result of that cash amount will be explained in Part B2 as one or more dispositions.

If this cash was not in Canadian funds, you do not have to convert it, but you have to provide the currency information in field B6.

**Field B6\* Transaction currency code**

Enter the code for the type of currency for the transaction. Enter CAD if Canadian dollars, or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 in *Guideline 38: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

**Field B7\* How was the transaction conducted?**

Check the appropriate box to indicate how the transaction was conducted. For example, if the transaction was done through an automated banking machine, check that box. If the selections provided do not cover this particular transaction, indicate "Other" and provide details in the field provided.

**Part B2: How the transaction was completed**

This part is for information about how the transaction was completed (i.e., where the money went).

**"On behalf of" indicator**

At the top of Part B2, you have to indicate whether the individual who conducted the transaction was doing so on anyone else's behalf. You have to select one of the following for this entry:

- **Not applicable**

This means that **neither** Part F **nor** Part G applies to this report. "Not applicable" indicates that none of the other "On behalf of" selections is applicable to the transaction. For example, the disposition was not on anyone else's behalf (i.e., it was on behalf of the individual that conducted it).

- **On behalf of an entity**

This indicates that the disposition was on behalf of an entity, such as a business, a partnership, a corporation, a trust or other entity, but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted on behalf of an entity, complete Part F for this report to provide the information about that entity.

- **On behalf of another individual**

This indicates that the disposition was on behalf of another individual but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted on behalf of another individual, complete Part G to provide the information about that other individual.

- **Employee depositing cash to employer's business account**

This indicates that the disposition was an employee depositing cash to his or her employer's **business** account. If it was an employee depositing cash to his or her employer's business account, **neither** Part F **nor** Part G of this report applies. Do not use this indicator if the employee deposited other than cash or if the employer's account was other than a business account.

Unless the transaction was a night deposit or a quick drop, you have to provide information about the individual conducting the transaction in Part D or Part E. If the transaction had no other dispositions than a deposit to a business account, complete Part E. If the transaction involved a disposition that was **not** a deposit to a business account, complete Part D. If the transaction was a night deposit or a quick drop, neither of Parts D, E, F or G applies.

#### **More than one disposition**

There could be more than one disposition for a particular transaction. For example, your client could initiate a transaction in cash, send an electronic funds transfer (EFT) for part of it (disposition 1), order a bank draft for another part (disposition 2) and deposit the rest (disposition 3). In that case, make sure you include the information for each disposition. If you are including more than one transaction in this report (for cash transactions of less than \$10,000 each made within 24 consecutive hours of each other that total \$10,000 or more), you have to complete Part B2 for all dispositions for each transaction.

If you have to include more than one disposition, complete a separate Part B2 for each one. To do this, you can copy Part B2. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_ of \_\_\_\_" area at the top of Part B2 to distinguish between each disposition. If you have to include more than one transaction in this report, indicate to which transaction the disposition information applies, based on the number you assigned the transaction in Part B1. When you provide the details of disposition in Parts C, F and G, as applicable, also indicate to which disposition and which transaction that information applies.

#### **Field B8\* Disposition of funds**

This describes what happened to the funds involved in the transaction.

If the disposition of funds was a life insurance policy purchase or deposit, check that box and provide the life insurance policy number in the appropriate field. If the selections provided do not cover this particular disposition, indicate "Other" and provide details in the appropriate field.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the disposition of funds in field B8 should be "deposit to an account".

If you are a dealer in precious metals and stones, select the disposition of funds in field B8 that best describes what your client purchased.

#### **Field B9\* Amount of disposition**

Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you have to provide the currency code in field B10.

#### **Field B10\* Disposition currency code**

Enter the code for the type of currency for the disposition. Enter CAD if Canadian dollars, or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 in *Guideline 38: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

#### **Fields B11\* and 12\* Other institution, entity or person name, number and account or policy number (if applicable)**

These fields are for additional information about the disposition described in field B8. Where applicable, in field B11, provide the name (including the institution identification number if applicable) of any other institution, individual or entity involved in the disposition. In addition, where applicable, in field B12, provide the account number of any other individual or entity involved in the disposition. Also provide any policy number related to the other entity or individual in field B12, if applicable.

**Part C : Account information, if the transaction involved an account**

This part is for information about the account involved in the transaction, if it in fact involved an account. As explained earlier, it is possible to have more than one transaction per report and more than one disposition per transaction. Provide the account information, if applicable, for each disposition included in the report.

If you have to include account information for more than one disposition, complete a separate Part C to provide information for each account involved. To do this, you can copy Part C. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part C to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Field C1\* Branch or transit number where the account is held (if this part is applicable)**

Enter the branch number, transit number or other appropriate identifying number of the entity where the relevant account is held, if an account is applicable to the transaction.

**Field C2\* Account number (if this part is applicable)**

Enter the number of the relevant account.

**Field C3\* Type of account (if this part is applicable)**

Indicate the type of the relevant account. For example, a business account would be one that, at the time it was opened, was for a business or for a non-profit organization, etc. (i.e., other than a personal or trust account). If the selections "personal, business or trust" do not cover this particular account, indicate "Other" and provide details in the appropriate field.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the account type in field C3 should be "business".

**Field C4\* Account currency code (if this part is applicable)**

Enter the code for the type of currency for the relevant account. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see the list of currency codes in Appendix 1 in *Guideline 38: Submitting Reports to FINTRAC by Paper*.

**Field C5\* Full name of the individual(s) or entity that hold the account (if this part is applicable)**

Enter the full name of each account holder (up to three).

This is for information about each individual or entity that holds the account. For example, in the case of a joint account for husband and wife, include the names of each spouse at field C5.

The account holder might be different from the individual(s) authorized to give instructions for the account. For example, an account for a corporation will have one or more individuals authorized to give instructions for that account. In this case, it is the name of the corporation that holds the account that is required in field C5. Information about individuals authorized to bind the entity or to act with respect to the account belongs in Part F, if applicable, in field F12.

**Part D: Information about the individual conducting the transaction if it is not a deposit into a business account (if applicable)**

This part is for information about the individual who conducted the transaction if any of this transaction's dispositions was **not** a deposit into a business account. If the transaction involved nothing other than deposits to a business account, complete Part E.

If the transaction was a night deposit or a quick drop to a business account, neither of Parts D, E, F or G applies.

As explained earlier, it is possible to have more than one transaction per report. Provide information about the individual who conducted the transaction in either Part D or Part E, as appropriate, for each transaction included in the report. Fill in the "Transaction \_\_\_\_" area at the top of Part D to distinguish between each transaction, based on the number you assigned the transaction in Part B1.

If you are a dealer in precious metals and stones, the conductor of the transaction is the individual from whom you bought or to whom you sold precious metals or stones.

**Fields D1\*, D2\* and D3 Individual's full name (if this part is applicable)**

Enter the last name, first name and middle initial (if applicable) of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields D1 and D2 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field D4\* Entity client number (if applicable and if this part is applicable)**

Enter the client number you issued to the individual who conducted the transaction, if applicable.

**Fields D5\* to D9\* Individual's full address (if this part is applicable)**

Enter the civic address, town or city, province or state, country and postal code of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields D5 to D9 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field D10 Country of residence**

Enter the country of permanent residence of the individual who conducted the transaction.

**Field D11 Home telephone number**

Enter the home telephone number, including the area code, of the individual who conducted the transaction.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field D12\* Individual's identifier (if this part is applicable)**

Check the appropriate box to show the document used to identify the individual who conducted the transaction.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the appropriate field.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field D12, but do not provide the number in field D13.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D12 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field D13\* ID Number (if this part is applicable)**

Enter the number of the document described in field D12 that was used to identify the individual who conducted the transaction. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field D12 (and D12A) is a SIN card, enter "N/A" in field D13 to indicate the number is not applicable.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D13 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Fields D14\* and D15\* Place of issue (if this part is applicable)**

Enter the province or state and country of issue of the document used to identify the individual who conducted the transaction. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields D14 and D15 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field D16\* Individual's date of birth (if this part is applicable)**

Enter the date (yyyy-mm-dd) of birth of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D16 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field D17\* Individual's occupation (if this part is applicable)**

Enter the occupation of the individual who conducted the transaction.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field D17 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field D18 Individual's business telephone number**

Enter the business telephone number, including the area code, of the individual who conducted the transaction. Include the extension if applicable in field D18A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Part E: Information about the individual conducting the transaction if it is a deposit into a business account - other than a quick drop or night deposit (if applicable)**

This part is for information about the individual who conducted the transaction if this transaction had no other dispositions than **deposits into a business account**. As explained earlier, it is possible to have more than one transaction per report. Provide this information for each transaction included in the report. Fill in the "Transaction \_\_\_\_" area at the top of Part E to distinguish between each transaction, based on the number you assigned the transaction in Part B1.

If the transactions involved any disposition that was not a deposit to a business account, complete Part D. If the transaction was a night deposit or a quick drop to a business account, neither of Parts D or E applies.

**Fields E1\*, E2\* and E3 Individual's full name (if this part is applicable)**

Enter the last name, first name and middle initial (if applicable) of the individual who conducted the transaction.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields E1 and E2 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Part F: Information about the entity on whose behalf the transaction was conducted (if applicable)**

This part only applies if the transaction's disposition was conducted on behalf of a third party that is an entity, as indicated in Part B2. If an employee deposited cash in his or her employer's business account, or if the transaction was a deposit to a business account by night deposit or quick drop, Part F does not apply.

Complete a separate Part F for each disposition that was conducted on behalf of an entity. To do this, you can copy Part F. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part F to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Field F1\* Name of corporation, trust or other entity (if this part is applicable)**

Enter the full name of the business, corporation, trust or other entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field F1 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field F2\* Type of business (if this part is applicable)**

Describe the type of business or entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field F2 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Field F2\* Type of business (if this part is applicable)**

Describe the type of business or entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for field F2 was not obtained at the time of the transaction (and is not available from your records), you can leave this field blank.

**Fields F3\* to F7\* Full address of entity (if this part is applicable)**

Enter the civic address, town or city, province or state, country and postal code of the business, corporation or other entity on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields F3 to F7 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field F8 Business telephone number**

Enter the telephone number, including the area code, of the business, corporation or other entity on whose behalf the transaction was conducted. Include the extension, if applicable, at field F8A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Fields F9\* to F11\* Incorporation information (if applicable and if this part is applicable)**

If the transaction was conducted on behalf of an entity that is a corporation, provide the incorporation number. Also provide the province or state, and country of the incorporation number's place of issue. If an incorporation number does not exist for the corporation, enter "N/A" in fields F9, F10 and F11. If the incorporation number was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields F9, F10 and F11 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Field F12 Individual(s) authorized to bind the entity or act with respect to the account (up to three)**

Provide the names of up to three individuals who have authority to bind the entity or conduct transactions through the account.

**Part G: Information about the individual on whose behalf the transaction was conducted (if applicable)**

This part only applies when the transaction's disposition was conducted on behalf of a third party that is an individual, as indicated in Part B2.

If the individual conducted the transaction's disposition on his or her own behalf, this part does not apply. In that case, see Part D or Part E.

If an employee deposited cash in his or her employer's business account, or if the transaction was a deposit to a business account by night deposit or quick drop, Part G does not apply. If the transaction's disposition was conducted on behalf of an entity (such as a business, a partnership, a corporation, etc.), see Part F.

Complete a separate Part G for each disposition that was conducted on behalf of an individual. To do this, you can copy Part G. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part G to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Fields G1\*, G2\* and G3 Individual's full name (if this part is applicable)**

Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields G1 and G2 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

**Fields G4\* to G8\* Individual's full address (if this part is applicable)**

Enter the civic address, town or city, province or state, country and postal code of the individual on whose behalf the transaction was conducted.

If the transaction is reportable as one of multiple cash transactions of less than \$10,000 each and, because of this, information for fields G4 to G8 was not obtained at the time of the transaction (and is not available from your records), you can leave these fields blank.

#### **Field G9 Home telephone number**

Enter the home telephone number, including the area code, of the individual on whose behalf the transaction was conducted.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

#### **Field G10 Business telephone number**

Enter the business telephone number, including the area code, of the individual on whose behalf the transaction was conducted. Include the extension if applicable at field G10A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

#### **Field G11 Individual's date of birth**

Enter the date of birth (yyyy-mm-dd) of the individual on whose behalf the transaction was conducted.

#### **Field G12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual on whose behalf the transaction was conducted.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the appropriate field.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field G12, but do not provide the number in field G13.

#### **Field G13 ID number**

Enter the number of the document described in field G12 that was used to identify the individual on behalf of whom the transaction was conducted. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field G12 (and G12A) is a SIN card, enter "N/A" in field G13 to indicate the number is not applicable.

#### **Field G14 Country of residence**

Enter the country of permanent residence of the individual on whose behalf the transaction was conducted.

#### **Fields G15 and G16 Place of issue of the individual's identifier**

Enter the province or state, and country of issue of the document used to identify the individual on whose behalf the transaction was conducted. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

#### **Field G17 Individual's occupation**

Enter the occupation of the individual on whose behalf the transaction was conducted.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

**Field G18 Relationship of the individual named in Part D or Part E to the individual named above**

Check the appropriate box to indicate the relationship of the individual conducting the transaction to the individual on whose behalf the transaction was conducted.

If the selections provided do not cover the relationship, indicate "Other" and provide details in the appropriate field.



**CHAPTER 18**

# Appendix L— Suspicious Transaction Report Form

This form is reproduced with permission from the Financial Transactions and Reports Analysis Centre of Canada and was up-to-date at the time of printing. As this form may change, we recommend you check the website to ensure you are using the latest version.

Source: [www.fintrac-canafe.gc.ca/publications/STR-2008-eng.pdf](http://www.fintrac-canafe.gc.ca/publications/STR-2008-eng.pdf)





**NOTE: Please copy this page for each additional, related, disposition (per transaction) (if required).**

Transaction  Disposition  of

**PART B2 — Information about how the transaction was completed**

If the transaction being reported was attempted and, because of this, information for any mandatory fields in this part is not available, you can leave those fields blank.

Indicate whether this transaction was conducted on behalf of anyone other than the individual who conducted it. If not, indicate "not applicable."

**On behalf of:**  **not applicable**  **another individual** (also complete PART F)  
 **an entity (other than an individual)**  **employee depositing cash to employer's business account**  
(also complete PART E)

12. Disposition of funds\*

<input type="checkbox"/> Cash out	<input type="checkbox"/> Outgoing electronic funds transfer	<input type="checkbox"/> Purchase of jewellery	<input type="checkbox"/> Purchase of traveller's cheques
<input type="checkbox"/> Conducted currency exchange	<input type="checkbox"/> Purchase of bank draft	<input type="checkbox"/> Purchase of money order	<input type="checkbox"/> Real estate purchase/deposit
<input type="checkbox"/> Deposit to an account	<input type="checkbox"/> Purchase of casino chips	<input type="checkbox"/> Purchase of precious metals	<input type="checkbox"/> Securities purchase/deposit
<input type="checkbox"/> Life insurance policy purchase/deposit	<input type="checkbox"/> Purchase of diamonds	<input type="checkbox"/> Purchase of precious stones (excluding diamonds)	<input type="checkbox"/> Other _____ <small>DESCRIPTION (OTHER)</small>

\_\_\_\_\_ POLICY NUMBER

13. Amount of disposition\*

\_\_\_\_\_

14. Disposition currency code\* — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper*.

\_\_\_\_\_

**Additional information about the funds described in field 12 above**

15. Other institution name and number or other entity or person name\* (if applicable)

\_\_\_\_\_

16. Other entity or person account number or policy number\* (if applicable)

\_\_\_\_\_



**NOTE: Please copy this page for each additional disposition (if applicable).**

**PART C — Account information, if the transaction involved an account**

If the transaction being reported was attempted and, because of this, information for any mandatory fields in this part is not available, you can leave those fields blank.

Transaction  Disposition

Complete this Part ONLY if the transaction involved an account.

- 1. Branch or transit number where the account is held\* (if this part is applicable)
- 2. Account number\* (if this part is applicable)

\_\_\_\_\_

- 3. Type of account\* (if this part is applicable)

Business  
  Personal  
  Trust  
  Other (DESCRIPTION (OTHER)) \_\_\_\_\_

- 4. Account currency code\* (if this part is applicable) — Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3B: Submitting Suspicious Transaction Reports to FINTRAC by Paper.*

\_\_\_\_\_

- 5. Full name of each account holder (the individual (s) or entity that hold the account)\* (if this part is applicable)

**1** \_\_\_\_\_

**2** \_\_\_\_\_

**3** \_\_\_\_\_

- 6. Date opened

YEAR MONTH DAY

- 7. Date closed

2 | 0 YEAR MONTH DAY

- 8. Status of the account at the time the transaction was initiated\* (if this part is applicable)

Active  
  Inactive  
  Dormant



**NOTE: Please copy this page for each additional transaction (if applicable).**

**PART D — Information about the individual conducting the transaction**

Transaction

1. Surname  2. Given name  3. Other/Initial

4. Client number assigned by reporting entity\* (if applicable)

5. Street address

6. City

7. Province or State  8. Country

9. Postal or Zip code

10. Country of residence  10A. Country of citizenship

11. Home telephone number (with area code)

12. Individual's identifier

- Birth certificate  
  Driver's licence  
  Passport  
  Provincial health card  
  Record of landing / Permanent resident card  
 Other

13. ID number (from question 12)

14. Place of issue – Province or State  15. Place of issue – Country

16. Individual's date of birth  
 YEAR MONTH DAY

17. Individual's occupation

18. Individual's business telephone number (with area code)  18A. Telephone extension number

**Information about individual's employer**

19. Individual's employer

20. Employer's street address

21. Employer's city

22. Employer's province or state  23. Employer's country

24. Postal or Zip code

25. Employer's business telephone number (with area code)  25A. Telephone extension number



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction  Disposition

**PART E — Information about the entity on whose behalf the transaction was conducted (if applicable)**

1. Name of corporation, trust or other entity

\_\_\_\_\_

2. Type of business

\_\_\_\_\_

3. Street address

\_\_\_\_\_

4. City

\_\_\_\_\_

5. Province or State

\_\_\_\_\_

6. Country

\_\_\_\_\_

7. Postal or Zip code

\_\_\_\_\_

8. Business telephone number (with area code)

\_\_\_\_\_

8A. Telephone extension number

\_\_\_\_\_

9. Incorporation number

\_\_\_\_\_

10. Place of issue – Province or State

\_\_\_\_\_

11. Place of issue – Country

\_\_\_\_\_

12. Individual(s) authorized to bind the entity or act with respect to the account (up to three)

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_



**NOTE: Please copy this page for each additional disposition (if required).**

Transaction  Disposition

**PART F — Information about the individual on whose behalf the transaction was conducted (if applicable)**

1. Surname \_\_\_\_\_ 2. Given name \_\_\_\_\_ 3. Other/Initial \_\_\_\_\_

4. Street address \_\_\_\_\_

5. City \_\_\_\_\_

6. Province or State \_\_\_\_\_ 7. Country \_\_\_\_\_

8. Postal or Zip code \_\_\_\_\_

9. Home telephone number (with area code) \_\_\_\_\_

10. Business telephone number (with area code) \_\_\_\_\_ 10A. Telephone extension number \_\_\_\_\_

11. Individual's date of birth  
 YEAR MONTH DAY

12. Individual's identifier  
 Birth certificate     Driver's licence     Passport     Provincial health card     Record of landing/Permanent resident card  
 Other \_\_\_\_\_  
DESCRIPTION (OTHER)

13. ID number (from question 12) \_\_\_\_\_

14. Country of residence \_\_\_\_\_ 14A. Country of citizenship \_\_\_\_\_

15. Place of issue of individual's identifier — Province or State \_\_\_\_\_ 16. Place of issue of individual's identifier — Country \_\_\_\_\_

17. Individual's occupation \_\_\_\_\_

**Information about individual's employer**

18. Individual's employer \_\_\_\_\_

19. Employer's street address \_\_\_\_\_

20. Employer's city \_\_\_\_\_

21. Employer's province or state \_\_\_\_\_ 22. Employer's country \_\_\_\_\_

23. Postal or Zip code \_\_\_\_\_

24. Employer's business telephone number (with area code) \_\_\_\_\_ 24A. Telephone extension number \_\_\_\_\_

**Relationship**

25. Relationship of the individual named in Part D to the individual named above (fields 1 to 3)  
 Accountant     Borrower     Customer     Friend     Relative  
 Agent     Broker     Employee     Legal counsel     Other \_\_\_\_\_  
DESCRIPTION (OTHER)



**PART G — Description of suspicious activity**

1. Please describe clearly and completely the factors or unusual circumstances that led to the suspicion of money laundering or terrorist activity financing.\*  
Provide as many details as possible to explain what you found suspicious.

If this report is about one or more transactions that were attempted, also describe why each one was not completed.

**PART H — Description of action taken (if applicable)**

1. Please describe what action, if any, was or will be taken by you as a result of the suspicious transaction(s).\* (if this part is applicable)

The information on this form is collected under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act). It will be used for analytical purposes and may also be used for the purposes of ensuring compliance with the Act. Any personal information is protected under the provisions of the *Privacy Act*. For more information, consult the Financial Transactions and Reports Analysis Centre of Canada chapter in the *Sources of Federal Government Information* publication, available on the Government of Canada Info Source Web site (<http://www.infosource.gc.ca>).

Suspicious Transaction Report

Source: [www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp#s441](http://www.fintrac-canafe.gc.ca/publications/guide/Guide3B/3b-eng.asp#s441)

## 5. Instructions for Completing a Suspicious Transaction Report

The fields in this section correspond with the paper form called the *Suspicious Transaction Report*. As explained in subsection 3.3, completing a paper report is only permitted if you do not have the capability to report electronically.

Fields in reports are either mandatory, mandatory if applicable, or require "reasonable efforts" to complete, as follows:

- **Mandatory:** All fields of a report marked with an asterisk (\*) **have to be completed.**
- **Mandatory if applicable:** The fields that have both an asterisk and "if applicable" next to them have to be completed if they are applicable to you or the transaction being reported.
- **Reasonable efforts:** For all other fields that do not have an asterisk, you have to make reasonable efforts to get the information. "Reasonable efforts" means that you tried to get the information requested on the report. If the information is available to you, you must provide it in the report. If the information was not available at the time of the transaction, and it is not contained in your files or records, the field may be left blank.

In certain circumstances, only as directed in the instructions for certain fields, if you need to indicate that a required field in a report is not applicable, enter "N/A" or "n/a". Do not substitute any other abbreviations, special characters (for example, "x", "\*" or "\*\*\*") or words (for example, "unknown").

When completing the paper form, enter the date and time when you begin completing it at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see section 4.

There are eight parts on the *Suspicious Transaction Report* form, but some are only to be completed if applicable. To report a suspicious transaction, follow the following five steps:

- Step 1 - Complete [Part A](#) to provide information about the reporting entity and about where the transaction took place or was attempted.
- Step 2 - Complete [Part B1](#) to provide details about the transaction.
- Step 3 - Complete [Part B2](#) to provide details about the transaction's disposition. If the transaction's disposition was related to an account, also complete [Part C](#). If the transaction's disposition was on behalf of a business, a corporation or other entity (other than an employee depositing cash into his or her employer's business account), also complete [Part E](#). If the transaction's disposition was on behalf of an individual (other than an employee depositing cash into his or her employer's business account), complete [Part F](#).

If there was more than one disposition for the transaction, repeat this step for each disposition.

- Step 4 - Complete [Part D](#) to provide information about the individual conducting or attempting to conduct the transaction.
- Step 5 - Complete [Part G](#) to explain the reason for your suspicion. In the case of a report about attempted transactions, this must include the reason why they were not completed. Also, complete [Part H](#) to provide information about any action taken, if applicable.

If you have to include more than one transaction in your report, repeat steps 2, 3 and 4 for each one. You may need to use extra copies of Parts B1, B2, C, D, E or F to complete your report.

The rest of this section will cover each part of the *Suspicious Transaction Report* form.

### Transaction status indicator

To report a **completed** transaction, check "Completed" as the transaction status indicator. This applies to the entire report, so you should not include any other transactions in this report if they were attempted.

To report an **attempted** transaction, check "Attempted" as the transaction status indicator. This applies to the entire report, so you should not include any other transactions in this report if they were completed.

If you need more information about when a transaction is completed or attempted, see *Guideline 2: Suspicious Transactions*.

### Part A : Information about where the transaction took place

This part is for information about the reporting entity required to report the transaction to FINTRAC. It is also for information about the physical location where the transaction took place or was attempted.

If you need more information about what type of individual or entity is a reporting entity, see section 2 of this guideline.

If you have multiple branch or office locations, the information in this part should refer to the branch or office location where the transaction took place or was attempted. Transactions that happened or were attempted at different branch or office locations should be reported on separate reports.

Some reporting entities have contractual arrangements with someone outside their entity to conduct transactions on their behalf. For example, a money services business arranges for transactions, such as electronic funds transfers, to be conducted for them at a grocery store. If you have this type of arrangement, as the reporting entity, your name belongs in Part A. However, since the transaction was conducted at someone else's place of business, it is that address that must appear in Part A.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, there are special instructions for you to complete several of the fields in this part.

#### Field A1\* Reporting entity's identifier number (if applicable)

This is the institution or licence number, or other identification number for the reporting entity, as outlined below. If you are a reporting entity that has several branch locations, the identification number should refer to the branch or office where the transaction occurred.

- If you are an **accountant**, enter your provincial chartered accountant (CA), provincial certified management accountant (CMA), or provincial certified general accountant (CGA) number.
- If you are a **bank, caisse populaire, cooperative credit society or credit union**, enter your financial institution number issued by the Canadian Payments Association (CPA).
- If you are an **agent of the Crown that sells or redeems money orders**, enter your post office or similar number.
- If you are a **life insurance broker or agent**, enter your provincial broker or agent licence number.
- If you are a **federally regulated life insurance company**, enter your Office of the Superintendent of Financial Institutions (OSFI) Institution Code.
- If you are a **life insurance company that is not federally regulated**, enter your provincial licence number.
- If you are a **provincial savings office**, enter your financial institution number issued by the CPA.
- If you are a **real estate broker or sales representative**, enter your provincial broker number.
- If you are a **securities dealer**, enter your provincial dealer licence number.
- If you are a **trust and loan company**, enter your financial institution number issued by the CPA.
- If you are a **provincial trust and loan** that is not a member of the CPA, enter your registration number.
- If you are a **money services business**, enter your money services business registration number issued by FINTRAC.
- If you are a **dealer in precious metals and stones**, leave this field blank.
- If you are a **British Columbia public notary**, enter your membership number. If you are a **notary corporation of British Columbia**, enter your permit number.
- If you are a **real estate developer**, enter your provincial licence number if you have one. Otherwise, leave this field blank.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter **"EMPLOYEE"** in field A1.

#### Field A2\* Reporting entity's full name

Enter the full legal name of the business or corporation that is the reporting entity. If you are a reporting entity that does not have a business name (for example, you are a reporting entity that is an individual), enter your full name.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter your **own** name in field A2.

#### Fields A3\* to A6\* Reporting entity's full address

Enter the civic address, town or city, province and postal code where the transaction took place or was attempted. If you have more than one location, this information should refer to where the transaction took place or was attempted. As explained above, transactions that happened at different branch or office locations should be reported on separate reports.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter the complete address of where the transaction took place or was attempted in fields A3 to A6.

#### Field A6A Reporting entity report reference number

If you use a reference number for your own internal purposes, you can enter it in your report to FINTRAC. This field can contain up to 20 alpha or numeric characters and must be unique for each of your reporting entity's reports.

If you do not wish to use such an internal reference number, leave this field empty.

#### Fields A7\*, A8\* and A9 Contact name

Enter the name of the individual FINTRAC can contact for clarification about this report.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter your **own** contact information in these fields.

**Field A10\* Contact telephone number**

Enter the telephone number, including the area code, of the individual FINTRAC can contact for clarification. Include the extension if applicable in field A10A.

**Field A11\* Which one of the following types of reporting entities best describes you?**

Enter the type of activity applicable to you. If you are involved in more than one activity type, indicate the one applicable to the transaction being reported. If there is more than one activity for one or more transactions on the report, check only one box to indicate your principal type of activity, and provide additional details in Part G.

If you are an **employee** of a reporting entity and you are making this report about a suspicious transaction that you did **not** report to your superior, enter the type of reporting entity **for your employer** in this field.

**Part B1 : Information about how the transaction was initiated**

This part is for information about how the transaction was initiated (i.e., where the money came from) for the transaction that led you to the suspicion of a connection to money laundering or terrorist financing. In the case of an attempted transaction, this would include information about how it was proposed to be initiated.

Your suspicion could be based on a series of transactions. In that case, include in this report the information for each transaction that led to the suspicion.

When you need to report more than one transaction, complete a separate Part B1 for each transaction. To do this, you can copy Part B1. Fill in the "Transaction \_\_\_ of \_\_\_" area at the top of Part B1 to distinguish between each transaction. When you provide the details of the transaction in Part D, the details of disposition in Part B2, as well as the additional details of disposition in Parts C, E, and F, as applicable, indicate to which transaction that information applies.

**Fields B1\*, B2 and B3\* When the transaction took place**

Enter the date (yyyy-mm-dd) and time (hh:mm:ss) of the suspicious transaction. Use a 24-hour format for time. For example, enter "15:30:00" to represent 3:30 p.m.

The time of the transaction (field B2) can be left blank if it is not available from the moment of the transaction or in your records.

The date of the transaction (field B1) is mandatory. However, if the transaction was a night deposit, and you do not provide the date, you can leave field B1 blank. In this case, make sure to indicate that it was a night deposit at field B3.

If the transaction being reported was attempted and, because of this, information for field B1 or B3 is not available, you can leave the field blank.

**Field B4 Date of posting**

Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided above. In the case of an attempted transaction, this field would not apply.

**Field B5\* Detail of funds involved in initiating transaction**

Check the appropriate box to describe the type of funds involved in initiating the transaction. For example, if your client brought in cash, "Cash in" is the type of funds, or if your client is cashing in a life insurance policy, "Negotiated life insurance policy" is the description of funds. If the selections provided do not cover the particular transaction, indicate "Other" and provide details in the field provided. For example, if annuities were involved in initiating the transaction, indicate "Other" and provide information about the type of annuity in the "Other" field.

If there was more than one type of funds, indicate only one that best represents how the transaction was initiated. Provide information about the rest of the types of funds in Part G.

If the transaction being reported was attempted and, because of this, information for field B5 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the type of funds in field B5 that best describes what you received in the transaction, or what you were supposed to receive in an attempted transaction. If you were buying precious metals or stones, indicate the type of funds that best describes what you bought or attempted to buy. The same would apply if you were to receive precious metals or stones from a client for a trade-in sale. If you were selling precious metals or stones to a client, indicate the type of funds based on how the client paid or attempted to pay. For example, if the client paid cash, indicate "cash in" or if the client paid by debit card or credit card, indicate "Other" and provide details in the "Other" field.

**Field B6\* Amount of transaction**

Enter the total amount of funds involved in the transaction. This is the total amount received to start the transaction. What happens as a result of that amount will be explained in Part B2 as one or more dispositions.

If this amount was not in Canadian funds, you do not have to convert it but you have to provide the currency information in field B7.

If the transaction being reported was attempted and, because of this, information for field B6 is not available, you can leave the field blank.

#### Field B7\* Transaction currency code

Enter the currency code applicable to the transaction, even if it was in Canadian funds. Enter CAD for Canadian dollars or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 at the end of this guideline.

If the transaction being reported was attempted and, because of this, information for field B7 is not available, you can leave the field blank.

#### Fields B8\* and B9\* Other institution, entity or person name, number and account number (if applicable)

These fields are for additional information about the funds described in field B5. Where applicable, in field B8, provide the name (including the institution identification number if applicable) of any other institution, entity or individual involved in the transaction. In addition, where applicable, in field B9, provide the account number of any other individual or entity involved in the disposition. If more than one other individual or institution was involved, put the information about the others in Part G.

#### Field B10\* How was the transaction was conducted?

Check the appropriate box to indicate how the transaction was conducted or attempted. For example, if the transaction was done through an automated banking machine, check that box. If the selections provided do not cover this particular transaction, indicate "Other" and provide details in the field provided.

If the transaction being reported was attempted and, because of this, information for field B10 is not available, you can leave the field blank.

#### Field B11 ID number of the person initially identifying a suspicious transaction

Enter the identification number of the individual who first identified the suspicious behaviour leading to the report. If that individual does not have an ID number, this field may be left blank.

### Part B2: Information about how the transaction was completed

This part is for information about how the transaction was completed (i.e., where the money went). In the case of an attempted transaction, this would include information about how it was proposed to be completed.

#### "On behalf of" indicator

At the top of Part B2, you have to indicate whether the individual who conducted or attempted the transaction was doing so on anyone else's behalf. You have to select one of the following for this entry:

- **Not applicable**  
This means that **neither** Part E **nor** Part F applies to this report. "Not applicable" indicates that, to your knowledge, none of the other "On behalf of" selections is applicable to the transaction. For example, the transaction was a night deposit or a quick drop, or the disposition was not on anyone else's behalf (i.e., it was on behalf of the individual that conducted or attempted it).
- **On behalf of an entity**  
This indicates that the disposition was on behalf of an entity, such as a business, a partnership, a corporation, a trust or other entity, but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted or attempted on behalf of an entity, complete Part E for this report to provide the information about that entity.
- **On behalf of another individual**  
This indicates that the disposition was on behalf of another individual but was **not** an employee depositing cash to his or her employer's business account. For a transaction that was conducted or attempted on behalf of another individual, complete Part F to provide the information about that other individual.
- **Employee depositing cash to employer's business account**  
This indicates that the disposition was an employee depositing cash to his or her employer's **business** account. If it was an employee depositing cash to his or her employer's business account, **neither** Part E **nor** Part F applies for this report. Do not use this indicator if the employee deposited other than cash or if the employer's account was other than a business account.

#### More than one disposition

There could be more than one disposition for a particular transaction. For example, your client could initiate a transaction in cash, send an electronic funds transfer (EFT) for part of it (disposition 1), order a bank draft for another part (disposition 2) and deposit the rest (disposition 3). In that case, make sure you include the information for each disposition. If you are including more than one transaction in this report, you have to complete Part B2 for all dispositions for each transaction.

If you have to include more than one disposition, complete a separate Part B2 for each one. To do this, you can copy Part B2. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_ of \_\_\_\_" area at the top of Part B2 to distinguish between each disposition. If you have to include more than one transaction in this report, indicate to which transaction the disposition information applies, based on the number you assigned the transaction in Part B1. When you provide the details of disposition in Parts C, E, and F, as applicable, also indicate to which disposition and which transaction that information applies.

#### **Field B12\* Disposition of funds**

This describes what happened to the funds involved in the transaction.

If the disposition of funds was a life insurance policy purchase or deposit, check that box and provide the life insurance policy number in the appropriate field. If the selections provided do not cover this particular disposition, indicate "Other" and provide details in the appropriate field.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the disposition of funds in field B12 should be "deposit to an account".

If the transaction being reported was attempted and, because of this, information for field B12 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the disposition of funds in field B12 that best describes what you paid or sold (or what you attempted to pay or sell) to the conductor of the transaction. If you were buying precious metals or stones, select the disposition of funds that best describes how you paid or attempted to pay for them. For example, if you paid in cash, indicate "cash out" or if you paid by cheque, indicate "Other" and provide details in the "Other" field. If you were selling precious metals or stones (including a trade-in sale), select the disposition of funds that best describes what your client purchased or attempted to purchase.

#### **Field B13\* Amount of disposition**

Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you have to provide the currency information in field B14.

If the transaction being reported was attempted and, because of this, information for field B13 is not available, you can leave the field blank.

#### **Field B14\* Disposition currency code**

Enter the code for the currency of the disposition, even if it was in Canadian funds. Enter CAD for Canadian dollars or USD for United States dollars. If the transaction was in another type of currency, see the list of currency codes in Appendix 1 at the end of this guideline.

If the transaction being reported was attempted and, because of this, information for field B14 is not available, you can leave the field blank.

#### **Fields B15\* and B16\* Other institution, entity or person name, number and account or policy number (if applicable)**

These fields are for additional information about the disposition described in field B12. Where applicable, in field B15, provide the name (including the institution identification number if applicable) of any other institution, individual or entity involved in the disposition. In addition, where applicable, in field B16, provide the account number of any other individual or entity involved in the disposition. Also provide any policy number related to the other entity or individual in field B16, if applicable.

If more than one other individual, entity or institution was involved, put the information about the others in Part G.

#### **Part C: Account information, if the transaction involved an account**

This part is for information about the account involved in the transaction, if it in fact involved an account. In the case of an attempted transaction, this would include information about the account that was proposed to be involved.

As explained earlier, it is possible to have more than one transaction per report, and more than one disposition per transaction. Provide the account information, if applicable, for each disposition included in the report.

If you have to include account information for more than one disposition, complete a separate Part C to provide information for each account involved. To do this, you can copy Part C. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part C to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

#### **Field C1\* Branch or transit number where the account is held (if this part is applicable)**

Enter the branch number, transit number, or other appropriate identifying number of the entity where the relevant account is held, if an account is applicable to the transaction.

If the transaction being reported was attempted and, because of this, information for field C1 is not available, you can leave the field blank.

**Field C2\* Account number (if this part is applicable)**

Enter the number of the relevant account.

If the transaction being reported was attempted and, because of this, information for field C2 is not available, you can leave the field blank.

**Field C3\* Type of account (if this part is applicable)**

Indicate the type of the relevant account. For example, a business account would be one that, at the time it was opened, was for a business or for a non-profit organization, etc. (i.e., other than a personal or trust account). If the selections "personal, business or trust" do not cover this particular account, indicate "Other" and provide details in the field provided.

If the transaction being reported was an employee depositing cash to an employer's business account (as indicated by the "on behalf of" indicator at the top of Part B2), the account type in field C3 should be "business".

If the transaction being reported was attempted and, because of this, information for field C3 is not available, you can leave the field blank.

**Field C4\* Account currency code (if this part is applicable)**

Enter the code of the currency for the relevant account. Enter CAD for Canadian dollars or USD for United States dollars. If the account is in another type of currency, see the list of currency codes in Appendix 1 at the end of this guideline.

If the transaction being reported was attempted and, because of this, information for field C4 is not available, you can leave the field blank.

**Field C5\* Full name of the individual(s) or entity that hold the account (if this part is applicable)**

Enter the full name of each account holder (up to three).

This is for information about each individual or entity that holds the account. For example, in the case of a joint account for husband and wife, include the names of each spouse at field C5.

The account holder might be different from the individual(s) authorized to give instructions for the account. For example, an account for a corporation will have one or more individuals authorized to give instructions for that account. In this case, it is the name of the corporation that holds the account that is required in field C5. Information about individuals authorized to bind the entity or to act with respect to the account belongs in Part E, if applicable, in field E12.

If the transaction being reported was attempted and, because of this, information for field C5 is not available, you can leave the field blank.

**Field C6 Date opened**

Enter the date (yyyy-mm-dd) the account was opened.

**Field C7 Date closed**

Enter the date (yyyy-mm-dd) the account was closed, if applicable.

**Field C8\* Status of the account at the time the transaction was initiated (if this part is applicable)**

Indicate whether the account was active, inactive or dormant at the time the transaction was initiated.

The status of an account is determined by your policies and procedures. For example, your policy may be to assign inactive status to all accounts if there is no client activity for an account over a certain period of time, and dormant status if that inactivity is prolonged.

If you do not have such policies or procedures to assign inactive or dormant status to unused accounts, simply leave this field blank.

If the transaction being reported was attempted and, because of this, information for field C8 is not available, you can leave the field blank.

**Part D: Information about the individual conducting the transaction**

This part is for information about the individual who conducted or attempted to conduct the transaction. As explained earlier, it is possible to have more than one transaction per report. Provide this information for each transaction included in the report.

If you need to report more than one transaction, complete a separate Part D for each transaction. To do this, you can copy Part D. Fill in the "Transaction \_\_\_" area at the top of Part D to distinguish between each transaction, based on the number you assigned the transaction in Part B1.

If you are a dealer in precious metals and stones, the individual who conducted or attempted to conduct the transaction is the one from whom you were buying or to whom you were selling precious metals or stones.

**Fields D1 to D3 Individual's full name**

Enter the last name, first name and middle initial (if applicable) of the individual who conducted or attempted to conduct the transaction.

**Field D4\* Entity client number (if applicable)**

Enter the client number you issued to the individual who conducted or attempted to conduct the transaction, if applicable.

**Fields D5 to D9 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual who conducted or attempted to conduct the transaction.

**Field D10 Country of residence**

Enter the country of permanent residence of the individual who conducted or attempted to conduct the transaction.

**Field D10A Country of citizenship**

Enter the country of citizenship of the individual who conducted or attempted to conduct the transaction.

**Field D11 Home telephone number**

Enter the home telephone number, including the area code, of the individual who conducted or attempted to conduct the transaction.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field D12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual who conducted or attempted to conduct the transaction.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the field provided.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field D12, but do not provide the number in field D13.

**Field D13 ID Number**

Enter the number of the document described in field D12 that was used to identify the individual who conducted or attempted to conduct the transaction. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field D12 (and D12A) is a SIN card, enter "N/A" in field D13 to indicate the number is not applicable.

**Fields D14 and D15 Place of issue of individual's identifier**

Enter the province or state and country of issue of the document used to identify the individual who conducted or attempted to conduct the transaction. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

**Field D16 Individual's date of birth**

Enter the date (yyyy-mm-dd) of birth of the individual who conducted or attempted to conduct the transaction.

**Field D17 Individual's occupation**

Enter the occupation of the individual who conducted or attempted to conduct the transaction.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

**Field D18 Individual's business telephone number**

Enter the business telephone number, including the area code, of the individual who conducted or attempted to conduct the transaction. Include the extension if applicable at field D18A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field D19 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual who conducted or attempted to conduct the transaction.

**Fields D20 to D24 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual who conducted or attempted to conduct the transaction.

**Field D25 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual who conducted or attempted to conduct the transaction. Include the extension if applicable at field D25A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Part E: Information about the entity on whose behalf the transaction was conducted (if applicable)**

This part only applies if the transaction's disposition was conducted or attempted on behalf of a third party that is an entity, as indicated in Part B2. If an employee deposited cash in his or her employer's business account, Part E does not apply.

Complete a separate Part E for each disposition that was conducted or attempted on behalf of a business, corporation or other entity. To do this, you can copy Part E. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part E to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Field E1 Name of corporation, trust or other entity**

Enter the full name of the business, corporation, trust or other entity on whose behalf the transaction was conducted or attempted.

**Field E2 Type of business**

Describe the type of business or entity on whose behalf the transaction was conducted or attempted.

**Fields E3 to E7 Full address of business or corporation**

Enter the civic address, town or city, province or state, country and postal code of the business, corporation or other entity on whose behalf the transaction was conducted or attempted.

**Field E8 Business telephone number**

Enter the telephone number, including the area code, of the business, corporation or other entity on whose behalf the transaction was conducted or attempted. Include the extension, if applicable, at field E8A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Fields E9 to E11 Incorporation information**

If the transaction was conducted or attempted on behalf of an entity that is a corporation, provide the incorporation number. Also provide the province or state and country of the incorporation number's place of issue. If an incorporation number does not exist for the corporation, enter "N/A" in fields E9, E10 and E11. If the incorporation number was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

**Field E12 Individual(s) authorized to bind the entity or act with respect to the account (up to three)**

Provide the names of up to three individuals who have authority to conduct transactions through the account.

**Part F: Information about the individual on whose behalf the transaction was conducted (if applicable)**

This part only applies when the transaction's disposition was conducted or attempted on behalf of a third party that is an individual, as indicated in Part B2.

If the individual conducted or attempted the transaction's disposition on his or her own behalf, this Part does not apply. In that case, information about the individual should be put in Part D.

If an employee deposited cash in his or her employer's business account, Part F does not apply. If the transaction's disposition was conducted or attempted on behalf of a business, corporation or other entity, Part E should be completed.

Complete a separate Part F for each disposition that was conducted or attempted on behalf of an individual. To do this, you can copy Part F. Fill in the "Transaction \_\_\_\_ Disposition \_\_\_\_" area at the top of Part F to distinguish between each disposition, based on the number you assigned the disposition in Part B2.

**Fields F1 to F3 Individual's full name**

Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted or attempted.

**Fields F4 to F8 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual on whose behalf the transaction was conducted or attempted.

**Field F9 Home telephone number**

Enter the home telephone number, including the area code, of the individual on whose behalf the transaction was conducted or attempted.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field F10 Business telephone number**

Enter the business telephone number, including the area code, of the individual on whose behalf the transaction was conducted or attempted. Include the extension if applicable in field F10A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field F11 Individual's date of birth**

Enter the date of birth (yyyy-mm-dd) of the individual on whose behalf the transaction was conducted or attempted.

**Field F12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual on whose behalf the transaction was conducted or attempted.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in the field provided.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field F12, but do not provide the number in field F13.

**Field F13 ID number**

Enter the number of the document described in field F12 that was used to identify the individual on behalf of whom the transaction was conducted or attempted. Remember that a health card number is not acceptable for this purpose in some provinces. Furthermore, as explained above, a SIN should not be provided on this form. If the identifier document in field F12 (and F12A) is a SIN card, enter "N/A" in field F13 to indicate the number is not applicable.

**Field F14 Country of residence**

Enter the country of permanent residence of the individual on whose behalf the transaction was conducted or attempted.

**Field F14A Country of citizenship**

Enter the country of citizenship of the individual on whose behalf the transaction was conducted or attempted.

**Fields F15 and F16 Place of issue**

Enter the province or state and country of issue of the document used to identify the individual on whose behalf the transaction was conducted or attempted. If the document was issued nationally and there was no province or state included in the place of issue, leave the province or state field blank.

**Field F17 Individual's occupation**

Enter the occupation of the individual on whose behalf the transaction was conducted or attempted.

Be as descriptive as possible regarding occupation. Provide information that clearly describes it, rather than use a general term. For example, in the case of a consultant, the occupation should reflect the area of consulting, such as "IT consultant" or "consulting forester". As another example, in the case of a professional, the occupation should reflect the nature of the work, such as "petroleum engineer" or "family physician".

If the individual is not employed or engaged in any type of business or profession, provide information that best describes their situation, such as "student", "unemployed", "retired", etc.

**Field F18 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual on whose behalf the transaction was conducted or attempted.

**Fields F19 to F23 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual on whose behalf the transaction was conducted or attempted.

**Field F24 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual on whose behalf the transaction was conducted or attempted. Include the extension if applicable in field F24A.

If the number is one from Canada or the United States, enter the area code and local number. This should be in the following format: "999-999-9999".

If the number is from outside Canada or the United States, provide the country code, city code and local number components. As each of those components can vary in length, use a dash (-) to separate each one. For example, "99-999-9999-9999" would indicate a two-digit country code, a three-digit city code and an eight digit local number.

**Field F25 Relationship of the individual named in Part D to the individual named above**

Check the appropriate box to indicate the relationship of the individual conducting or attempting the transaction to the individual on whose behalf the transaction was conducted or attempted.

If the selections provided do not cover the relationship, indicate "Other" and provide details in the appropriate field.

**Part G: Description of Suspicious Activity**

This Part is to provide details of why you suspected that the transaction or the series of transactions were related to money laundering or terrorist financing.

**Field G1\* Description of suspicious activity**

This section explains what led you to believe there was something suspicious about the transaction. The more information that you provide to explain the basis of your suspicion, the more valuable your report will be. The ideal response would clearly and completely describe all of the factors or unusual circumstances which led you to a suspicion of money laundering or terrorist financing, and would provide as many relevant details as possible to support this determination.

Do not leave information about the description of suspicious activity out of your report by referring to any other files or documents. FINTRAC will not have access to that information unless you provide the details in your report.

If this report is about one or more transactions that were attempted, also describe why each one was not completed.

**Part H: Action Taken (if applicable)**

This Part is for you to describe what action, if any, was taken by you, as a result of the suspicious transaction.

**Field H1\* Action taken (if this part is applicable)**

Identify whether you have taken or will take any action as a result of the suspicious transaction, in addition to reporting to FINTRAC. For example, if you are also making a report to a law enforcement agency, indicate this in Part H.

**CHAPTER 19**

# Appendix M— Terrorist Property Form

This form is reproduced with permission from the Financial Transactions and Reports Analysis Centre of Canada and was up-to-date at the time of printing. As this form may change, we recommend you check the website to ensure you are using the latest version.

Source: [www.fintrac-canafe.gc.ca/publications/TPR-2008-eng.pdf](http://www.fintrac-canafe.gc.ca/publications/TPR-2008-eng.pdf)



**NOTE: Please copy this page for each additional, related, suspicious transaction (if required).**

Transaction  of

**PART B — Reason for filing this report**

1. Please describe clearly and completely what led you to file this report about terrorist property.\*  
Provide as many details as possible to explain how you came to be in possession or control of the property.  
If there is not enough room on the form, attach a separate sheet to provide all the relevant information.  
Make sure to indicate that this information belongs in field 1 of Part B.

2. Provide as many details as possible about how you know this property is owned or controlled by or on behalf of a terrorist or a terrorist group or about how you believe that this property is owned or controlled by or on behalf of a listed person.  
Also include details of what other action you have taken regarding the property, in addition to sending this report to FINTRAC.  
If there is not enough room on the form, attach a separate sheet to provide all the relevant information. Make sure to indicate that this information belongs in field 2 of Part B.

*Note: You must disclose this property's existence to the Royal Canadian Mounted Police and the Canadian Security Intelligence Service, along with any information about a transaction or proposed transaction for that property. See Guideline 5: Submitting Terrorist Property Reports to FINTRAC for more information.*

**Information about the terrorist, terrorist group or listed entity**

Name of terrorist group, listed person or individual that owns or controls the property (or that the property is owned or controlled on behalf of). If it is an entity, complete field 3. If it is an individual, complete fields 3A-B-C.

3. Full name of terrorist group or listed person  
3A. Surname of terrorist or listed person      3B. Given name of terrorist or listed person      3C. Other/Initial  
4. Street address  
5. City  
6. Province or State      7. Country  
8. Postal or Zip code  
9. Phone number (with area code)      9A. Phone extension number

**Information about anyone who owns or controls the property on behalf of the terrorist or listed person above (where applicable)**

Name of entity or individual that owns or controls the property on behalf of the terrorist or listed person named in field 3 or fields 3A-B-C (above). If it is an entity, complete field 10. If it is an individual, complete fields 10A-B-C.

10. Full name of terrorist group or listed person  
10A. Surname of individual      10B. Given name      10C. Other/Initial  
11. Street address  
12. City  
13. Province or State      14. Country  
15. Postal or Zip code  
16. Phone number (with area code)      16A. Phone extension number



**NOTE: Please copy this page for each additional property (if applicable).**

**PART C — Information about the property**

Property  of

1. Type of property\*

<input type="checkbox"/> <b>Cash</b>	Indicate the type of currency in property identifier (field 2) below. Indicate the actual or approximate value of the cash in field 4 below and provide the currency code applicable in field 4A. Provide any additional information about the cash in the description of property (field 5) below.
<input type="checkbox"/> <b>Bank account</b>	Indicate the name of the financial institution in property identifier (field 2) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide the account number(s) and other account information in Part D. If you need to provide any additional information about the account, you can use the description of property (field 5) below.
<input type="checkbox"/> <b>Insurance policy</b>	Indicate the name of the insurance policy issuer in property identifier (field 2) below, and policy number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 below and provide the currency code applicable in field 4A. Provide any additional information about the insurance policy in the description of property (field 5) below, such as the names of beneficiaries, etc.
<input type="checkbox"/> <b>Money order</b>	Indicate the name of issuer in property identifier (field 2) below, and any number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the money order in the description of property (field 5) below, such as the name of the bearer, etc.
<input type="checkbox"/> <b>Real estate</b>	Indicate the type of real estate (such as single family home, condo, commercial, land only, etc.) in property identifier (field 2) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the real estate in the description of property (field 5) below, such as the municipal address and name of registered owner, and description of the property.
<input type="checkbox"/> <b>Securities</b>	Indicate the name of the securities issuer in property identifier (field 2) below, and any securities number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the type of securities (such as stocks, bonds, mutual funds, etc.) in the description of property (field 5) below. If the property involves an account, complete Part D to provide information about the account.
<input type="checkbox"/> <b>Traveller's cheques</b>	Indicate name of issuer of the traveller's cheques in property identifier (field 2) below, and any number(s) in property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the traveller's cheques in the description of property (field 5) below, such as the currency, name of the bearer, etc.
<input type="checkbox"/> <b>Other</b>	<p>DESCRIPTION (OTHER)</p> <p>For example, this could include the commercial assets of a business or partnership. Indicate property identifier (field 2) below, and property identifier number (field 3) below. Indicate the actual or approximate value in field 4 (below) and provide the currency code applicable in field 4A. Provide any additional information about the property in the description of property (field 5) below. If the property involves an account, complete Part D to provide information about the account.</p>

2. Property identifier (see instructions above for type of property)

If there is not enough room to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. Make sure to indicate that this information belongs in field 2 of Part C.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Property identifier number (see instructions above for type of property)

If there is not enough room to provide all the property identifier numbers for this property, attach a separate sheet to provide them all. Make sure to indicate that this information belongs in field 3 of Part C.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Property value (actual or approximate)\*

4A. Currency code Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3: Submitting Reports to FINTRAC*.

\_\_\_\_\_  
\_\_\_\_\_

5. Description of property

If there is not enough room to provide all the information to describe this property, attach a separate sheet to provide all the details. Make sure to indicate that this information belongs in field 5 of Part C.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**NOTE: Please copy this page for each additional account (if applicable).**

**PART D — Account information (if property involves an account)**

Property  Account  of

1. Branch or transit number\* (where applicable)  2. Account number\* (where applicable)

3. Type of account\* (where applicable)  
 A Personal  B Business  C Trust  D Other  DESCRIPTION (OTHER)

4. Currency code\* (where applicable)  Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3: Submitting Reports to FINTRAC*.

5. Full name of each account holder\* (where applicable)  
 A   
 B   
 C

6. Date opened  7. Date closed  2 | 0

8. Status of the account\* (if there was a transaction or a proposed transaction, please provide the status at the time the transaction was initiated or proposed.)  
 A Active  B Inactive  C Dormant





**NOTE: Please copy this page for each additional, related, disposition (per transaction) (if required).**

**PART E2 — Information about the transaction or proposed transaction disposition(s) (where applicable)**

Property  Transaction  Disposition  of

If there was a transaction related to the property, indicate how it was completed, i.e., where the money went. If there was a proposed transaction related to the property, indicate how it was proposed to be completed. If there was no transaction related to the property, do not complete this Part, or Parts E1, F, G or H.

Indicate on whose behalf this transaction was conducted.

**On behalf of:**  **The individual who conducted the transaction** (described in PART F)  **An entity (other than an individual)** (also complete PART G)  
 **Another individual (besides the individual who conducted it)** (also complete PART H)

12. Disposition of funds how the transaction was completed\* (where applicable)

<input type="checkbox"/> <b>A</b> Cash out	<input type="checkbox"/> <b>E</b> Outgoing electronic funds transfer	<input type="checkbox"/> <b>H</b> Purchase of diamonds	<input type="checkbox"/> <b>K</b> Purchase of precious stones (excluding diamonds)	<input type="checkbox"/> <b>N</b> Real estate purchase/deposit
<input type="checkbox"/> <b>B</b> Currency exchange	<input type="checkbox"/> <b>F</b> Purchase of bank draft	<input type="checkbox"/> <b>I</b> Purchase of jewellery	<input type="checkbox"/> <b>L</b> Purchase of money order	<input type="checkbox"/> <b>O</b> Securities purchase/deposit
<input type="checkbox"/> <b>C</b> Deposit to an account	<input type="checkbox"/> <b>G</b> Purchase of casino chips	<input type="checkbox"/> <b>J</b> Purchase of precious metals	<input type="checkbox"/> <b>M</b> Purchase of traveller's cheques	
<input type="checkbox"/> <b>D</b> Life insurance policy purchase/deposit	<input type="checkbox"/> <b>P</b> Other			

POLICY NUMBER      DESCRIPTION (OTHER)

13. Amount of disposition\* (where applicable)

\_\_\_\_\_

14. Currency code\* (where applicable) Enter CAD if Canadian dollars or USD for United States dollars. If another type of currency is involved, see Appendix 1 in *Guideline 3: Submitting Reports to FINTRAC*.

\_\_\_\_\_

**Additional information about the funds described in field 12 above**

15. Other institution, entity or person name and number\* (where applicable)

\_\_\_\_\_

16. Account number or policy number of other institution, entity or person\* (where applicable)

\_\_\_\_\_



**NOTE: Please copy this page for each additional transaction (if applicable).**

**PART F — Information about the individual who conducted or proposed to conduct transaction(s) (where applicable)**

Property  Transaction

1. Surname \_\_\_\_\_ 2. Given name \_\_\_\_\_ 3. Other/Initial \_\_\_\_\_

1A. Alias Surname \_\_\_\_\_ 2A. Alias Given name \_\_\_\_\_ 3A. Alias Other/Initial \_\_\_\_\_

4. Client number assigned by reporting person or entity (where applicable)  
\_\_\_\_\_

5. Street address  
\_\_\_\_\_

6. City  
\_\_\_\_\_

7. Province or State \_\_\_\_\_ 8. Country \_\_\_\_\_

9. Postal or Zip code  
\_\_\_\_\_

10. Country of residence  
\_\_\_\_\_

11. Home phone number (with area code)  
\_\_\_\_\_

12. Individual's identifier

Driver's licence  Birth certificate  Provincial health card  Passport  Record of Landing or Permanent resident card  
 Other \_\_\_\_\_  
DESCRIPTION (OTHER)

13. ID number (from question 12) \_\_\_\_\_ 13A. Citizenship \_\_\_\_\_

14. Place of issue Province or State \_\_\_\_\_ 15. Place of issue Country \_\_\_\_\_

16. Individual's date of birth  
YEAR MONTH DAY

17. Individual's occupation  
\_\_\_\_\_

18. Individual's business phone number (with area code) \_\_\_\_\_ 18A. Phone extension number \_\_\_\_\_

19. Individual's employer  
\_\_\_\_\_

20. Employer's street address  
\_\_\_\_\_

21. Employer's city  
\_\_\_\_\_

22. Employer's province or state \_\_\_\_\_ 23. Employer's country \_\_\_\_\_

24. Postal or Zip code  
\_\_\_\_\_

25. Employer's business phone number (with area code) \_\_\_\_\_ 25A. Phone extension number \_\_\_\_\_



**NOTE: Please copy this page for each additional disposition (if required).**

Property  Transaction  Disposition

**PART G — Information about the entity on whose behalf transaction was conducted or proposed to be conducted (where applicable)**

1. Name of corporation, trust or other entity

\_\_\_\_\_

2. Type of business

\_\_\_\_\_

3. Street address

\_\_\_\_\_

4. City

\_\_\_\_\_

5. Province or State

\_\_\_\_\_

6. Country

\_\_\_\_\_

7. Postal or Zip code

\_\_\_\_\_

8. Business phone number (with area code)

\_\_\_\_\_

8A. Phone extension number

\_\_\_\_\_

9. Incorporation number (where applicable)

\_\_\_\_\_

10. Place of issue Province or State

\_\_\_\_\_

11. Place of issue Country

\_\_\_\_\_

12. Individual(s) authorized with respect to the account (up to three (3))

A \_\_\_\_\_

B \_\_\_\_\_

C \_\_\_\_\_



**NOTE: Please copy this page for each additional disposition (if required).**

Property  Transaction  Disposition

**PART H — Information about the individual on whose behalf transaction was conducted or proposed to be conducted (where applicable)**

1. Surname \_\_\_\_\_ 2. Given name \_\_\_\_\_ 3. Other/Initial \_\_\_\_\_

1A. Alias Surname \_\_\_\_\_ 2A. Alias Given name \_\_\_\_\_ 3A. Alias Other/Initial \_\_\_\_\_

4. Street address \_\_\_\_\_

5. City \_\_\_\_\_

6. Province or State \_\_\_\_\_ 7. Country \_\_\_\_\_

8. Postal or Zip code \_\_\_\_\_ 9. Home phone number (with area code) \_\_\_\_\_

10. Office phone number (with area code) \_\_\_\_\_ 10A. Phone extension number \_\_\_\_\_ 11. Individual's date of birth \_\_\_\_\_

12. Individual's identifier

Driver's licence  Birth certificate  Provincial health card  Passport  Record of Landing or Permanent resident card  
 Other \_\_\_\_\_  
DESCRIPTION (OTHER)

13. ID number (from question 12) \_\_\_\_\_

14. Place of issue Province or State \_\_\_\_\_ 15. Place of issue Country \_\_\_\_\_

16. Country of residence \_\_\_\_\_ 16A. Citizenship \_\_\_\_\_

17. Individual's occupation \_\_\_\_\_

18. Individual's employer \_\_\_\_\_

19. Employer's street address \_\_\_\_\_

20. Employer's city \_\_\_\_\_

21. Employer's province or state \_\_\_\_\_ 22. Employer's country \_\_\_\_\_

23. Postal or Zip code \_\_\_\_\_

24. Employer's business phone number (with area code) \_\_\_\_\_ 24A. Phone extension number \_\_\_\_\_

25. Relationship of the individual named in Part F to the individual named above (fields 1 to 3)

Accountant  Agent  Legal counsel  Borrower  Broker  
 Customer  Employee  Friend  Relative  Other \_\_\_\_\_  
DESCRIPTION (OTHER)

The information on this form is collected under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* [the Act]. It will be used for analytical purposes and may also be used for the purposes of ensuring compliance with the Act. Any personal information is protected under the provisions of the *Privacy Act*. For more information, consult the Financial Transactions and Reports Analysis Centre of Canada chapter in the *Sources of Federal Government Information* publication, available on the Government of Canada Info Source Web site (<http://www.infosource.gc.ca>).

Terrorist Property Report

Source: [www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp#s55](http://www.fintrac-canafe.gc.ca/publications/guide/Guide5/5-eng.asp#s55)

## 5. Instructions for Completing a Terrorist Property Report

The fields in this section refer to the numbered areas on the *Terrorist Property Report* form. As explained in subsection 3.3, these reports can only be completed and sent to FINTRAC on paper. There is no mechanism to report electronically.

Fields of this report are either mandatory, mandatory where applicable, or require "reasonable efforts" to complete, as follows:

- **Mandatory:** All fields of the report marked with an asterisk (\*) **have to be completed.**
- **Mandatory where applicable:** The fields have both an asterisk and "where applicable" next to them have to be completed if they are applicable to you or to the property or the transaction or proposed transaction being reported.
- **Reasonable efforts:** For all other fields that do not have an asterisk, you have to make reasonable efforts to get the information. "Reasonable efforts" means that you tried to get the information requested on the report. If the information is available to you, you must provide it in the report. In the case of a transaction or a proposed transaction, if the information is not contained in your files or records, and it was not available at the time of the transaction, the field may be left blank.

Enter the date and time when you begin completing the report at the top of the form. If you have to file a correction to a report on paper, follow the instructions on the first page of the form. If you need to get a paper form, see section 3.

There are eight parts on the *Terrorist Property Report* form, but some are only to be completed if applicable. To make a terrorist property report, follow the following four steps:

- Step 1 - Complete Part A to provide information about you as the reporting entity.
- Step 2 - Complete Part B to provide details about the terrorist, terrorist group or listed person, and anyone who owns or controls the property on their behalf. Part B is also for you to explain what led you to file the report, as well as how you came to know that the property is owned or controlled by or on behalf of a terrorist or terrorist group or how you came to believe that the property is owned or controlled by or on behalf of a listed person.
- Step 3 - Complete Part C to provide details about the property. If the property involves an account, also complete Part D. If there were no transactions or proposed transactions related to the property, do not complete the rest of the report.
- Step 4 - If there was a transaction relating to the property, complete Parts E1 and E2 to provide information about how the transaction was initiated and completed. Provide the same information if there was a proposed transaction relating to the property. Complete Part F to provide information about the individual who conducted or proposed to conduct the transaction. If the transaction or proposed transaction was on behalf of an entity (such as a corporation or trust), also complete Part G or, if it was on behalf of an individual, complete Part H.

The rest of this section will cover each part of the *Terrorist Property Report* form.

### Part A: Information about the person or entity filing this report

This part is for information about you, the reporting person or entity creating the report. If you have multiple branch or office locations, the information in this Part should be about the branch or office location where you possess or control the property.

#### Field 1\* Reporting person or entity's identifier number (where applicable)

This is your institution or licence number, or other identification number as outlined below. If you have several branch locations, the identification number should refer to the branch or office where you possess or control the property.

- If you are an **accountant**, enter your provincial chartered accountant (CA), provincial certified management accountant (CMA), or provincial certified general accountant (CGA) number.
- If you are a **bank, caisse populaire, cooperative credit society or credit union**, enter your financial institution number issued by the Canadian Payments Association (CPA).
- If you are an **agent of the Crown that sells or redeems money orders**, enter your post office number.
- If you are a **life insurance broker or agent**, enter your provincial broker or agent licence number.
- If you are a **federally regulated life insurance company**, enter your institution code issued by the Office of the Superintendent of Financial Institutions (OSFI).
- If you are a **life insurance company that is not federally regulated**, enter your provincial licence number.
- If you are a **provincial savings office**, enter your financial institution number issued by the CPA.
- If you are a **real estate broker or sales representative**, enter your provincial broker number.
- If you are a **securities dealer**, enter your provincial dealer licence number.
- If you are a **trust and loan company**, enter your financial institution number issued by the CPA.
- If you are a **provincial trust and loan** that is not a member of the CPA, enter your registration number.
- If you are a **money services business**, enter your money services business registration number issued by FINTRAC.
- If you are a **dealer in precious metals and stones**, leave this field blank.
- If you are a **British Columbia public notary**, enter your membership number. If you are a **notary corporation of British Columbia**, enter your permit number.
- If you are a **real estate developer**, enter your provincial licence number if you have one. Otherwise, leave this field blank.

If there was a transaction or a proposed transaction relating to the property at a different location from where you possess or control the property, provide the details about that other location in field 1 of Part B.

**Field 2\* Reporting person or entity's full name**

Enter the full legal name of your business or corporation. If you do not have a business name (for example, you are an individual), enter your full name.

**Fields 3\* to 6\* Reporting person or entity's full address**

Enter your civic address, town or city, province and postal code. If you have more than one location, this information should be about where the property is possessed or controlled.

**Fields 7\*, 8\* and 9 Contact name**

Enter the name of the individual FINTRAC can contact for clarification about this report.

**Field 10\* Contact telephone number**

Enter the telephone number, including the area code, of the individual named in fields 7 to 9 (above). Include the extension if applicable at field 10A.

**Field 11\* Type of reporting person or entity**

Enter the type of activity that best describes you. If you are involved in more than one activity type, indicate the one applicable to the property being reported. If there is more than one activity for one or more properties on the report, check only one box to indicate your principal type of activity, and provide additional details in Part B, field 1.

**Part B: Reason for filing this report**

This part is to provide details of why you are filing a report about property in your possession or control. You have to explain how you came to know or believe that the property is owned or controlled by or on behalf of a terrorist, terrorist group or listed person. This part is also for you to provide information about the terrorist, terrorist group or listed person and anyone (besides you) who possesses or controls the property on their behalf.

**Field 1\* Reason for filing this report**

This section explains what led you to make this report. The more information that you provide to explain this, the more valuable your report will be.

Include a clear and complete description of the events that led you to make this report, with as many details as possible. Include an explanation of how you came to be in possession or control of the property.

If there is not enough room on the form, attach a separate sheet to provide all the relevant information. Make sure you indicate on the separate sheet that this information belongs in field 1 of Part B.

If you can use word-processing software to write out this information, attach the printed text to Part B. Make sure you indicate that it belongs in field 1 of Part B.

**Field 2 How you came to know or believe that the property is terrorist property or believe that property is listed person**

Provide as many details as possible about how you know this property is owned or controlled by or on behalf of a terrorist or a terrorist group or how you believe this property is owned or controlled by or on behalf of a listed person.

If there is not enough room on the form, attach a separate sheet to provide all the relevant information. Make sure you indicate on the separate sheet that this information belongs in field 2 of Part B.

**Field 3 Full name of terrorist, terrorist group or listed person**

Enter the full name of the terrorist, terrorist group or listed person that owns or controls the property, or on whose behalf the property is owned or controlled. As explained in subsection 3.1, a terrorist or a terrorist group can be an individual, a group, a trust, a partnership, or a fund. It can also be an unincorporated association or organization. A listed person can be an individual, a corporation, a trust, a partnership, a fund or an unincorporated association or organization.

If it is an entity (that is, not an individual), enter the complete name of the terrorist group or listed person in field 3. If it is an individual, enter the terrorist's or listed person's surname, given name, and other name or initial (if known) in fields 3A, 3B and 3C.

If the property is owned or controlled by an individual or entity other than the terrorist, terrorist group or listed person, provide the details at fields 10 through 16 below. For example, if you know you are dealing with a terrorist group through a front organization, provide information about the front organization in fields 10 through 16.

**Fields 4 to 8 Terrorist, terrorist group or listed person address**

Enter the civic address, town or city, province, country and postal code for the terrorist, terrorist group or listed person named in field 3 above.

**Field 9 Telephone number**

Enter the telephone number, including the area code, of the terrorist, terrorist group or listed person named in field 3 above. Include the extension, if applicable, at field 9A.

**Field 10 Name of individual or entity that owns or controls the property on behalf of the terrorist, terrorist group or listed person**

Enter the full name of the individual or entity that owns or controls the property on behalf of the terrorist, terrorist group or listed person named in field 3 above.

If it is an entity (that is, not an individual), enter the complete name of the entity in field 10. If it is an individual, enter the individual's surname, given name, and other name or initial (if known) in fields 10A, 10B and 10C.

**Fields 11 to 15 Individual or entity address**

Enter the civic address, town or city, province and postal code for the individual or entity named in field 10 above.

**Field 16 Telephone number**

Enter the telephone number, including the area code, of the individual or entity named in field 10 above. Include the extension if applicable at field 16A.

**Part C: Information about the property**

This part is for information about the property in your possession or control.

If there is more than one property associated with the terrorist, terrorist group or listed person named in field 3 of Part B, complete a separate Part C for each property. To do this, you can copy Part C. At the top of Part C, complete the "Property (number) of (total number of properties in Part C)" area to distinguish between each property. If there was a transaction or a proposed transaction related to a property described in Part C, provide the details of the transaction in Parts E1, E2 and F, as well as Part G or H, as applicable. For each of these, indicate to which property the transaction information applies.

**Field 1\* Type of property**

Check the appropriate box to indicate which of the seven types listed best describes the property. Follow the instructions next to the applicable description on the form for the rest of the fields in Part C.

If none of the seven types is appropriate for the type of property, check the box for "Other". This would include, for example, commercial business assets (other than funds such as bank accounts). Provide a description in the space provided to the right. Follow the instructions underneath for the rest of the fields in Part C.

If the property involves an account, complete Part D to provide information about the account.

**Field 2 Property identifier**

Follow the instructions for the applicable property type in field 1. For example, if the property is "cash", indicate the type of currency in field 2.

If there is not enough room on the form to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. It is very important that you indicate clearly on the separate sheet that this information belongs in field 2 of Part C.

**Field 3 Property identifier number**

Follow the instructions for the applicable property type in field 1. For example, if the property is an insurance policy, indicate the policy number in field 3.

If there is not enough room on the form to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. It is very important that you indicate clearly on the separate sheet that this information belongs in field 3 of Part C.

**Field 4\* Actual or approximate value**

Provide the actual or approximate value of the property. Provide the currency code applicable to this amount in field 4A. If the amount is in Canadian dollars, enter CAD as the currency code. If it is in United States dollars, enter USD. If the amount is in another type of foreign currency, see Appendix 1 in Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC for the code to use.

**Field 5 Description of property**

Provide any additional information about the property that is not already provided in the rest of the fields in Part C (and in Part D if the property involves an account).

If there is not enough room on the form to provide all the property identifier information for this property, attach a separate sheet to provide all the relevant information. It is very important that you indicate clearly on the separate sheet that this information belongs in field 5 of Part C.

**Part D: Account information (if the property involves an account)**

This part is for information about any account associated with the terrorist property. As explained earlier, it is possible to have more than one property per report. Provide the account information, where applicable, for each property included in the report.

If there is more than one account, complete a separate Part D for each one. To do this, you can copy Part D. Complete the "Account (number) of (total number of accounts in Part D)" area at the top to distinguish between each account, and identify the applicable property in the "Property (number)" area.

If none of the property in this report is associated to an account, do not complete Part D.

**Field 1\* Branch or transit number (if this Part is applicable)**

Enter the branch number, transit number or other appropriate identifying number of the entity where the relevant account is held, if applicable to the property.

If the transaction being reported was proposed and, because of this, information for field 1 is not available, you can leave the field blank.

**Field 2\* Account number (if this Part is applicable)**

Enter the number of the relevant account.

If the transaction being reported was proposed and, because of this, information for field 2 is not available, you can leave the field blank.

**Field 3\* Type of account (if this Part is applicable)**

Indicate the type of the relevant account. If the selections provided do not cover this particular account, indicate "Other" and provide details in field 3D.

If the transaction being reported was proposed and, because of this, information for field 3 is not available, you can leave the field blank.

**Field 4\* Currency code (if this Part is applicable)**

Enter the code for the type of currency for the relevant account. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see Appendix 1 in *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* for the currency code to use.

If the transaction being reported was proposed and, because of this, information for field 4 is not available, you can leave the field blank.

**Field 5\* Full name(s) of account holder(s) (if this Part is applicable)**

Enter the full name of each account holder (up to three). If there are more than three, you do not need to provide more.

If the transaction being reported was proposed and, because of this, information for field 5 is not available, you can leave the field blank.

**Field 6 Date opened**

Enter the date (yyyy-mm-dd) the account was opened.

**Field 7 Date closed**

Enter the date (yyyy-mm-dd) the account was closed, if applicable.

**Field 8\* Status of the account (if this Part is applicable)**

Indicate whether the account was active, inactive or dormant at the time you came to know that the property was terrorist property. If there was a transaction or a proposed transaction relating to the account, indicate the status of the account at the time the transaction was initiated or proposed.

The status of an account is determined by your policies and procedures. For example, your policy may be to assign inactive status to all accounts if there is no client activity for an account over a certain period of time, and dormant status if that inactivity is prolonged.

If you do not have such policies or procedures to assign inactive or dormant status to unused accounts, simply leave this field blank.

If the transaction being reported was proposed and, because of this, information for field 8 is not available, you can leave the field blank.

**Part E1: Information about any transaction or proposed transaction (where applicable)**

If there were any transactions or proposed transactions related to the terrorist property, you will have to complete Parts E1, E2 and F. Part E1 is for information about how the transaction was initiated or proposed to be initiated (that is, where the money or property came from). Part E2 is for information about how the transaction was completed or proposed to be completed (that is, where the money went). Part F is for information about the individual who conducted the transaction or proposed to conduct the transaction.

If the transaction was completed or proposed to be completed on behalf of anyone other than the individual in Part F, you will also have to complete Part G or H, as appropriate.

If there is more than one property in this report, you will have assigned a number to each property at the top of Part C. In this case, indicate to which one each transaction applies by completing the "Property (number)" area at the top of Part E1.

If there is more than one transaction to report, complete a separate Part E1 for each one. To do this, you can copy Part E1. Complete the "Transaction (number) of (total number of transactions in Part E)" area at the top of Part E1 to distinguish between each transaction. When you complete Parts E2 and F, as well as Part G or H, as applicable, indicate to which transaction that information applies.

If there was no transaction or proposed transaction related to any of the property described in Part C, Part E1 is not applicable. In this case, Parts E2, F, G and H would not be applicable either.

**Field 1\* Date of the transaction (if this Part is applicable)**

Enter the date (yyyy-mm-dd) of the transaction. If the transaction was not completed, enter the date that the transaction was proposed.

The date of transaction field is mandatory. If the transaction was outside normal business hours, and you are not certain of the date, use the night deposit indicator field below (field 3).

**Field 2 Time of transaction**

Enter the time (hh:mm) of the transaction. If the transaction was not completed, enter the time that the transaction was proposed. The time of transaction field can be left blank if it is not available after reasonable efforts have been made.

**Field 3\* Night deposit indicator (if this Part is applicable)**

If the transaction was outside normal business hours and you cannot provide the date in field 1, use the night deposit indicator field.

**Field 4 Date of posting**

Enter the date (yyyy-mm-dd) the transaction cleared, if this differs from the date of the transaction provided in field 1.

**Field 5\* Type of funds or other property involved in initiating transaction (if this Part is applicable)**

Check the appropriate box to show the type of funds or other property involved in the transaction or the proposed transaction. For example, if your client brought in cash, "cash" is the type of funds or, if your client wanted to cash a life insurance policy, "negotiated life insurance policy" is the description of funds.

If none of the selections provided cover the particular transaction, indicate "Other" and provide details in field 5P. For example, if annuities were involved in initiating the transaction, indicate "Other" and provide information about the type of annuity in field 5P.

If there was more than one type of funds, indicate the one that best represents how the transaction was initiated or proposed to be initiated. Provide information about the rest of the types of funds on a separate sheet attached to the report. It is very important that you indicate clearly that this information belongs in field 5 of Part E1.

If the transaction being reported was proposed and, because of this, information for field 5 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the type of funds in field 5S that best describes what you received in the transaction, or what you were supposed to receive in a proposed transaction. If you were buying precious metals or stones, indicate the type of funds that best describes what you bought or proposed to buy. The same would apply if you were to receive precious metals or stones from a client for a trade-in sale. If you were selling precious metals or stones to a client, indicate the type of funds based on how the client paid or proposed to pay. For example, if the client paid cash, indicate "cash" or if the client paid by debit card or credit card, indicate "Other" and provide details in field 5P.

**Field 6\* Amount of transaction (if this Part is applicable)**

Enter the total of funds or value of the property involved in the transaction. This is the total amount received to initiate the transaction. If this amount was not in Canadian funds, you do not have to convert it but you must provide the currency information in field 7.

You will provide details about what happened or was proposed to happen to that amount (that is, the disposition(s) of the transaction) in Part E2.

If the transaction being reported was proposed and, because of this, information for field 6 is not available, you can leave the field blank.

**Field 7\* Currency code (if this Part is applicable)**

Enter the code for the currency of the transaction, even if it was in Canadian funds. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see Appendix 1 in *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* for the currency code to use.

If the transaction being reported was proposed and, because of this, information for field 7 is not available, you can leave the field blank.

**Fields 8\* and 9\* Other institution, entity or individual name, number and account number (if this Part is applicable)**

Provide the name (including the identification number, if applicable) and account number of any other institution or individual related to the funds or other property described in field 5, if applicable. For example, if cheques were involved in initiating the transaction, you would provide the name and number of the financial institution in field 8, and the chequing account number in field 9.

If more than one other individual or institution was involved, attach a separate sheet with the information for fields 8 and 9 for each additional individual or institution. It is very important that you indicate clearly on the separate sheet that this information belongs in Part E1, and clearly indicate what applies to field 8 and what applies to field 9.

**Field 10\* How was the transaction conducted? (if this Part is applicable)**

Check the appropriate box to indicate how the transaction was conducted, or proposed to be conducted. For example, if the transaction was done through an automated banking machine, check the "Automated bank machine" box. If none of the selections provided cover this particular transaction, indicate "Other" and provide details in field 10G.

**Field 11 ID number of the individual initially identifying a transaction for terrorist property**

Enter the identification number of the individual who first identified the transaction relating to property owned or controlled by or on behalf of a terrorist or a terrorist group. If that individual does not have an ID number, this field may be left blank.

**Part E2: Information about the transaction or proposed transaction disposition(s) (where applicable)**

This Part is for information about how the transaction was completed or proposed to be completed.

If there is more than one transaction in this report, indicate to which property and which transaction this disposition applies in the "Property (number) Transaction (number)" area at the top of Part E2. These numbers should be the same as the ones assigned to the transaction in Part E1.

There could be more than one disposition for a particular transaction. For example, your client could propose to initiate a transaction in cash, send half of it as an electronic funds transfer (EFT) (disposition 1), and use the rest to purchase a bank draft (disposition 2). In that case, make sure you include the information for each disposition. If there is more than one disposition to report for any transaction, complete a separate Part E2 for each one. To do this, you can copy Part E2. Complete the "Disposition (number) of (total number of dispositions in this transaction)" area at the top of Part E2 to distinguish between each disposition.

You have to provide information about the individual conducting or proposing to conduct the transaction in Part F. If the disposition was on behalf of that same individual, check that box at the top of this Part.

If the disposition was on behalf of an entity (other than an individual), such as a partnership, corporation, trust or other entity, check that box and complete Part G to provide the information about the entity. If the disposition was on behalf of another individual, check that box and complete Part H to provide the information about the individual.

**Field 12\* Disposition of funds (if this Part is applicable)**

This describes what happened, or what was proposed to happen, to the funds involved in the transaction.

Check the appropriate box to indicate how the transaction was completed, or proposed to be completed. If the disposition of funds was a life insurance policy purchase or deposit, check that box and provide the life insurance policy number in field 12D.

If none of the selections provided cover this particular disposition, indicate "Other" and provide details in field 12P. For example, if annuities were involved in the disposition of funds, indicate "Other" and provide information about the type of annuity in field 12P.

If the transaction being reported was proposed and, because of this, information for field 12 is not available, you can leave the field blank.

If you are a dealer in precious metals and stones, select the disposition of funds in field B12 that best describes what you paid or sold (or what you proposed to pay or sell) to the conductor of the transaction. If you were buying precious metals or stones, select the disposition of funds that best describes how you paid or proposed to pay for them. For example, if you paid in cash, indicate "cash out" or if you paid by cheque, indicate "Other" and provide details in field 12P. If you were selling precious metals or stones (including a trade-in sale), select the disposition of funds that best describes what your client purchased or proposed to purchase.

**Field 13\* Amount of disposition (if this Part is applicable)**

Enter the amount of funds involved in the disposition. If the amount was not in Canadian funds, you do not have to convert it but you must provide the currency information in field 14.

If the transaction being reported was proposed and, because of this, information for field 13 is not available, you can leave the field blank.

**Field 14\* Currency code (if this Part is applicable)**

Enter the code for the currency of the transaction, even if it was in Canadian funds. Enter CAD if Canadian dollars, or USD for United States dollars. If the account is another type of currency, see Appendix 1 in *Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC* for the currency code to use.

If the transaction being reported was proposed and, because of this, information for field 14 is not available, you can leave the field blank.

**Fields 15\* and 16\* Other institution, entity or individual name, number and account number (where applicable, if this Part is applicable)**

Provide the name (including the identification number, if applicable) and account number of any other institution or individual related to the disposition of funds described in field 12, if applicable. For example, if cheques were involved in the transaction's disposition, you would provide the name and number of the financial institution in field 15, and the chequing account number in field 16.

Also provide any policy number related to the other institution, entity or individual, in field 16, if applicable.

If more than one other individual or institution was involved, attach a separate sheet with the information for fields 15 and 16 for each additional individual or institution. It is very important that you indicate clearly on the separate sheet that this information belongs in Part E2, and clearly indicate what applies to field 15 and what applies to field 16.

If the transaction being reported was proposed and, because of this, information for fields 15 and 16 is not available, you can leave them blank.

**Part F: Information about the individual who conducted or proposed to conduct transaction(s) (where applicable)**

This part is for information about the individual who conducted the transaction, or who proposed to conduct the transaction.

If there is more than one transaction in this report, indicate to which property and which transaction this information applies by completing the "Property (number) Transaction (number)" area at the top of Part F. These numbers should be the same as the ones assigned to the transaction in Part E1. If there is more than one transaction to include in this report and they were not all conducted or proposed to be conducted by the same individual, complete a separate Part F for each individual. To do this, you can copy Part F. Complete the "Property (number) Transaction (number)" area at the top of Part F to distinguish between each individual who conducted or proposed to conduct a transaction.

If you are a dealer in precious metals and stones, the individual who conducted or attempted to conduct the transaction is the one from whom you were buying or to whom you were selling precious metals or stones.

**Fields 1 to 3 Individual's full name**

Enter the surname, given name and other name or initial (if known) of the individual who conducted or proposed to conduct the transaction.

**Fields 1A to 3A Alias**

Enter any alias that you know is used by the individual named in fields 1 to 3.

**Field 4 Entity client number (where applicable)**

Enter the client number you issued to the individual named in fields 1 to 3, if applicable.

**Fields 5 to 9 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual named in fields 1 to 3.

**Field 10 Country of residence**

Enter the country of permanent residence of the individual named in fields 1 to 3.

**Field 11 Home telephone number**

Enter the home telephone number, including the area code, of the individual named in fields 1 to 3.

**Field 12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual named in fields 1 to 3.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in field 12F.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field 12, but do not provide the number in field 13.

**Field 13 ID number**

Enter the number of the document described in field 12 that was used to identify the individual named in fields 1 to 3. Remember that a Social Insurance Number is not acceptable for this purpose, and neither is a health card number in some provinces.

**Field 13A Citizenship**

Enter the name of the country of citizenship of the individual named in fields 1 to 3.

**Fields 14 and 15 Place of issue**

Enter the province or state and country of issue of the document used to identify the individual named in fields 1 to 3.

**Field 16 Date of birth**

Enter the date (yyyy-mm-dd) of birth of the individual named in fields 1 to 3.

**Field 17 Individual's occupation**

Enter the occupation of the individual named in fields 1 to 3.

**Field 18 Individual's business telephone number**

Enter the business telephone number, including the area code, of the individual named in fields 1 to 3. Include the extension, if applicable, at field 18A.

**Field 19 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual named in fields 1 to 3.

**Fields 20 to 24 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual named in fields 1 to 3.

**Field 25 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual named in fields 1 to 3. Include the extension if applicable at field 25A.

**Part G: Information about the entity on whose behalf the transaction was conducted or proposed to be conducted (where applicable)**

This part only applies if the transaction's disposition was conducted, or proposed to be conducted, on behalf of a third party other than an individual, as you indicated in Part E2, above field 12. This includes an entity such as a business, corporation or trust, or any other entity that is not an individual.

Complete a separate Part G for each entity on whose behalf a disposition was conducted or proposed to be conducted. To do this, you can copy Part G. Complete the "Property (number) Transaction (number) Disposition (number) " area at the top of Part G to distinguish between each disposition, based on the number you assigned the disposition in Part E2.

**Field 1 Name of corporation, trust or other entity**

Enter the full name of the corporation, trust or other entity (such as a partnership, etc.) on whose behalf the transaction was conducted or proposed to be conducted.

**Field 2 Type of business**

Describe the type of business for the entity named in field 1.

**Fields 3 to 7 Full address of entity**

Enter the civic address, town or city, province or state, country and postal code of the entity named in field 1.

**Field 8 Business telephone number**

Enter the telephone number, including the area code, of the entity named in field 1. Include the extension, if applicable, at field 8A.

**Fields 9 to 11 Incorporation information (where applicable)**

Provide the incorporation number, where applicable, for the corporation named in field 1. Also provide the province or state and country of the incorporation number's place of issue.

**Field 12 Signing authority names**

Provide the names of up to three individuals who have authority to conduct transactions through the account of the entity (if an account is involved in the transaction).

**Part H: Information about the individual on whose behalf the transaction was conducted or proposed to be conducted (where applicable)**

This part only applies when the transaction's disposition was conducted, or proposed to be conducted, on behalf of a third party that is an individual, as you indicated in Part E2, above field 12.

If the individual conducted or proposed to conduct the transaction's disposition on his or her own behalf, this part does not apply. In that case, information about the individual should be provided in Part F. If the transaction's disposition was conducted on behalf of an entity (that is, not an individual), Part G should be completed.

Complete a separate Part H for each individual on whose behalf a disposition was conducted or proposed to be conducted. To do this, you can copy Part H. Complete the "Property (number) Transaction (number) Disposition (number)" area at the top of Part H to distinguish between each disposition, based on the number you assigned the disposition in Part E2.

**Fields 1 to 3 Individual's full name**

Enter the last name, first name and middle initial (if applicable) of the individual on whose behalf the transaction was conducted or proposed to be conducted.

**Fields 1A to 3A Individual's alias (where applicable)**

Enter any alias that you know is used by the individual named in fields 1 to 3.

**Fields 4 to 8 Individual's full address**

Enter the civic address, town or city, province or state, country and postal code of the individual named in fields 1 to 3.

**Field 9 Home telephone number**

Enter the home telephone number, including the area code, of the individual named in fields 1 to 3.

**Field 10 Office telephone number**

Enter the office telephone number, including the area code, of the individual named in fields 1 to 3. Include the extension if applicable at field 10A.

**Field 11 Date of birth**

Enter the date (yyyy-mm-dd) of birth of the individual named in fields 1 to 3.

**Field 12 Individual's identifier**

Check the appropriate box to show the document used to identify the individual named in fields 1 to 3.

You can refer to an individual's provincial health card, provided there is no provincial or territorial legislation preventing you from using or requesting it.

If the selections provided do not cover the identifier used, indicate "Other" and provide details in field 12F.

Please note that although a Social Insurance Number (SIN) card can be used for identification purposes for transactions such as the opening of an account, the SIN (i.e., the number) should not be provided on this form. If you used a SIN card and no other identifying document for the individual, indicate **SIN card** in the "Other" area of field 12, but do not provide the number in field 13.

**Field 13 ID number**

Enter the number of the document described in field 15 that was used to identify the individual named in fields 1 to 3. Remember that a Social Insurance Number is not acceptable for this purpose, and neither is a health card number in some provinces.

**Fields 14 and 15 ID place of issue**

Enter the province or state and country of issue of the document used to identify the individual named in fields 1 to 3.

**Field 16 Country of residence**

Enter the country of permanent residence of the individual named in fields 1 to 3.

**Field 16A Citizenship**

Enter the name of the country of citizenship of the individual named in fields 1 to 3.

**Field 17 Individual's occupation**

Enter the occupation of the individual named in fields 1 to 3.

**Field 18 Individual's employer**

Enter the name of the entity or individual who is the employer of the individual named in fields 1 to 3.

**Fields 19 to 23 Employer's business address**

Enter the civic address, town or city, province or state, country and postal code of the employer of the individual named in fields 1 to 3.

**Field 24 Employer's business telephone number**

Enter the business telephone number, including the area code, of the employer of the individual named in fields 1 to 3. Include the extension if applicable at field 24A.

**Field 25 Relationship of the individual named in Part F to the individual named above (fields 1 to 3)**

Check the appropriate box to indicate the relationship of the individual who conducted or proposed to conduct the transaction (that is, the individual named in fields 1 to 3 of Part F) to the individual named in fields 1 to 3 (of Part H).

If none of the selections provided cover the relationship, indicate "Other" and provide details in field 25J.

## CHAPTER 20

# Appendix N— Self-Review Checklist

### Part A: Compliance Framework Evaluation

Requirements	Status	Comments
<b>Compliance Officer</b>		
Has the Compliance Officer been appointed, in writing, to their role?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the Compliance Officer independent of operations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the job description of the Compliance Officer described in writing, in sufficient detail, with documented accountability for AML/ATF program content and design?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the Compliance Officer have: <ol style="list-style-type: none"> <li>1. appropriate qualifications</li> <li>2. knowledge of regulatory requirements</li> <li>3. money laundering subject matter expertise and reference to policies</li> <li>4. adequate resources to achieve program objectives</li> <li>5. documented unfettered access to Senior Management, the Board, and all information and individuals throughout the organization</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is there a substitute Compliance Officer in case of absence by the primary?	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
<b>Policies and Procedures</b>		
Do policies incorporate all the objectives and responsibilities imposed by the legislation, including a risk management mandate?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Do procedures address the nature, timing, responsibilities, process and persons involved for all legislative requirements applicable to the organization, including: <ol style="list-style-type: none"> <li>1. record keeping</li> <li>2. client identification (personal and non-personal) and prohibitions on accepting or dealing with clients where identification does not occur</li> <li>3. risk based approach measures required mandated by law, and elected by your organization</li> <li>4. suspicious transaction reporting</li> <li>5. tipping-off prohibitions</li> <li>6. large cash transaction reporting</li> <li>7. compliance program requirements (including RBA documentation, the appointment of a compliance officer; the maintenance of up-to-date policies and procedures; the requirement for a bi-annual compliance review; the requirement for ongoing training for all employees and agents)</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have the policies and procedures been approved by a senior officer of the organization?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Risk Assessment &amp; Risk Based Approach</b>		
Has an inherent risk assessment been conducted and include the following prescribed factors: <ol style="list-style-type: none"> <li>1. clients and business relationships</li> <li>2. products and delivery channels</li> <li>3. geographic location of the activities</li> <li>4. other relevant factors</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Based on the above inherent risk assessment, are all areas classified into respective risk levels?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the Risk Based Approach (RBA) documentation contain the minimum required components? <ol style="list-style-type: none"> <li>1. documented inherent risk assessment</li> <li>2. risk mitigation strategy</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
Does the documented risk mitigation strategy address all higher risk areas identified in the inherent risk assessment to a level acceptable by the organization, with at least the minimum standards imposed by the legislation (ongoing monitoring and client identification updates)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are risk mitigation measures integrated into policies and procedures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have the relevant employees been trained appropriately in the reason and application of risk mitigation measures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are policies and procedures adopted for risk mitigation strategies being followed?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are risks being managed within organizational tolerance levels (are controls meeting their objective/ resulting in the expected outcome)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are resource allocations appropriate given inherent risk assessment findings and risk mitigation experience?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Training		
Does the organization have a documented training program which specifies: 1. Who is to be trained 2. With what frequency will the training occur to satisfy the ongoing nature of the program 3. How will the content be used for training 4. What restrictions, if any, will be placed on staff prior to successfully completing the training 5. How will content retention be evaluated and documented 6. On what basis will employees and agents be exempted from training	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the training content include at least: 1. background on money laundering risks 2. AML/ATF requirements including identifying reportable transactions 3. consequences of non-compliance and potential fines/penalties 4. organizational policies and procedures	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are there enhanced training requirements for the Compliance Officer?	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
<b>Effectiveness Review</b>		
Has an effectiveness review been conducted within two years of the previous review?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the effectiveness review conducted by a person or firm independent of the organization's operations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is the effectiveness review conducted by a person or firm with expertise in the AML/ATF Regulations, money laundering risks, and an understanding of the organization's operations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the effectiveness review document specify a definition for effectiveness, the standards against which it evaluates effectiveness, its scope, methodology, findings, recommendations, and management undertakings to the recommendations?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Has the effectiveness review evaluated the effectiveness of: <ol style="list-style-type: none"> <li>1. policies and procedures (conformance to relevant standards and operational adherence)</li> <li>2. the risk assessment and risk-based approach</li> <li>3. the risk mitigation program</li> <li>4. training</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Has the effectiveness review report been presented to a senior officer within 30 days after the assessment along with any updates, if applicable, made to policies and procedures within the reporting period and the status of implementing any changes, if applicable, to policies and procedures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	

## Part B: Operational Compliance Evaluation

Requirements	Status	Comments
<b>Client Identification</b>		
Are legislative and internal standards being adhered to for the acceptance of personal clients (e.g. valid identification with details recorded)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are legislative and internal standards being adhered to for the acceptance of business clients (e.g. timing, extent of documentation)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are legislative and internal standards being adhered to for the acceptance of not-for-profit clients?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are enhanced identification processes being followed for higher risk clients?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are non-face-to-face standards being adhered to in cases where the client or their signing authority is not physically present when identifying themselves?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is client information being updated for higher risk clients?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Is third party determination conducted and documented in the required circumstances?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Large Cash Transaction Reporting (LCTR)</b>		
Does the organization have an effective system in place to detect individual transactions, and combinations of transactions (24 hour rule) which require reporting?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are all reportable transactions reported within the prescribed time-frame and with all the required details (timing and quality of reporting)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Suspicious And Attempted Suspicious Transaction Reporting (STR)</b>		
Does the organization have effective systems and training in place for the detection of transactions, attempted transactions and combinations of transactions which require reporting?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the organization have an effective system in place to evaluate and document unusual transactions, whether attempted or completed, put forward by employees and technology?	<input type="checkbox"/> YES <input type="checkbox"/> NO	

Requirements	Status	Comments
Is the rationale from the evaluation of unusual transactions fully documented? For both reported suspicious transactions and unreported transactions not deemed to be suspicious?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are all reportable transactions reported within the prescribed timeframe and with all the required details (Timing and Quality of reporting)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have reasonable measures been taken to ascertain the identification of the subjects within all STRs?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Have suspicious and attempted suspicious transactions been linked to risk assessment and risk mitigation measures?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Terrorist Property Reporting (TPR)</b>		
Does the organization have effective systems and training in place for the detection of transactions and property which require reporting?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Does the organization have an effective system in place to evaluate and document potentially reportable transactions and property?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are all reportable transactions and properties reported to FINTRAC, CSIS and the RCMP within the prescribed timeframe and with all the required details?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Record-Keeping and Retention</b>		
Are the prescribed records retained for a period of at least five years, in a way that allows for their retrieval within 30 days of a request by FINTRAC?	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Are sufficient details kept about the following transactions and situations at the prescribed thresholds: <ol style="list-style-type: none"> <li>1. large cash transaction records</li> <li>2. receipt of funds records</li> <li>3. copies of official corporate records</li> <li>4. copies of suspicious transaction reports</li> </ol>	<input type="checkbox"/> YES <input type="checkbox"/> NO	

## About the Author

### **Matthew McGuire, MAcc, CPA, CA, DIFA, CAMS, AMLP**

Matthew McGuire is a Chartered Professional Accountant who leads the National Anti-Money Laundering (AML) Practice and the Investigative and Forensic Services Group in Ontario for MNP LLP. He is also the founder and Director of Seneca College's Canadian Institute for Financial Crime Analysis, a member of the Department of Finance's Public/Private Sector Advisory Committee on AML/ATF (Anti-Terrorist Financing), Chair of CPA Canada's AML Committee and a member of the Credit Union Central of Canada's AML Committee.

Together with his team of full-time dedicated AML specialists in offices across Canada, Matthew leverages his regulatory and investigative experience to empower companies and governments with regulatory compliance and financial crime risk mitigation strategies, guide them through regulatory exams and interventions, assist them with financial crime investigations, and provide them with litigation support.

Since his time as an intelligence analyst with FINTRAC, Matthew has been speaking regularly on the topic of money laundering and financial crime to reporting entities, law enforcement, prosecutors, financial intelligence units, universities, conferences, and authors articles for periodicals.

He holds an Honours Bachelor of Arts and a Master of Accounting degree from the University of Waterloo. In 2005, he completed the 2-year Diploma in Investigative and Forensic Accounting program at the University of Toronto. He is certified as an Anti-Money Laundering Specialist (CAMS) by the Association of Certified Anti-Money Laundering Specialists, and is accredited as an Anti-Money Laundering Professional (AMLP) by the Bank Administration Institute. Matthew has been qualified and admitted by the Ontario Superior Court of Justice as an expert witness in forensic accounting and money laundering, and has testified before Senate committees and the House of Commons Finance Committee on matters related to money laundering legislation.







**CPA**

CHARTERED  
PROFESSIONAL  
ACCOUNTANTS  
CANADA

277 WELLINGTON STREET WEST  
TORONTO, ON CANADA M5V 3H2  
T. 416 977.3222 F. 416 977.8585  
[WWW.CPACANADA.CA](http://WWW.CPACANADA.CA)

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# Proceedings of the Standing Senate Committee on Banking, Trade and Commerce

## Issue 10 - Evidence - May 7, 2014

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OTTAWA, Wednesday, May 7, 2014

The Standing Senate Committee on Banking, Trade and Commerce, met this day at 4:17 p.m. to examine the subject matter of those elements contained in Parts 2, 3 and 4, and Divisions 2, 3, 4, 8, 13, 14, 19, 22, and 25 of Part 6 of Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014, and other measures.

**Senator Irving Gerstein** (*Chair*) in the chair.

[*English*]

**The Chair:** This afternoon is our second of five meetings as part of the pre-study of Economic Action Plan 2014, namely, Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

Last Thursday, we were pleased to have the Minister of Finance, the Honourable Joe Oliver, along with officials from the Department of Finance.

Today we are focusing on Part 6, Division 19, which amends the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, found at tab F-19 in your binders and at page 164 in the bill.

For the information of members of the audience, last year this committee completed a statutory review of this act, tabling its report on March 20, 2013. The report, entitled *Follow the Money: Is Canada Making Progress in Combatting Money Laundering and Terrorist Financing? Not Really*, made 18 policy recommendations to improve Canada's anti-money laundering and anti-terrorist financing regime. I will put it on the record that this bill before us acts on a number of those recommendations, including greater reporting on the efficacy of the regime, better information-sharing between regime partners, including allowing FINTRAC to provide information to its partners when it suspects crimes other than money laundering are taking place, and keeping pace with changes in the marketplace and new payment methods and technology.

Today's meeting will be divided into two parts. First there will be a session with government officials representing the Department of Finance, the Financial Transactions and Reports Analysis Centre of Canada, better known as FINTRAC, and the Canada Border Services Agency.

In the second hour we shall hear from various associations with a direct interest in this legislation.

To begin our testimony today, from the Department of Finance we have David Murchison, Director, Financial Sector, and Rachel Grasham, Chief, Financial Sector Division; from FINTRAC we have Darlene Boileau, Deputy Director, Strategic Policy and Public Affairs; and from Canada Border

Services Agency we have Colette Cibula, Director, Recourse Program Management, Recourse Directorate.

Mr. Murchison will provide the committee with a general overview of what Part 6, Division 19 does and how it is achieved.

**David Murchison, Director, Financial Sector, Department of Finance Canada:** Thank you very much Mr. Chair. It's nice to be back before this committee. You will recall we were last here discussing virtual currencies and we have been following your proceedings with interest. We have had a number of the have witnesses you've had before your committee in to see us in the course of their business here and we continue to learn quite a bit from those interactions.

You've introduced me and I am joined by colleagues that we work closely with from both FINTRAC and the Canada Border Services Agency. I am happy to be here with them.

*[Translation]*

We are pleased to be here today to speak to the package of proposed legislative measures that the government has put forward to strengthen the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

*[English]*

I have learned, in English, it's the PCMLTFA, or Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

This is legislation, but it's important to note that there are supporting regulations. Those are forthcoming and we will be developing those accompanying regulations over the coming months and will be consulting on those. So these are just the legislative provisions we are talking about today.

This is all important because money laundering and terrorist financing can threaten the integrity of the financial system and create incentives for crimes that may harm Canadians and threaten our quality of life. The potential business and social damages of these crimes underscores the need for clear and effective deterrent. Maintaining a strong and comprehensive anti-money laundering and anti-terrorist financing regime that is consistent with international standards and ensuring it is kept up-to-date is an important activity for my shop and my colleagues.

The Minister of Finance has overall responsibility for Canada's regime and the act. The act's objective is to implement measures to detect and deter money laundering and the financing of terrorist activities, and to facilitate the investigation and prosecution of those crimes.

The act establishes FINTRAC as Canada's financial intelligence unit and the AML/ATF regulator. FINTRAC's dual mandate in this regard is something that I would underscore with you and it's important to note in this context that it's the dual mandate of an intelligence unit and a regulator. The act also requires that financial institutions like banks and credit unions, and intermediary entities such as accountants, dealers in precious metals and stones, and the real estate sector, identify their clients, keep records, have internal compliance procedures in place and report certain transactions to FINTRAC.

The PCMLTFA was the subject of a lengthy review and consultation process including, as noted by the chair, a review by this committee. We have closely taken your report — and I have to say it challenged us in a number of areas — and these amendments benefit from the work that you have done.

It is a requirement that the act be reviewed every five years. Most recently this was started in 2012 and reported in 2013. This review process ensures the act remains dynamic and evolves to meet the new and emerging threats.

[*Translation*]

The government approached this review with the goal of ensuring the fundamentals of the PCMLTFA remain strong to further its mandate of deterring and detecting money laundering and terrorist financing.

[*English*]

With this in mind, the review is guided by the principles that Canada's regime should be at the forefront of the global fight against money laundering and terrorist financing; safeguard the integrity of Canada's financial system and the safety and security of Canadians; maintain the balance between the need to deter and detect money laundering and terrorist financing and the need to protect the privacy and Charter rights of Canadians. This is a balance that we continually seek to find as we approach the regulations and legislation.

Finally, it is important in this context that we minimize the reporting burden on entities. It's a critical nature of this being new legislation that there is a burden imposed, and we are ever mindful as we think about amendments that we're not adding to that burden. Budget 2014 and Economic Action Plan 2014 includes almost 40 legislative amendments to this act that we developed in conclusion of the review we mentioned.

I would like to spend a few minutes to give you some themes that collect those various amendments.

The first would be closing gaps in this regime, and one of those is the virtual currency activities we talked about earlier. Certain entities that are at risk for money laundering will be brought into the act. In addition to businesses like virtual currencies, bitcoin, these include online casinos and foreign money services businesses that specifically target the Canadian market for online financial services. Those are some examples.

A subsequent theme would be strengthening customer identification and due diligence. This act, for example, already covers politically exposed persons. That's on a national basis. Under the proposed amendments, we are proposing to introduce provisions requiring reporting entities to identify domestically politically exposed persons — those would be on a national and sub-national basis — and to take measures when such persons are of a high-money laundering risk. In part, this responds to some G20 commitments.

A third theme would be improving compliance, monitoring and enforcement efforts. FINTRAC will be able to receive information voluntarily provided with respect to the compliance of a reporting entity, and the appeal and correction processes for cross-border currency reporting programs will be amended to improve client service and reduce burden.

A fourth theme would be strengthening enforcement sharing within the regime more broadly. FINTRAC's ability to disclose on threats to the security of Canada would be enhanced, consistent with the government's response to the Air India inquiry. Specifically, FINTRAC can already disclose to CSIS on threats to the security of Canada and will now also be able to disclose to Canadian law enforcement and the CBSA.

A final theme would be bringing Part 1.1 of the PCMLTFA into force. This would allow the government to take countermeasures against foreign states and foreign entities that are of high-money laundering or terrorist financing risk.

It is important to note, as I said before, that these are legislative measures only and it is only now that we are beginning the process of developing regulations to support them. That work will start shortly and we will, as part of that process, be consulting on it.

Mr. Chair, criminal practices are constantly evolving and Canada's anti-money laundering and anti-terrorist legislation needs to be current and keep pace with those changes. The proposed amendments will strengthen the fundamentals of Canada's regime and ensure that it continues to address emerging risks that could undermine the integrity of Canada's financial system and, with it, the economy.

[*Translation*]

Mr. Chair, we will now be pleased to answer your questions.

[*English*]

**The Chair:** Thank you. We will begin our questions.

**Senator Black:** Thank you for being with us today; it's nice to see you back.

I'm interested in knowing how the Proceeds of Crime (Money Laundering) and Terrorist Financing Act will deal with virtual currencies from a practical point of view?

**Mr. Murchison:** From a practical point of view, we would seek to bring them into the regulatory sphere, so they would go from what are today unregulated businesses and bring them into a regulated sphere. If you had met with VirtEx — and I believe you did — it is an entity in that business now. Interestingly, they find challenges in an unregulated business in finding banking services. They think that in being brought into a regulatory framework, they would have better access to domestic banking services with the various provisions that being in a regulatory framework would provide them.

Practically speaking, we would think of them as money services businesses. We, of course, will be developing regulations to support that, and we will get into the specifics of that. But broadly speaking, we would think of them as money services businesses.

**Rachel Grasham, Chief, Financial Sector Division, Department of Finance Canada:** I would add that with respect to the regulation of money services businesses, with the client identification requirements and record-keeping, they would have to have a compliance regime. They would be obligated to report to FINTRAC and to register with FINTRAC as money services business, as well.

Just to be clear, we're looking to define in the regulations those businesses engaged in the business of dealing in virtual currencies, so we wouldn't be looking at regulating retail businesses that accept virtual currency.

**Senator Black:** Is it a fair summary to say you're expanding the net to incorporate new forms of business?

**Mr. Murchison:** Yes.

**Senator Black:** In respect of the 18 recommendations this committee made respecting money laundering and terrorist financing, are you able to tell us which of those you have accepted and which of those you have not, just by way of a quick overview?

**Mr. Murchison:** I would begin by saying that we went through the report very carefully and did a lot of internal analysis. We challenged ourselves on many of your recommendations. We wanted to make sure, even in those cases where it might not have felt that we were responding in a proactive

way, that we had thought about it and felt that it either shouldn't be responded to or that it was already effectively dealt with.

In those areas about which we feel we can be specific, we think we've been able to provide, through your recommendations, better feedback to reporting entities. We have covered emerging money laundering and terrorist financing risks more effectively as a result of some of your recommendations, including those entities that are in the business we just chatted about. More broadly, we've improved information sharing within the regime.

In short, if not in the specifics but in the spirit, we feel your recommendations were both helpful and have advanced much of our thinking in the amendments that were brought forward specifically, and there will be more in the future.

**Ms. Grasham:** As David pointed out, this is a legislative package. We have a regulatory package coming. Also, to a large extent, some of the recommendations were more administrative or operational in nature than legislative or regulatory, per se.

One of the legislative measures in terms of enhanced accountability and reporting was the one in terms of FINTRAC reporting on its effectiveness and performance measurements. The Department of Finance Canada, through its departmental performance review, or DPR, reports on the horizontal initiative in terms of the funding the different partners receive.

We're doing a big review of the performance management framework for the regime. We would want to report more publicly on some of the other performance measurements and statistics through that mechanism, as well as in discussion with FINTRAC in terms of the things they report through their annual report. So there are some administrative things coming along, as well.

*[Translation]*

**Senator Hervieux-Payette:** Just a brief question. You certainly took our report into consideration. One of the most important things in my opinion was the coordination among all of those involved in tracking money laundering. Will the bill allow you to extend that constant coordination and exchange of information, and allow this file to advance?

*[English]*

**Mr. Murchison:** We strengthened information-sharing provisions. We can always improve in our coordination efforts; it continues to be a challenge as we approach all our regulated entities and our regulators in the interface with the Department of Finance Canada.

We are doing a lot of work on our risk assessment framework. As we think about that, it is allowing us to focus on those areas. We all have limited resources that present the highest risk, so I think that has been effective.

Do you have anything to add to that?

**Ms. Grasham:** In terms of the coordination function, we have a number of committees in place. We have an ADM- level steering group that meets as needed. We have regular coordination more at the working level with interdepartmental representatives from the different departments and agencies that form part of the regime.

As David said, a risk assessment framework is being developed, which is quite a significant undertaking. It involves all of the different regime partners and committees, and they are systematically going through all sorts of different sectors and products, and designing a framework for better feedback to the private sector in terms of relative risks as well as to inform government policy-making and the different regime partners. It is quite a significant undertaking.

Our public-private sector advisory committee meets twice a year. It will be meeting tomorrow, and representatives from the private sector sit on that committee, and they are sitting behind us today. So I think that also has been an effective tool for reaching out to the private sector, as well as for the coordination internally.

[*Translation*]

**Senator Hervieux-Payette:** This may be an awkward question, but we were told by the RCMP that at least \$100 billion a year is laundered. I wonder what the two main targets are for you in order to track these \$100 billion, and when you will go and get this money. I wonder, for instance, where the investigators are, those who use strictly statistical methods in specific sectors. I am thinking, for instance, of the Toronto Stock Exchange, where billions of dollars are traded every year. I am also thinking of the real estate sector, which seems a little bizarre to me, because construction goes on but there are no buyers.

In my opinion those are sectors where in-depth study should be focused, because the money probably went through three different countries before it arrived here, and we have to unmask those who are at the origin of those transactions.

So, who does those investigations? Who has the expertise? You talked about a risk assessment framework.

[*English*]

You should have somebody, when it's \$100 billion, who looks at certain sectors where billions of dollars are transiting. You don't look at Tim Hortons. You look at places where billions of dollars are being invested.

If I look just at Montreal, and we've seen the same thing in Toronto and Vancouver for sure, there are also billions of dollars in the real estate business.

I want to know how you proceed. We have an organization, but we don't seem to get to the bottom of the question, which is, of course, diminishing this activity. It's a criminal activity.

**Mr. Murchison:** First, I agree, it is frustrating. I think law enforcement in the areas of financial markets and criminal elements is generally an issue not just in money laundering, but as we look at white-collar crime and other areas. It is challenging.

As it relates specifically to law enforcement, we have very strict separation between what FINTRAC does and is allowed to release and what in turn law enforcement is allowed to do with information that they have.

As a general statement, I would say that the act seeks first to deter, so there is a strong element of deterrence here. From there, it is FINTRAC's role at certain thresholds to release information to law enforcement in those areas where they've identified what they think are illegal activities and for law enforcement to take that up and act upon it.

I don't mean to duck your question, but it may be that it's law enforcement that you should be asking some of those questions of. There are limits to what we can do. We can provide as good information as we can to law enforcement, and in turn law enforcement can, on certain thresholds, request information from the regulator, like FINTRAC and others, to aid in their investigation. But, at the end of the day, there are certain limits to our success on the law enforcement.

I'm not here to be able to speak knowingly on the law enforcement activity specifically.

[*Translation*]

**Darlene Boileau, Deputy Director, Strategic Policy and Public Affairs, Financial**

**Transactions and Reports, Analysis Center of Canada:** Generally, this is a big challenge for us, as you have pointed out, but at FINTRAC this gives us the opportunity to deal with the issue you raise, in part thanks to our cooperation with the RCMP.

The RCMP creates some relatively public forums when it conducts investigations into money laundering and financing, and even regarding what we call predicate offences in the context of fraud, drug trafficking and things of that nature. The RCMP then requests our help and cooperation.

Last year there were over 1,000 case disclosures which we provided to our partners, in the context of national security and enforcing the law.

We saw twice as many requests from law enforcement and national security organizations asking for our cooperation to help identify what we call the "money trail," and to help them also in their investigations.

Last year when my colleagues and I appeared before the committee we were told that we needed to communicate our results in a more effective way, and in a more constant forum. We have made efforts in that direction and we will continue to do so, that is certain.

We shared our annual reports with you, as well as the speeches we made during the year which set out our results and our financial information with our partners. We also today gave a package to the clerk of the committee which discusses the efforts we made on that front.

I can give you some highlights. A few weeks ago in Toronto the RCMP recognized the role of FINTRAC in a fraud investigation —

*[English]*

— that exceeded over \$200 million and led to charges against six individuals.

A few weeks ago, the RCMP in Quebec also recognized FINTRAC's contribution after charging a former financial planner and an ex-lawyer with fraud of having cheated five victims out of over \$400 million.

*[Translation]*

Also, last year the SBretØ du QuØbec recognized our contribution to the investigation on corruption in the construction industry in Quebec, the Marteau project.

*[English]*

There are some highlights of what we can do and have been providing and collaborating with law enforcement. It's a small number, and we've left another dozen of those clippings that will help you to understand how we can contribute, but also the resource that we can provide to law enforcement.

*[Translation]*

**Senator Bellemare:** I wanted to pursue the issue of the benefits these activities can generate if we find them and punish them, and the costs associated with tracking and preventing money laundering. The amendments to the current act involve, as Mr. Murchison said, an increased burden in some cases. Do you have some idea concerning this increased burden — of a financial order, obviously, for several organizations — of its scope for the government, on the one hand, and for the different economic stakeholders on the other?

Concerning the benefits, Senator Hervieux-Payette talked about the possibility of punishing people or recovering some of the money, even though I do not think we are going to recover all of the \$100 billion, but there would be some financial advantages to pursuing this.

Have you examined the cost-benefit aspect?

[English]

**Mr. Murchison:** We have not looked at it in any great detail. I couldn't give you numbers, for example. My colleague Darlene has given some numbers on the effectiveness of some of the enforcement, which I appreciate may sound modest against the numbers that the senator was referencing in terms of potential losses.

My colleague to my left, Rachel, referenced one of the committees that's important to us, which is the stakeholder committee, and the composition of that committee is in part sector-based. One of the reasons we have those groups there is to inform us on issues like you have raised, the compliance burden attached to existing and proposed amendments.

Then there are actually internal processes that are built into advancing legislation and regulations. The one-for-one rule, for example, that you may be familiar with forces us to think about, okay, you're bringing in a rule now and where is the rule that's dropping off?

I would say that we are alive to the issue. We seek to make sure that the burden is not great. We seek to consult with those sectors. For example, the real estate sector is an important sector that is typically staffed with small offices that are not automated and are not in a position to readily provide resources against new regulations. We talked to them and, frankly, they'll scream if it's too much and too expensive.

**Ms. Grasham:** I would add a few things. One of the things that we looked at when we were embarking on this was do we want to significantly expand the scope of this regime? We are doing a little bit of scope, but we're not really expanding it wholesale to all sorts of new sectors. Some of our partners would like us to cover all sorts of different entities. We are mindful of the burden.

A lot of the amendments pertain to government, better information sharing. For example, we are expanding the designated information that FINTRAC can provide to its disclosure recipients, but it is information that's already being provided. It's not, for example, occupation and gender. Those are provided by reporting entities and are already collected. So reporting entities won't have any additional burden from that, but we do think that providing additional information in disclosures to disclosure recipients will help them with their investigations. That's a net benefit to the regime in terms of its effectiveness without any increased burden.

Another area is that we are bringing into the regime the concept of politically exposed domestic persons. We have foreign ones right now. We were told by our prudential regulator when we did our consultations that most of the federally regulated financial institutions already do that because they see it as part of their risk assessment to look at those kinds of things. For example, the act already requires reporting entities to identify and get someone's occupation, and now they would have that information but they would make a determination if they're a domestic PEP or not. Apparently a lot of them are doing that already.

On the regulatory front, we are also looking at measures that will assist, for example, looking at the non-face-to-face identification requirements, which is something that the private sector has raised with us.

In terms of where we are covering, yes, we are extending to virtual currencies. We are extending to online casinos. So there are some areas where there will be new sectors, but we're trying as best as we can to try and minimize the associated burden.

[*Translation*]

**Senator Bellemare:** I understand that in any case you are aware of this burden.

[*English*]

**The Chair:** Mr. Murchison, I've been interested in your comments. When we tabled the report, reference was made to the fact that money laundering and terrorist financing is a global issue in the trillions of dollars. I think the expression one of us used was that it's a chain, and you want to make sure, in this global chain, that you're not the weakest link.

The first recommendation that the committee made, if I could refer to it, was that the Department of Finance ensure that Canada implements any recommendations by the Financial Action Task Force on money laundering that are appropriate to Canadian circumstances. That's playing on the global basis.

What assurances can you give the committee that the recommendations you are making — I think there are some 40 legislative amendments — are in fact maintaining Canada at a level where it is fulfilling its obligation in this global situation, and how are we going to look on the report card that we get from the Financial Action Task Force that I expect comes up shortly?

**Mr. Murchison:** It does come up shortly. We are going to be part of a mutual reliance review in 2015, so we are actively thinking about that. We're addressing any gaps among our friends, colleagues and partners now in preparation for that work.

One of the sections that works under me is the financial crime international group, which plays in the centre of the FATF world and keeps abreast of those global developments, so we are live to those issues.

We first and foremost think about our domestic issues and provide amendments that are making our domestic financial crime deterrence stronger. But we are live as part of that and we make sure that we're meeting our international obligations and are not a weak link in that chain.

We had a very good last FATF review and we anticipate that we will be a good review as we look toward 2015.

**Ms. Grasham:** I can add some colour to the detailed things that we are doing that will, as David said, strengthen the domestic regime but will also be smiled on by the FATF.

One of the areas that FATF has been involved in, at the behest of the G20, is in terms of anti-corruption measures. The FATF revised its standards and brought in domestic politically exposed persons as well as heads of international organizations and close associates. We are expanding our legislation to cover those, as I mentioned.

Another area is with respect to large financial conglomerates that operate in multiple jurisdictions having a group-wide compliance outlook, so that they share the same policies and procedures with respect to anti-money laundering and anti-terrorist financing measures. The legislation is also speaking to that. If there's a large financial conglomerate with subsidiaries overseas, those subsidiaries would have to be responsive and have similar standards in place or follow similar requirements as would be in Canada. Obviously, they're also subject to domestic law in the countries they're operating in. If they're not able to meet Canadian standards, they would be required to report that to FINTRAC and to OSFI with their principal regulator.

We're covering online casinos, which was another thing that came out of our last FATF report. FATF has moved in embracing the risk-based approach, so we are trying, to the best extent possible, to introduce concepts of the risk-based approach.

We did issue some regulations that came into force in February of this year that strengthened the customer identification requirements.

I think David talked about the national risk assessment, which is a key recommendation.

**Senator Ringuette:** My first question would probably be one that our former colleague Senator Finley would ask. One of our recommendations was that you get the information and transmit it in real time. Have you put that regulation in place and the technical requirements to be able to receive and transmit real-time data?

**Mr. Murchison:** I'm inclined to let my colleague Darlene at FINTRAC take that question.

**Ms. Grasham:** This is one of the recommendations that we looked at. One of the issues with real time is that it does create quite a substantial burden on the reporting entities — maybe not the really large banks, but certainly the smaller reporting entities. To have things done in real time would be difficult for them. We had discussions with FINTRAC at the time of the release of the report. The way that FINTRAC operates, in terms of the analysis that they do, does take some time to pull that together.

**Senator Ringuette:** So the answer is no.

**Ms. Grasham:** The answer is no because —

**Senator Ringuette:** The answer is no.

I want to further my question and say that the bulk of our recommendation in regard to the real-time capability of receiving and transmitting the very important data was to particular sectors that use the Internet to transfer funds to foreign entities and so forth. So it is not a burden. From our perspective at the time, it was a relatively easy measure to put in place.

Real-time data of suspicious high-risk transactions was really important for policing authorities within Canada and also foreign partners in dealing with all of this. I'm disappointed.

[*Translation*]

**Ms. Boileau:** I understand. We sat on the committee where questions were asked and recommendations made. Our partners who receive disclosures in the prescribed time periods, according to the information we receive from the regulated bodies, regarding deadlines, for instance, do not complain about the timeframes. The information we provide to them and the cooperation of the partners meet their needs with regard to enforcing the federal law, national security, and activities at the international level.

**Senator Ringuette:** In your unit you carry out analyses that account for a large part of your costs. The analysts could, in real time, receive the information about the suspect transactions transmitted over the Internet. I am really disappointed that no efforts have been focused on that. I advocate putting in place measures very soon. I would be curious to know the interest rate that is charged Canadian clients, among others, who play games for money online, or who turn to foreign currency agencies online.

You say that you want to cooperate with online entities. All of the transactions carried out online take place in real time, and so why not demand that information be transmitted to you in real time? In my opinion that would not be difficult to realize. In light of your mission and the analysts who work in your unit, I think you are already well- positioned to do that. I will have another brief question for you later.

**The Chair:** A very brief question.

**Senator Ringuette:** Yes.

**Ms. Boileau:** With your permission, Mr. Chair, I would add that there are deadlines provided in the regulations of the act. You mentioned the transmission online of money internationally. The regulated entities have to submit that data to us within five days. You also mentioned doubtful reports. According to the regulations that exist, the entities have 30 days to transmit that information to us. That can seem long, but it is better from the perspective of distributing the burden of the regulated entities regarding the transmission of information.

**Senator Ringuette:** If they can do millions of dollars of transactions on the Internet in a few minutes I do not understand why it would take 5 or 30 days.

[*English*]

**The Chair:** Senator Ringuette, can I ask you to wrap up the question? There are other senators.

**Senator Ringuette:** I'm trying to make a point, and I hope I did it. But I have another small question.

**The Chair:** May I put you down for a second round?

**Senator Ringuette:** Yes.

[*Translation*]

**Senator Maltais:** Mr. Murchison, earlier in your introduction you talked about the partners' advisory committees. Can you tell us who your partners are?

[*English*]

**Mr. Murchison:** We would have as partners the colleagues that you see here. We would have OSFI, which is the banking regulator; we would have Justice Canada, the prosecution services; and then more broadly, we would have all of the regulated entities.

[*Translation*]

**Senator Maltais:** I have a very specific question to ask. I look at what has happened in the history of collusion and corruption in the construction industry in Quebec. The only people who have recovered money and who did not say a single word about it are those who work at Revenue Canada. They recovered all of the money they could. They did not ask about the origin of that money nor about what would happen afterwards. There was no publicity. They simply recovered money.

I think that the methods Revenue Canada uses are really effective. Why is that department not one of your partners?

**Ms. Boileau:** The partners who sit on that committee represent Revenue Canada, the RCMP, national security and the federal entities that are collectively involved in the plans.

**Senator Maltais:** I think the Canada Revenue Agency is the most competent to recover the money. It does not ask about where the money comes from. Do you not have a duty to get that information?

**Senator Massicotte:** I thank all four of you for being here at the committee. You will have noted that we had a lot of questions concerning the effectiveness of FINTRAC. I think the message is clear. Numerous studies have in fact been carried out in the United States. Here we seized \$15 million over three years. The Americans for their part seize a billion dollars a year.

Earlier, property and life insurance companies asked us some questions and recommended some amendments. I would like to take advantage of your presence to clarify some of their comments.

One of the questions raised was that of Politically Exposed People — PEP. Here is the question we have to ask: who are these people? Close associates are mentioned. That is very vague and broad as definitions go. Does that mean that the senators appointed by the current government are important, and that those who are members of the opposition are not?

*[English]*

**Mr. Murchison:** First of all, there will be regulations to support this that will go some way toward answering that question more definitively.

That said, these are measures that already had been in place on the foreign side — foreign nationals — and now we're bringing these measures into domestic application at national, sub-national and municipal levels. I think that covers a reasonably broad gamut.

We have a regime today that is already asking reporting entities to identify people, and we're now being specific and saying, ``You should look specifically at these people, and here is how you might think of them within that context."''

*[Translation]*

**Senator Massicotte:** Provincially and federally, all of the members of a municipal council are automatically considered to be PEPs.

*[English]*

**Mr. Murchison:** Just mayors.

*[Translation]*

**Senator Maltais:** Only the mayors? Not the members.

Another question was raised by the property insurance companies. We know that among life insurance companies today, several offer investment management services. But the property insurance companies as you know offer a guarantee to cover damages if you are in a car accident or a fire. However, the insurance policy is not worth anything and cannot be exchanged for cash.

The question those companies asked was the following: why will they be subject, according to the proposed amendments, to FINTRAC, when there is no liquidity as such, no profit?

*[English]*

**Ms. Grasham:** In fact, we don't cover property and casualty insurance under the regime. It's life and health insurance.

*[Translation]*

**Senator Massicotte:** Yes. We can thus withdraw those who are here from the agenda. There is another question I wanted to ask; you also testified about virtual money. We heard some testimony according to which these people are turned away by bankers because they are considered risky. The fact of including them does carry greater risk. I think that is a valid point of view if we consider what happened in Florida recently, and in some foreign countries.

This means that since they are covered and legally responsible for reporting any transaction over \$10,000, the banks have no more reason to refuse them banking services?

[English]

**Mr. Murchison:** I can't speak for the individual entities, but I would think that is not the case. There are probably all kinds of reasons why they might choose not to have them as clients.

[Translation]

**Senator Massicotte:** The explanation we were given, and I think it came from a Royal Bank representative, was that if the transaction is liquid it is difficult for them to know who they are dealing with, and since they are not subject to FINTRAC, if they feel this is high risk, they do not touch it. But if they are included in the legislation, if they do not contravene the obligation and if that rationale disappears, that reason is no longer valid.

[English]

**Mr. Murchison:** I think banks can choose what clients they want to have, frankly, and they can well choose not to have a client in the virtual currency business.

They may be wrong in making that assessment, like not having a client because of the business they're in even though they are compliant with all the regulations, but at the end of the day that would be the bank's choice.

**Senator Ringuette:** Has the litigation in regard to the law society and the client privilege situation been resolved? You say no. Okay.

**Mr. Murchison:** For the record, no. In fact, it's before the Supreme Court next week.

**Senator Ringuette:** Ms. Grasham, you indicated you were doing a performance review, but it's internal, if I heard you right; it's an internal process that you're undertaking?

**Mr. Murchison:** This is an annual, government-wide performance review.

**Senator Ringuette:** We had recommended an independent performance review of FINTRAC and, if possible, that it be done by the Auditor General. That was one of our recommendations.

**Ms. Grasham:** Yes. There is a Treasury Board requirement now that every government program be reviewed every five years, so that's an automatic.

Certainly, this regime has been reviewed quite substantially. We conducted a 10-year evaluation. It was subject to a one-year and a five-year evaluation, as well as the Financial Action Task Force evaluates all FATF members every eight years according to the implementation of their standards. Canada's review will be in 2015 and the FATF will be focusing more on the effectiveness of its members' anti-money laundering and anti-terrorist financing regimes this time around. There is a fair amount going on.

**Senator Ringuette:** It's not an independent review.

**Ms. Grasham:** The FATF is an independent review in that it is a peer review, so it's made up of members of FATF from different jurisdictions. Certainly, I would consider that to be independent from the Government of Canada, and the Treasury Board reviews would be independent as well.

**The Chair:** Thank you very much to our witnesses. On behalf of all the members of our committee, I express our appreciation.

In this second hour, we are continuing with our pre-study of Part 6, Division 19. Having heard from government officials in the first hour, we now turn to witnesses from various associations who work within the act.

Today I'm pleased to welcome, from the Insurance Bureau of Canada, Mr. Garry Robertson, National Director, Investigative Services; from the Insurance Brokers Association of Canada, Mr. Steve Masnyk, Manager, Public Affairs; from the Chartered Professional Accountants of Canada, Mr. Matthew McGuire, Chair, Anti-Money Laundering Committee; and from the Canadian Life and Health Insurance Association, Mr. Frank Zinatelli, Vice President and General Counsel.

I will turn the floor over to Mr. Robertson first, to be followed by Mr. Masnyk, Mr. McGuire and Mr. Zinatelli. I would indicate that you each have five minutes to make your remarks so the committee will have ample time to ask questions.

**Garry Robertson, CFE, National Director, Investigative Services, Insurance Bureau of Canada:** My name is Garry Robertson. I am National Director of Investigations at the Insurance Bureau of Canada.

I am pleased to be here today on behalf of IBC and our member companies. We value the opportunity to contribute to this important discussion.

The Insurance Bureau of Canada is the national industry association for Canada's private home, car and business insurers. We work with governments and other stakeholders on issues affecting Canadians and the property and casualty insurance industry.

Insurance crime is one such example. It takes money from honest policyholders, driving up premiums, health care and court costs, and wasting emergency services. It's estimated that insurance crime costs our industry well over \$1 billion each year.

We take this issue very seriously. In the past decade, IBC's investigative team has focused almost entirely on organized crime rings involving auto theft, staged car collisions, and the theft of cargo from commercial trucks and trailers. These three schemes are driven by highly organized operations, many with ties to international crime and terrorist syndicates.

Insurance crime is very attractive to organized criminals because of its low risk and high reward. Perpetrators tell us that it is easy money. We have even seen international participants come into Canada to establish operations and channel funds from false claims back to other countries.

Auto theft is a favourite activity of organized crime. While the number of stolen vehicles in Canada has dropped, the vehicles being stolen are more valuable and are being chopped for parts or exported and resold for quick profit. Last year alone almost 500 stolen vehicles valued at more than \$8.7 million were intercepted in the ports of Halifax and Montreal by a task force made up of IBC, Canada Border Services Agency, RCMP and local law enforcement agencies.

Staged car collisions, unfortunately, have also gained popularity. These are highly orchestrated scams involving cars with multiple paid passengers that are deliberately crashing into unsuspecting drivers on busy streets, all in an effort to appear legitimate and submit false claims with the goal of stealing the maximum amount of money from the system.

These accidents are not isolated events. They often trigger a chain reaction that includes body shops, tow operators, paralegals, rehab clinics and more.

The car accident business is lucrative. One IBC investigation identified a ring involving more than 36 people who staged more than 50 car collisions and fraudulently obtained an estimated \$25 million from insurers.

We partnered with member insurance companies, Toronto Police Services and two dedicated Crown prosecutors to bring the criminals to justice. IBC is currently investigating 55 similar projects in southern Ontario alone.

Cargo theft is also linked to organized crime, which uses the proceeds to fund activities such as gun and drug smuggling. Trailers can carry goods worth thousands and upwards of several millions of dollars. Organized criminals steal the cargo, parcel it out and sell it via a sophisticated distribution network often before the crime is even reported.

As an example, criminals stole a load of T-shirts north of Toronto at three o'clock in the morning. By 6:30 that same morning, half the load was being offered at discount stores and flea markets in southwestern Ontario. The other half of the load was put in a container with false paperwork and crossed the Peace Bridge by 9 a.m. that same day into the United States en route to California and then overseas.

To fight insurance crime, IBC is working with law enforcement, Canada Border Services Agency, Canada Revenue Agency and many other agencies in Canada and the United States to share information from our investigations. In our experience, partnerships are critical to bringing offenders to justice.

To this end we would like to see protocols established that would allow an easier exchange of information between private and public organizations. Everyone involved needs to be aware of the outcomes for faster and more effective investigations. To fight these crimes, we must be as well-organized as the criminals who are committing them.

IBC's National Cargo Theft Reporting Program is a good example of public and private sector collaboration. The online reporting forum allows for information sharing between insurers, the trucking industry and law enforcement to help identify stolen property and speed in its recovery.

The insurance industry is committed to combatting insurance crime and is proud to be part of the fight against criminal and terrorist activities. Thank you for your attention and I would be happy to take questions.

**Steve Masnyk, Manager, Public Affairs, Insurance Brokers Association of Canada:** Good afternoon, my name is Steve Masnyk and I am Manager of Public Affairs for the Insurance Brokers Association of Canada.

We are thankful for the invitation to appear in order to provide our perspective on changes to the various pieces of legislation dealing with anti-money laundering and terrorist financing.

The Insurance Brokers Association of Canada represents over 35,000 insurance brokers across Canada who deal with property and casualty insurance products, namely home, car and commercial insurance.

Our members deal with numerous insurers and provide choice to Canadian consumers, as well as act as their advocate with the insurer in the event of a claim. IBAC, as well as our international colleagues around the world, is supportive of a regime to stem money laundering and bring greater scrutiny to terrorism financing schemes.

We support the government's efforts in achieving these goals. As a member of the World Federation of Insurance Intermediaries, we have had input into the Financial Action Task Force discussions and processes over the past few years in developing general anti-money laundering principles that national governments are either considering or have adopted, and Canada is no exception. One of the positions we have presented at the FATF is that the intent and spirit of creating a regulatory net should never be cast so wide that it covers unintended parties.

Another important aspect is that such a regime must always take into account the size of the organization they are supervising. In addition to the size, the nature and type of organization should be taken into account as many non-life organizations can have as few as two or three employees.

Let me now turn to our sector.

The property and casualty insurance sector and the life insurance sector are very different. Life insurance is mostly about wealth management whereas property and casualty insurance is all about risk management. These are very different sectors both in their objectives and form.

The P and C sector's main goal is to return an insured to the same position they were in prior to a catastrophic event. It is not to create wealth.

There is virtually no monetary value in P and C policies, other than a promise or guarantee that you will be put in the same position you were in before a catastrophic event. From our perspective, along with other insurance broker organizations around the world, property and casualty transactions offer virtually no chance for money laundering or terrorism financing to take place, unlike the banking or life insurance sectors, which are cash heavy and where transactional frequency is high.

With this in mind, we would submit that in the two areas that this bill addresses, there exists no problem or concerns in the property and casualty intermediation profession. As such, our recommendation would be to exclude the registering and reporting requirements for the P and C intermediation sector in these pieces of legislation.

Thank you and I would be happy to take your questions.

**Matthew McGuire, Chair, Anti-Money Laundering Committee, Chartered Professional Accountants of Canada:** On behalf of the Chartered Professional Accountants of Canada we appreciate the opportunity to provide input to the amendments of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act proposed by Bill C-31.

CPA Canada is a national organization established to support the unification of the Canadian accounting profession under the chartered professional accounting designation. It was created by the Canadian Institute for Chartered Accountants and the Society of Management Accountants of Canada to provide services to all CPA, CA, CMA and CGA accounting bodies that have unified or committed to unification. Under that unification there are currently close to 100,000 CPAs in Canada. As part of those unification efforts, CPA Canada and the Certified General Accountants Association of Canada are working towards integrating their operations this year. All members are committed to working together in the fight against money laundering and organized crime.

My comments today focus on the issues that are relevant to accountants and accounting firms arising from the proposed amendments, and a few amendments that we had expected. I'm a chartered professional accountant and chair of the Anti-Money Laundering Committee of CPA Canada, which was constituted to address the consultations and proposed regulatory amendments.

I'm proud to represent my profession on this committee as well a member of the Department of Finance's public private advisory committee on AML/ATF, and I'm also a partner and the national anti-money laundering practice leader for MNP LLP, which is the sixth largest public accounting firm in Canada, where I look over 10 anti-money laundering professionals. So my professional life involves investigating, designing and evaluating risk-based anti-money laundering programs for all sectors and sizes of reporting entities, and has since my time as an intelligence analyst with FINTRAC back in 2004.

I qualified as an expert witness in money laundering and forensic accounting by the Ontario Superior Court of Justice and was honoured to address this committee back in 2012.

The first amendment that we had expected to see was the addition of the CPA designation under the reporting entities that are responsible to the act, and we didn't see that at that time. Additionally, we recognize that outside of the Canadian provincially regulated accounting profession

exist those that practice accounting who may not necessarily have a Canadian accounting designation or are provincially regulated.

We suggest that future amendments to the act include all individuals and firms that perform accounting functions in Canada, particularly those around the triggering activities that are now covered, to address the money laundering risks that they pose.

Additionally, when we appeared in 2012, we commented on a proposal that would seek to clarify the reporting obligations under the act for accountants involved in the practice of bankruptcy. At that time, we explained the proposal did not go far enough to address the activities that were properly outside the scope of the act, such as engaging as a receiver monitor, receiver manager or interim receiver. We anxiously await amendments to the PCMLTFA in that respect.

My other comments relate to alignment with the FATF standards, which were discussed a little earlier on. The FATF, of which Canada is a member, released its updated recommendations in February 2012, and we are concerned that the proposed amendments would not completely align the act in respect of accountants and accounting firms. That alignment will be critical, in our view, when we are evaluated in 2015 by our peers.

Currently, the act applies to accountants when they receive or pay funds; when they purchase or sell securities, real property or business assets or entities; or when they transfer funds or securities by any means or on behalf of any person or entity.

The FATF recommendation 22 sets out an expectation that AML obligations for accountants should also be triggered when they prepare or carry out transactions for their clients concerning the following activities: organizing contributions for the organization, creation, operation and management of companies or for the creation, operation and management of legal persons or arrangements. We suggest the inclusion of these activities and regulations as being subject to the PCMLTFA to achieve compliance with the FATF recommendation 22 for professional accountants.

Then on the topic of information sharing, one of the greatest challenges in complying with the PCMLTFA is the determination of reasonable grounds to suspect in the case of a suspicious transaction report. Part of that challenge is the lack of confirmation that the reporting entity receives back about whether or not money laundering or terrorist financing actually occurred. Therefore, in assessing whether future transactions are suspicious or in assessing money laundering risks to the organization, we are often left guessing.

The amendment to the bill that provides FINTRAC the ability to publicly disclose that they were involved in a case that was successfully prosecuted is one that we like. We suggest that be expanded to permit FINTRAC to make public the details of suspicious transaction reports and support the disclosure and their characteristics, clearly without identifying the reporting entities involved. In our view, that intelligence would surely improve the monitoring and reporting practices of reporting entities.

I just have two final comments. We are concerned that the proposed section 68.1 of Bill C-31, which would permit FINTRAC to file with the court suspicious transaction reports and other voluntary reports in the case of an action suit or other legal proceeding brought to the PCMLFA — we submit that in the case of such filings the details of the reporting entity involved be redacted or sealed so as not to discourage suspicious transaction reporting volumes or quality for fear of public scrutiny of those reports.

We're also seeking clarity on the regulations to support laws related to ministerial countermeasures. The full range of the potential countermeasures is not known and, therefore, we're concerned about the practical extent to which systems and processes can be designed to adhere to them and the agility required of our members. We would ask that any regulations supporting those new measures provide sufficient lead time for those directives.

Common among reporting-entity sectors is the frustration with the current regime around identification, particularly in cases when the client is not physically present at the time of identification. Challenges arise when a client doesn't have six months of Canadian credit history or that credit history has a different address, and then most identification measures become frustrated or impossible.

Furthermore, some of the recent examinations have sought to limit the concept of client recognition, requiring re-identification upon every transaction rather than relying on security measures that are fairly industry-standard such as tokens. Far from resolving the situation, the new ongoing monitoring of business relationship guidelines seek to draw on those non-face-to-face standards as supplemental risk measures.

Although the program of client identification is not proportionate to risk, it is burdensome compared to regimes in other countries. We note the situation does not appear to be addressed in that bill.

We do understand that the balance must be struck between reporting and record-keeping, and identification requirements that properly deter and detect money laundering and terrorist financing activities. However, we need to ensure the measures being imposed address material risks and have a chance at being effective without causing undue burden to legitimate transactions that are conducted in the private sector.

Thank you.

**Frank Zinatelli, Vice President and General Counsel, Canadian Life and Health Insurance Association:** Thank you for the opportunity to contribute to your review of Part 6, Division 19 of Bill C-31 relating to money laundering and terrorist financing.

As you know, the Canadian Life and Health Association represents life and health insurance companies, accounting for 99 per cent of the life and health insurance in force across Canada.

We welcome this opportunity to appear before your committee as you seek to develop your report to Parliament. The industry believes that Part 6, Division 19 will strengthen the proceeds of Crime (Money Laundering) and Terrorist Financing Act consistent with Canada's undertaking to comply with its international commitments.

Let me make a few brief comments. First of all, let me emphasize the importance of a risk-based approach. The principle of such an approach is that where there are higher risks, financial institutions are required to take enhanced customer due-diligence measures, including conducting more frequent ongoing monitoring, keeping client identification information up-to-date, et cetera.

Correspondingly, where the risks are lower, simplified measures are permitted. Such an approach is necessary and appropriate to ensure the needed steps are taken to combat money laundering and terrorist financing while also providing for an efficient allocation of resources by financial institutions.

While some of the requirements now in place for identification, record-keeping and reporting obligations work through the use of this risk-based approach — and, indeed, some of the new requirements in Part 6, Division 19 will do the same — we believe the risk-based approach should be even more central to Canada's system for fighting money laundering and terrorist financing. This is consistent with the recommendations of the FATF and international trends, and it is an approach that is fully supported by the life insurance industry in Canada, as well as by the international insurance community.

Let's turn now to one of the major new requirements of Bill C-31. Proposed section 9.3 of the act would require life insurers to determine whether they are dealing with a politically exposed domestic person, which includes prescribed family members and persons or entities closely

associated for personal or business reasons to that domestic PEP, or politically exposed person.

We agree that domestic PEPs, unlike foreign PEPs, should not automatically be considered "high risk." We also note that the definition of domestic PEPs is similar to that for foreign PEPs, and, in the context of harmonization, the requirement makes sense. However, we also believe that in the Canadian context, the listed categories of persons are very large and include types of listed persons that normally pose a very low risk, such as judges referred to in Bill C-31.

Searching for a person's status as a domestic PEP is not as simple as searching for foreign PEPs. At the current time, no comprehensive public source of information is available for identification of domestic PEPs.

Taking into account the risk-based approach referred to above and wanting to ensure that identification and tracking of domestic PEPs will be workable for life insurance, consideration should be given to further narrowing the list of types of persons considered to be domestic PEPs; for example, the category of persons who could be considered close associates, say, of a domestic PEP could be extremely broad, as interpreted. So it would really help if, when working on the regulations, it were made clear that the requirements to identify close associates would only apply in the context where a client has been identified as high risk. I'm sure there are other ways and approaches that could be used to limit the scope of domestic PEPs.

On another point, with respect to extending the application of Canadian anti-money laundering requirements to foreign branches and subsidiaries, we are pleased to see that the branches and subsidiaries would need to adopt requirements similar to those in Canada. This suggests a principles-based approach, and we are supportive of this because the application at a micro level would inevitably lead to conflicts with local laws, for example.

Finally, another aspect I would like to touch upon relates to implementation. The Department of Finance, FINTRAC and OSFI each have different mandates that relate to AML/ATF. I have seen all three working together in their efforts to provide a framework that is clear, consistent and workable for organizations such as life insurers. The industry appreciates such efforts and urges the government and the regulators to continue pursuing this dialogue. This can go a long way to promoting an efficient and effective regime for both regulators and for the life insurance industry.

Thank you very much, chairman, for the opportunity to make these comments. I would be pleased to try to answer any questions.

**The Chair:** Thank you, Mr. Zinatelli.

I'm going to go to my list of questioners immediately, starting with the deputy chair of the committee, Senator Hervieux-Payette, to be followed by Senator Maltais.

[*Translation*]

**Senator Hervieux-Payette:** Welcome, everyone. I was wondering earlier when Canadians pay their insurance premiums what percentage theft represents. Is five per cent of the thefts represented in the premium I pay, that is to say five per cent of the losses that you incur? Or is it 10 per cent, 15 per cent? I would like to have that information broken down by sector, for individuals and businesses; because someone has to be paying somewhere and you have to be profitable.

[*English*]

**Mr. Robertson:** The most recent study that has been conducted was done by KPMG on behalf of the industry back in 2012, and the difficulty, as you can imagine, in trying to look at how much fraud is within the system really comes down to what types of fraud they are looking at in a system.

Two different studies have taken place. The averages now are between 9 and 18 per cent of what you're paying towards premiums are going towards insurance crime. That would be from the property and casualty standpoint. From a business standpoint, the numbers, the stats, the research done on that, I do not have those numbers, but certainly from an individual standpoint, between 9 and 18 per cent is what the current numbers are.

**Senator Hervieux-Payette:** I think it's important to know what we're talking about.

I think it's you who mentioned the report online and the time.

[*Translation*]

I jotted down a note, but I cannot refer to the text. Those who appeared before you, earlier, were talking about reports that are made online, directly, by computer. Concerning the reaction time to an event when a theft is reported, I suppose that different people receive the report to process it; those who will be preparing the estimates, those who accept them, the whole process.

What is the average time it takes to process a theft? How much time does it take, generally?

[*English*]

**Mr. Robertson:** On an individual standpoint within an insurance company, I can't give you that number. As I mentioned earlier, we are really now focused on the organized criminal activity and bringing together those people who are involved in attacking and going after multiple insurers.

From my standpoint from an investigation, the investigation that I made reference to where there were 36 people in 50 staged accidents, by the time all that information was gathered, it took about two years to get all that compiled to look at the scope and the size and how big a problem that is.

Individually, each individual insurance company involved in property and casualty insurance really has within their own policies to find time as to how long they can handle it. But from my standpoint doing the investigation, we wouldn't take part in that type of study or survey, because we are looking at it from a big industry picture as opposed to an individual company picture.

[*Translation*]

**Senator Hervieux-Payette:** Are they reported automatically to police? If there is a theft, normally, police look for the thief. What is the mechanism between your members and the police?

[*English*]

**Mr. Robertson:** The individual insurance companies can, if they've identified a fraudulent claim or what they believe to be a fraudulent claim, they've got several. We do not just have law enforcement to go to to go after it from a criminal perspective. They could go through financial services and go through a provincial investigation as well, but from our standpoint, we would be a conduit for multiple insurance companies that see similar targets or similar groups. They would come to us. We are then a liaison with law enforcement to put together the investigative brief in one picture and then take that investigative brief to the law enforcement agency that we see as the appropriate one to be looking at the overall big investigation.

In our case right now, especially when you look at staged collisions, they're primarily happening in southern Ontario. They are predominantly within the Greater Toronto Area, and they are expanding. It really is right now a southern Ontario issue that we're dealing with when it comes to staged collisions. Much like any type of criminal activity, they are expanding across other areas within Canada, but primarily right now it is southern Ontario.

We would be the conduit to take that information to law enforcement or to another regulator. It could be to financial services. We could take the investigation on to a provincial body for health regulators as well.

[*Translation*]

**Senator Maltais:** Mr. Robertson, full disclosure: I am an insurance broker by trade. I want to congratulate the Insurance Bureau of Canada for the work it has been doing for 25 or 30 years.

One thing bothers me. In another Parliament than this one, I fought against my own party regarding the decentralization of insurance companies. In Quebec, among other places, Desjardins was exerting enormous pressure for general insurance to be sold directly. Then the banks came on the scene. If you watch a hockey game in Quebec — I do not know if the same thing applies elsewhere — you may see 10 to 15 insurance company ads during the game. One says that they will give you a \$200 discount, the other one says \$300, depending on whether you have a motorcycle or a bicycle; everyone offers discounts.

You have so many distributors — and I am not calling their competence into question — I will come back to this later with a sub-question for Mr. Masnyk — is that a problem? How can you make sure, in the context of the work done by the Insurance Bureau of Canada, that everyone is giving clients the services they expect?

[*English*]

**Mr. Robertson:** Senator, with respect to the investigation of an organized activity, is that what you're referring to?

From our standpoint, because we obviously have our member companies that belong to the IBC, we do have information coming to us specifically about organized fraud or insurance fraud that we would use to start the investigation. It may not come from all members all at once, but as we're doing the investigation, we are going to see where it crosses over into other companies. It may be other companies that have not provided any information at that point in time. We would then reach out to them and inform them, using the reasonable grounds that we've obtained, and say, ``This is what we have found so far. Review your files and come back to us with this investigation or with your information."'

From that standpoint, being able to look at the big picture and bring that other information to the members is a critical piece. I would suggest that the majority of the investigations that we undertake start off with one or two members, and by the time we're finished expand into many more, because we do not just rely on those members that have come forward. We'll expand it as far as necessary.

[*Translation*]

**Senator Maltais:** In the list of goods that are stolen most often, you forgot one: slaughter animals. In containers, the biggest ones are always the ones that disappear. It is not the little veal but the large 1,500-pound beef; that is the one that disappears first.

My question will be for Mr. Masnyk. You work for the Insurance Brokers Association of Canada. I was wondering if everyone who sells insurance in Canada has to swear the same oath as brokers do. Today, brokers have to be brave, because their turf is being invaded by just about everyone.

Do those employees swear the same oath regarding the integrity of the people they sell insurance policies to?

**Mr. Masnyk:** I am happy to hear that you were an insurance broker.

All of the insurance brokers in Canada are licenced in their respective provinces. A lot of people claim to sell insurance, without having a licence. The standard to practise the profession in Canada varies from one province to another, but there are a lot of people throughout the country, like merchants or travel agents, who sell travel insurance as a secondary product, for instance, but do not have a licence.

This is a big problem in the country, which our association and the provincial associations are trying to solve with the provincial regulatory authorities.

Are there people in various professions or industries who hire people to sell insurance although they do not have a licence? The answer is yes. Sales over the Internet are another example.

How can a consumer know who is behind the Internet operation that is selling insurance? Is that person qualified and licenced? No one knows.

It is a problem.

[*English*]

**Senator Ringuette:** I have two questions. Mr. Robertson, I had never heard of staged car collisions before and the quantity of car theft. You say that to this end you would like to see protocols established that would allow an easier exchange of information between private and public organizations. So you're referring to your organization as private and FINTRAC or the RCMP or S ret  du Qu bec as public.

How would you see that happen? There's the issue of privacy law involved. In your organization, the level of certification and compliance with the Privacy Act, to what degree is that so, so that it could facilitate this exchange of information?

**Mr. Robertson:** The Insurance Bureau of Canada, the investigators, have investigative body status within PIPEDA since the onset of PIPEDA.

**Senator Ringuette:** What is PIPEDA?

**Mr. Robertson:** The Personal Information Protection and Electronic Documents Act. We have had investigative body status along with the Canadian Bankers Association since day one. During our investigation, that allows us under certain terms and certain investigation reasonableness to look at that investigation. Where we see a breach of contract law or those categories, we exchange that information with those regulators, law enforcement, FINTRAC. In cases where the information is able to come back to us, we respond back to the insurance company, for example, that provided us with the information in the first place.

So from an investigative standpoint, and understanding now the Privacy Act portion of it, being able to exchange that information and get information back is critical.

I can give you examples where we have provided information on certain individuals.

**Senator Ringuette:** To whom?

**Mr. Robertson:** To law enforcement agencies as well as directly to FINTRAC. The difficulty is, we have to go through a third party, for example, law enforcement, to get that information over to FINTRAC directly and vice versa.

In a lot of cases, what's happening is that we will be able to get the information in but not necessarily will that law enforcement agency be the one that would then take on that investigation. They have simply become a conduit.

**Senator Ringuette:** Have you made that presentation before today to the people responsible for FINTRAC regulations?

**Mr. Robertson:** From my standpoint, no. I have not had that opportunity until today.

**Senator Ringuette:** This is a new issue then?

**Mr. Robertson:** Absolutely, yes.

**Senator Ringuette:** Thank you for bringing it up.

Mr. Robertson, the numbers that you indicate in particular with cars are enormous.

Mr. Masnyk, you said in your presentation that life insurance is all about wealth management where P and C insurance is all about risk management, and then you go on and you say that there is virtually no monetary value in a P and C policy other than a promise or a guarantee that you will be put in the same position as you were in before. So that is quite contradictory in regard to your declaration and the facts that you've stated and the volume of auto theft.

**Mr. Masnyk:** When an individual has a car stolen, the first thing he does is call his insurance company or usually his insurance broker. That individual, the broker and the company at the outset do not know what the cause is or what's behind the actual theft of the car. Is money laundering involved? At the outset, nobody knows. It's only later when the insurance company compiles a bigger picture perspective — and Mr. Robertson will probably have more insight into this than I do, at the insurance company level or even at the IBC level — that that individual car loss or car theft is put in a category of, okay, this looks like and smells like some kind of money laundering scheme.

**Senator Ringuette:** Then you are in agreement with Mr. Robertson that it's a major issue.

**Senator Black:** I want to thank the four of you. You make our job much easier. We're here to study a piece of legislation, to try and make it better. We only know what we know, and I'm very appreciative for all four of you taking the time to be here to help us do our jobs a little bit better. Thank you very much.

I appreciated from the three gentlemen that they have made specific recommendations as to how we could make this legislation better.

Mr. Robertson, you didn't make any specific recommendations as to how we could make the legislation better. Do you have any specific recommendations?

**Mr. Robertson:** We are looking at it — at least, I am — from an entirely different perspective. From our standpoint, looking at it from an investigative standpoint, we are seeing money going out as opposed to the money being put in. So we're seeing the losses coming out.

The real recommendation from my standpoint really focuses on that ability to be able to get the information to those authorities in a way that we can do it, number one, easily, and number two, to get it there quickly.

**Senator Black:** Are there blocks to that now?

**Mr. Robertson:** I believe there are, and where we're seeing the block, as I made mention, is having to go through that third-party conduit.

I'll give you another example. Within Canada Border Services Agency Act, they can only provide certain information to law enforcement agencies. The regulations stipulate that.

In the working agreement that we have right now and the working group that has recovered almost 500 cars in the ports of Halifax and Montreal, again Canada Border Services, although we're working together as a team, cannot provide us directly with information. It has to go through the RCMP or local law enforcement, who then can provide it to us. So that type of digging in further, looking further into how can we avoid that type of blocks in those areas are certainly areas that I would recommend that we could look at further, to be able to go after these proceeds, because they're there.

**Senator Massicotte:** My question has been answered.

**Senator Greene:** My question has almost been answered also, but I will ask it in a different way, I think.

I tend to agree with the representative from the Insurance Brokers Association of Canada that the P and C industry should not be part of the reporting requirements. It's very difficult for me to come up with an example of how P and C policy could be used for money laundering. I've been racking my brain, but this is the only one I can come up with, and so I will run it by you and please knock it down.

Supposing a money launderer with \$1 million to launder buys a house in a private sale and also buys an insurance policy on the house. He then burns it down and collects the million dollars. That's insurance fraud for sure, but it's insurance fraud in order to launder money. Could you take me through why that scenario should not apply?

**Mr. Masnyk:** The adjustor for the insurance company and the broker would look at the burnt down house. The adjustor's first job is to determine the cause of the fire. If it's determined that the cause of the fire is something sinister then the policy will not be paid out. If it's determined it was a legitimate fire, the owner wasn't home and it's an electrical fire or whatever, in that case the house would be rebuilt in order for the owner to have exactly the same house, the same monetary value and as physically close as possible.

I don't see at the end of the day the person in a legitimate claim being enriched. If the system works properly, the fraudster would then be denied the claim and would actually lose the monetary value he has put into the house.

That's generally the scenario.

**Mr. Robertson:** I would agree. You're looking at a civil contract initially with the policy in place. It really is not until quite a bit of investigation has been conducted that you're able to prove and have reason enough to go after that to say that it is indeed fraudulent and it was an insurance crime.

**Senator Greene:** Because it would trigger an investigation, it's unlikely that a money launderer would go that route because he has another idea.

**Mr. Robertson:** It would not be the first way to go.

**Senator Greene:** He can't get cash.

**Senator Ringuette:** How about jeweler or works of art? You would insure that with home contents.

**Mr. Masnyk:** Yes, very expensive jeweler would be under a separate coverage from a standard home policy. Most individual items in a home are usually insured up to a maximum of \$6,000 as a base coverage. If you're lucky enough to own a ring that costs \$120,000, your insurance broker would ask you for an inventory of your home, would notice a \$120,000 ring and say that you would need separate coverage for that.

**Senator Ringuette:** Would you agree that maybe in regard to insurance for that type of luxury item that could be an issue for money laundering or investigation or something like that?

**Mr. Masnyk:** It's a stretch, like you said, senator.

**Mr. Robertson:** The thing is we're not seeing it. It's certainly not coming up on our radar right now as something that is happening so often that we would be getting into investigations of.

**The Chair:** Mr. McGuire, I was fascinated in your opening remarks, as you went through your resumé, you talked about the fact that had been an intelligence analyst with FINTRAC. One of the recommendations you're making is in terms of how the act deals with a situation of the coming together of the two groups. Are there any other observations you'd like to share with the committee in terms of having moved from FINTRAC over to your new capacity?

**Mr. McGuire:** I'm fairly glad you asked, but those comments would be professionally rather than as part of the association.

There are still glaring holes in the legislation that need to be filled. I'm continually surprised that we haven't regulated leasing companies and finance companies, which could be an incredible means to launder money and have been identified as a risk internationally. That's an interesting thing to me.

I have a fair bit of involvement with money services businesses and virtual currency companies. From that perspective, my surprise is that we have kept to a regime where we only register money services businesses and essentially just provide a listing rather than provide any measure of prudential regulation over those companies.

Even today there were reports about people who had funds in bitcoins and virtual currencies that were stolen or absconded with or an example of a company that folds. These are essentially funds that on deposit in some ways with the exchanges, in these wallets. Without that prudential regulation, we miss a fair bit of the story.

Further, I would say that the effectiveness of the regime could be much improved. Following on your last report, we have the equivalent of a fire hose going into a garden hose. FINTRAC is producing incredible intelligence, but when you get down to the levels of law enforcement and prosecution, the numbers aren't showing up. Part of the answer to that question is the civil forfeiture regime, which is underutilized in my view.

To the point of Senator Maltais, the tax mechanisms are effective in large part because they rely more on a civil standard than on a criminal standard, and the funds that are seized and eventually forfeited are put towards further law enforcement much more quickly than in any criminal process. I think a lot of the answer is in that.

**The Chair:** Mr. McGuire, thank you very much for your response. The record will note that you are speaking as an individual and not in your capacity as chair of the anti-money laundering committee. I greatly appreciate you sharing that with us.

**Senator Ringuette:** I would be remiss if I did not ask you your opinion. You were sitting in the back when I made my comments in regard to "on time." When we look at 5 days' delay and 30 days' delay in regard to information in this day of super-duper fast technology, what is your opinion on the personal level?

**Mr. McGuire:** One of the issues with our regime as compared to others, particularly in terms of intelligence, is that there are very few means by which to interdict a transaction to stop it in its tracks. Your idea of real-time reporting might help towards that end in being able to stop a transaction or at least impede the flow of further transactions.

In terms of the availability of information, I work with everyone from the large banks down to smaller shops. I would say if most of the organizations that are large are set up to disclose quite quickly, particularly in the way of wires and electronic funds transactions, you could adapt the legislation to make that more possible. Right now there are some elements of electronic funds transfer reporting legislation that are awkward and impede the flow in some ways. I think that could be cured fairly easily.

On the subject of suspicious transaction reports, I personally believe that some time is necessary to allow the organization time to take sober thought and evaluate the transactions and decide whether they report or not. There are some very significant consequences of reporting a suspicious transaction report. One of the major factors in evaluating the risks to the client is the extent to which you filed suspicious transaction reports against them, and in one that you've filed three transactions against, you're likely going to divest. So suspicious transactions are not to be taken lightly.

On the electronic transaction front, more quickly, particularly for large organizations, would not be a huge issue.

**Senator Hervieux-Payette:** Mr. Masnyk would like to "exclude the registering and reporting requirements for the P and C intermediation sector of these pieces of legislation," so everything related to stealing cars, et cetera. On the other hand, Mr. McGuire, you want to add.

I think there is a dichotomy between the two. You want to have more people in the financial sector and I feel it's because we underestimate the amount of money of P and C, because why just the financial? Mr. Masnyk, why would you exclude this saying we're not in wealth management, but there are a lot of activities that are criminal and not reporting to anybody?

**Mr. Masnyk:** I don't understand your question.

**Senator Hervieux-Payette:** You said:

As such, our recommendation would be to exclude the registering and reporting requirements for the P and C intermediation sector.

Why would you say well, we're talking about criminal action, quite a sizeable amount of money, P and C, and all these organized criminals who conduct these activities. They're not done on a personal basis. We're looking at organization; they pay people. It's a business. So you say exclude the P and C. Why exclude the P and C?

**Mr. Masnyk:** I wrote in my comments exclude the P and C intermediation sector, as in the insurance brokers who in their daily lives market, sell insurance products and also advocate with insurance companies on behalf of their customers when there is a claim.

In our experiences, as I mentioned in my comments, there are very limited opportunities in the actual day-to-day operations of the P and C intermediation business or profession for money laundering as Senator Greene mentioned earlier and gave an example. Those examples don't actually take place.

A car theft is a car theft. Is the car theft related to money laundering or not? At the outset, the broker and the insurance company don't know. How would anybody know? It's in a big picture looking at what insurers and group of insurers under the IBC do; they put together a pattern. But you get your car stolen today and it might be five years before you know that that stolen car would fall under money laundering. It might be a criminal who is not that far advanced who just wanted to steal the car for a joyride for three days and dump it.

**Mr. McGuire:** The reason we bring up additions is we recognize that internationally it's known that the skills accountants have can be exploited, wittingly or not, for money laundering. We recognize that and we're asking for not just ourselves be covered, but others that practice accounting be covered, and all the things we could do that could facilitate anti-money laundering properly belong in the act.

I have some sympathy for Mr. Masnyk's position from the perspective that a broker has limited insight for property policy at the inception of the relationship. While there may be some risk factors, it's likely not indicative enough to report meaningfully. The subtlety of his point is that the organization, the insurer, might have intelligence that could be useful to a financial intelligence unit or to law enforcement. I think that's the subtle point.

**The Chair:** Thank you very much. To each of our panelists, we'd like to express our appreciation for your appearance today. You have been very helpful in our review of this act.

(The committee adjourned.)

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HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

## **Standing Committee on Finance**

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FINA • NUMBER 036 • 2nd SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Thursday, May 15, 2014**

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**Chair**

**Mr. James Rajotte**



## Standing Committee on Finance

Thursday, May 15, 2014

• (1530)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call this meeting to order. This is meeting number 36 of the Standing Committee on Finance. I ask colleagues and guests to take their seats, please.

Pursuant to the order of reference of Tuesday, April 8, 2014, our committee is looking at Bill C-31, an act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

Colleagues, we have two panels here this afternoon. In our first panel we have Christopher Worswick, a professor from Carleton University. From the Canadian Manufacturers and Exporters, we have Martin Lavoie. From the Chartered Professional Accountants of Canada, we have Matthew McGuire. From the Fruit and Vegetable Dispute Resolution Corporation, we have Fred Webber, president and CEO; and from the Office of the Veterans Ombudsman, we have retired Chief Warrant Officer Guy Parent, Veterans Ombudsman.

Welcome to the committee. Each of you will have maximum five minutes for an opening statement, and then we'll have questions from members.

We will begin with Professor Worswick, please.

**Professor Christopher Worswick (Professor, Department of Economics, Carleton University, As an Individual):** Thank you for the invitation to appear. I probably don't need the full five minutes, but I'll make a few comments on the proposed changes, and I'll be happy to follow up during the question-and-answer period with more detail.

I'd like to start by talking about the regulations regarding the establishment of a system of administrative monetary penalties for the contravention of conditions applicable to employers hiring foreign workers. I see this as a very good change. As everyone knows from the media coverage, there is a lot of concern about potential abuses by some employers. I think it may well just be a very small minority of employers.

The concern I have, which others share, is that temporary foreign workers often value the jobs they're receiving in Canada a great deal. It may be that the incomes they're earning are significantly higher than what they would get in their home country. That creates a sort of power imbalance in that some employers may see this and realize they have the potential to extract some concessions from the original contractual arrangement.

How could that happen in practice? Well, we've seen examples of alleged cases of this in the news, but the kind of thing you could imagine is forcing temporary foreign workers to work unpaid hours, perhaps receiving an effectively lower wage than what they were promised, or perhaps forcing them to live in and pay for rental accommodation at above market rates.

In general, I'm supportive of temporary foreign worker programs. I think they work better at the more highly skilled end of the job distribution. I'm less supportive of them for low-wage jobs.

If we are going to do it, we have to be realistic that there are enforcement problems. Maybe it's only 1% or 2% of employers. It's hard to know, but I think we need a mechanism to punish employers who do this, and this seems like a move in the right direction.

My other comment is on the movement towards electronic filing of applications. I certainly support the government's movement in that direction. On the immigration front, as a country we've suffered when trying to attract highly skilled workers because of the long waiting periods that immigrants have often faced. So I think this is a movement in the right direction. It does improve our competitive position sort of vis-à-vis the other major immigrant-receiving countries, like Australia and New Zealand, which have had faster processing times.

In terms of the termination of certain applications for permanent residence, with respect to a decision as to whether or not the selection criteria are met not being made before February 11, 2014, I'm generally supportive of measures that speed up the processing of applications. I see this as part of the government's approach in this area.

With regard to the investor entrepreneurial programs, I'm generally not supportive of this type of selection. I probably should have said this at the beginning, but my background is as an academic economist. I do research primarily on immigrant selection and to a lesser extent on temporary foreign workers.

• (1535)

**The Chair:** You have one minute remaining.

**Prof. Christopher Worswick:** Okay.

The empirical evidence really doesn't support investor-class or entrepreneurial-class immigrants being as successful as, for example, the skilled-worker immigrants.

Let me just sum up by saying that in general I think this movement towards an expression-of-interest regime is a good one. I think it will be beneficial. I'll stop there.

**The Chair:** Thank you very much for your presentation.

[Translation]

Mr. Lavoie, you have the floor.

[English]

**Mr. Martin Lavoie (Director, Manufacturing Competitiveness and Innovation Policy, Canadian Manufacturers and Exporters):** Thank you, Mr. Chair. I congratulate all the Boston Bruins fans for shaving their beards today. I still have mine.

I will start my remarks in French and finish them in English.

[Translation]

The situation of the manufacturing sector started to improve in 2010, after the great recession. Some macroeconomic indicators are announcing better days. Since 2011, the rate of plant capacity use has gone over 80%, which leads us to believe that capital and manufacturing expenditures will go up as the U.S. market picks up and companies will be faced with production capacity issues.

Investments in machinery and equipment are an indicator of productivity. In 2013, they were at their highest level since the recession, meaning at \$14.3 billion. This fine performance is attributable in part to the federal government's accelerated capital cost allowance. We feel that it is important for the federal government to keep a high accelerated capital cost allowance rate for machinery expenditures in order to facilitate investment and productivity gains.

The manufacturing sector currently has 1.73 million employees, whereas, in 2007, there were 2 million.

In 2013, exports almost reached their level prior to the recession. They are at \$39.3 billion in goods, which is an increase of 34% since the 2009 low point.

However, research and development expenditures are a little more worrisome. Given the budget cuts to the scientific research and experimental development program, that was somewhat predictable.

Last year, research and development expenditures were close to their historic low of 2010, with a drop from 2011 and 2012. In my view, this performance is not likely to improve in the short term, given the elimination of capital expenditures in 2014 and the reduction from 20% to 15% of the research and development tax credit for large businesses from the federal government.

[English]

There are three areas in or related to Bill C-31 that are of particular concern for members. One is to keep supporting the companies that are facing labour and skills-shortage issues. While we agree that there should be no tolerance for abuse under the temporary foreign workers program, our members are concerned with the current uncertainty of the program.

We get calls from members asking, "Am I still okay buying this next piece of equipment if I need to bring those foreign workers here to set it up and to get some training?" There are a lot of questions. Not all of them are necessarily touched by the current situation with the program, but there is uncertainty.

Our member survey indicated that, year after year, more than 50% of our members are facing skills and labour shortages, and most of them think the situation will get worse in the future. One of our recommendations is to really make sure that we keep a foreign skilled workers program specifically for the advanced manufacturing sector.

The second area of concern is with division 3 of part 6 of the bill, which amends the Hazardous Products Act to implement the globally harmonized system of classification and labelling of chemicals. CME supports the benefits of harmonization of safety data sheets and labels on products used in the workplace. Canada, however, must make sure that all labelling requirements are fully harmonized with those in the U.S., so that companies do not have unnecessary costs related to relabelling products if there is a lack of harmonization.

We also think that importers of chemical products should be able to label their products here in Canada without the obligation to label them in the country of origin prior to their importation, as is currently required in the legislation.

I would like to say a few words on the Canadian International Trade Tribunal as well. Our members' competitiveness relies on high-quality assistance from the Canadian International Trade Tribunal to make sure that their competitors compete according to the rules. Division 29 of part 6 is proposing to remove the Canadian International Trade Tribunal's budget, research staff, and registry and to consolidate these into the administrative tribunals support service of Canada.

● (1540)

**The Chair:** You have one minute.

**Mr. Martin Lavoie:** The CITT, according to our members, is the most efficient and leanest of operations. We believe the proposed changes will weaken the CITT's administrative and analytical capacity and have potentially negative repercussions on our international trade obligations at large.

We recommend that the government remove the Canadian International Trade Tribunal from the list of tribunals covered by Bill C-31.

Thank you again, and I look forward to receiving your questions.

**The Chair:** Thank you for your presentation.

Mr. McGuire, please.

**Mr. Matthew McGuire (Chair, Anti-Money Laundering Committee, Chartered Professional Accountants of Canada):** Thank you very much.

My name is Matthew McGuire, and I am the chair of the anti-money-laundering committee of the Chartered Professional Accountants of Canada. I'm a CPA, a member of the Department of Finance's public-private advisory committee on AML and ATF, and a partner and the national anti-money-laundering practice leader at MNP LLP.

We appreciate the opportunity to provide input on the amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act proposed by Bill C-31. My comments today focus on the issues relevant to accountants and accounting firms arising from the proposed amendments and certain areas where there are amendments that we hope to see.

The Financial Action Task Force, of which Canada is a member, released its updated recommendations in February 2012. We're concerned that the proposed amendments would not completely align the PCMLTFA with the expectations of accountants and accounting firms articulated in those recommendations. In particular, FATF recommendation 22 sets an expectation that anti-money-laundering obligations for accountants should be triggered when they prepare for or carry out transactions for their clients concerning the following activities that we believe should be covered: the organization of contributions for the creation, operation, or management of companies; and the creation, operation, or management of legal persons or arrangements.

One of the greatest challenges in complying with the anti-money-laundering legislation is the determination of "reasonable grounds to suspect" in the case of a suspicious transaction report for money laundering or terrorist financing. Reporting entities need information to confirm whether their basis for suspicion of money laundering or terrorist financing is valid in order to develop meaningful processes for risk and transaction monitoring following the submission of those reports. The amendment in the bill that provides FINTRAC the ability to make public their involvement in cases where they make disclosures and there was a prosecution is laudable, but we think it could be expanded to make public any details of suspicious transactions and the indicators that supported the disclosure and their characteristics, of course without identifying the person who submitted it. That intelligence would surely help reporting entities, from accountants to banks to credit unions, improve their monitoring and reporting practices.

We are also concerned about proposed section 68.1 of Bill C-31. It would permit FINTRAC to file with the court suspicious transaction reports and other voluntary reports in the case of any action, suit, or legal proceedings brought or taken under the PCMLTFA. We submit that in the case of such filings, the details about the reporting entity—the folks who submitted the report—should be sealed so as to not discourage suspicious transaction reporting volumes and quality for fear of public scrutiny of those reports.

We'd also like clarity on the ministerial countermeasures with regard to the regulations that support those countermeasures. The full range of possible countermeasures is not known; therefore, we're concerned about the practical extent to which our members will be able to design systems and processes quickly to adhere to them, and the agility they require in that respect. We would ask that any regulation supporting these measures would provide sufficient lead time for compliance with the directives.

Common among reporting entity sectors, from banks to real estate brokers to dealers in precious metals and stones, is a frustration with identification standards, particularly in cases where the client does not present themselves physically for identification. Altogether, the program of client identification is not proportionate to risk, is burdensome compared with the regimes in other countries, and

doesn't appear to be addressed in this bill. We understand, however, that the Department of Finance is addressing it in the course of regulations. We fully support a move towards a more practical and risk-based approach to knowing who we're dealing with.

In closing, we'd like to outline some of the changes we'd like to see as time moves on. Under the current regulations of the act, an "accountant" means a chartered accountant, a certified general accountant, or a certified management accountant. When the unification of the profession is complete across the provinces, we would like the act to reflect that renaming as well as the change from the CICA handbook to the CPA Canada handbook.

• (1545)

**The Chair:** You have one minute left.

**Mr. Matthew McGuire:** Additionally, we suggest that there are those in the accounting profession, who practise the accounting profession, who are not provincially regulated, such as those with foreign accreditations. We believe they should be subject to the act to address the money-laundering risks they pose as well.

We appreciate your consideration of the issues we've identified today in the course of your review of Bill C-31. We'd be delighted to answer any questions.

Thank you.

**The Chair:** Thank you very much.

We'll now hear from Mr. Webber, please.

**Mr. Fred Webber (President and Chief Executive Officer, Fruit and Vegetable Dispute Resolution Corporation):** Mr. Chairman and committee members, thank you for the opportunity to appear before the House Standing Committee on Finance to speak to the amendment to the Safe Food for Canadians Act that will authorize the Governor in Council to make regulations related to fresh fruits and vegetables, specifically the requirement to be a member of a specified entity or organization. This amendment would also repeal the Board of Arbitration.

My name is Fred Webber. I'm the president and CEO of the Fruit and Vegetable Dispute Resolution Corporation, commonly known as the DRC. I'm here representing the industry in support of both of these items.

The highly perishable nature of fruits and vegetables makes commerce in these commodities unique. It is a credit to the industry that they can move to Canadian consumers a product whose shelf life is measured in days, once harvested, while they're still fresh and with maximum nutritional benefit. Because the product deteriorates quickly, and supplies and quality can vary widely, licensing standards and specialized dispute resolutions have long been part of the fresh fruit and vegetable business.

The sector contributes \$10 billion in economic activity to the Canadian economy, and provides direct employment to 90,000 people. Because of Canada's climate and resulting short growing season, we must import much of our fruit and vegetable needs. You'll not find many bananas and oranges growing here, particularly in February.

A dispute settlement body that maintains a common set of trading standards helps makes each party's rights and responsibilities clear and provides a forum for fair and ethical trading. In that light, a bit of history would be helpful here.

From 1934 to 1974 the Canadian Board of Arbitration administered the licensing and dispute resolution program for shippers and receivers of fresh fruits and vegetables. In 1974 that board's statutory authority to provide rulings over disputes was challenged in court and proven illegitimate. In 1983 the Canada Agricultural Products Act was amended to partially reinstate the authority of the board of arbitration and strengthen licensing requirements. The board still remained unable to rule on contract law disputes pertaining to non-payment and commercial contracts.

This situation also created an imbalance with Canada's trading partners, particularly the United States, who allows Canadian sellers to utilize and benefit from the licensing and dispute resolution provided under the USDA's Perishable Agricultural Commodities Act. In the world, only Canadian shippers from Canada do not have to post a bond or other form of security to do so. Preserving this relationship was important to both Canadian and American business. A dedicated group of government and industry stakeholders organized a committee under the authority of article 707 of NAFTA, which provides for the private resolution of commercial disputes.

The organization that I represent is the result of those NAFTA organization negotiations. We're a not-for-profit corporation based in Ottawa. We provide education, trading standards, mediation, and binding arbitration to members. The DRC model is the model that government and industry have evaluated and studied as the type of entity to provide the services contemplated under the pending Safe Food for Canadians Act regulation specific to trade in fresh fruits and vegetables.

In 2000 the Canadian government recognized that the DRC met or exceeded the requirements of the Canadian federal produce licence and arbitration system, and amended the regulations to state that DRC members were exempt from the federal licence. Today over 90% of Canadian buyers have opted for that DRC membership.

For the last 14 years since the inception of the DRC, the vast majority of produce transactions have in fact been transacted utilizing the DRC membership rules and trading standards. There has been no use of the Canadian Board of Arbitration because the disputes are handled to conclusion by the DRC.

In 2011 the U.S.-Canada Regulatory Cooperation Council committed to establishing comparable approaches to achieve a common goal of protecting Canadian and U.S. fruit and vegetable suppliers from buyers who default on their payment obligations. A portion of this initiative was the strengthening and streamlining of the licensing system and dispute resolution system in Canada. The DRC model was again identified as the potential solution for the licensing and dispute resolution process by stakeholders from both the U.S. and Canada.

The work of the RCC in this area flowed into the portion of the Safe Food for Canadians Act that we are discussing today. The DRC and its model for dispute resolution were identified and supported as the vehicle that Canada would support based on the results of the

exhaustive CFIA consultation that concluded in November of 2013. This is not a surprise, as the vast majority of the industry had already adopted the DRC into their business plans.

Even though we established an effective system for licensing and dispute resolution during the course of normal business transactions, one area where we are lacking and where we are out of sync with the U.S. is in the protection for suppliers in the event of a buyer bankruptcy or insolvency. This remains an outstanding issue for us, and we continue working with our partners in the RCC process. We are now looking at amendments to the Bankruptcy and Insolvency Act in order to help us create a deemed trust, similar to what exists in the United States, to give suppliers of perishable fruits and vegetables a limited priority to access the funds generated from the sales of their products.

Both of these amendments are the result of a wonderful collaboration between civil servants and government and industry. These amendments have been discussed at great length, and there's been great support for both of them.

Thank you.

• (1550)

**The Chair:** Thank you for your presentation.

[*Translation*]

Mr. Parent, you now have the floor.

**Mr. Guy Parent (Veterans Ombudsman, Chief Warrant Officer (Retired), Office of the Veterans Ombudsman):** Good afternoon, Mr. Chair and members of the committee.

Thank you for inviting me to appear before this committee to share with you my views on division 1 of part 6 of Bill C-31, entitled Payments—Veterans Affairs.

[*English*]

I also wish to take this opportunity to briefly explain why Veterans Affairs Canada needs to take other measures to improve the support provided to injured or ill veterans and families under the new Veterans Charter. Bill C-31 will provide many veterans, survivors, or dependent children with additional financial support as a result of government's decision to cease the offsetting of the Pension Act disability pension from other financial benefits, such as the earnings loss benefit, Canadian Forces income supplement, and war veterans allowance. The one-time payment for those benefits will provide retroactive compensation to cover the timeframe from the date the decision was made to cease the practice of offsetting to the date that Veterans Affairs Canada implemented the decision.

Numerous veterans have called my office to complain that the short periods of retroactivity are not fair. They argue that the Federal Court settlement under the *Manuge v. Canada* case provides retroactivity back to 1976 for the Canadian Forces service income security insurance plan, known as SISIP. Consequently, they believe the retroactivity for the affected Veterans Affairs Canada programs should be provided to the date the programs came into force.

SISIP clients are receiving retroactivity going back to the start of the program, because in the context of an insurance contract, the offsetting of the disability pension as income was unlawful. However, Veterans Affairs Canada was operating within the full context of the legislation. When confronted with a new understanding of the disability pension, a policy change was made to amend the regulation to eliminate the harsh effect that this policy was having on veterans.

From an ombudsman's perspective, there is nothing unfair about what has occurred. Although both situations appear to be similar, they are structurally quite different.

[*Translation*]

I do not believe that this is a matter of fairness. The reality is that the Federal Court decision did not specifically compel the government to change the way it offset the disability pension from Veterans Affairs Canada benefits. But the government made the change anyway. There was also no obligation for the government to provide retroactivity—but it did. This ensures that veterans are not penalized because of the length of time it took to implement the new policy.

I believe that government is treating veterans and their families equitably on a go forward basis by harmonizing how Veterans Affairs Canada and the Canadian Armed Forces deal with the offsetting of the disability pension from respective financial benefits.

[*English*]

Let's quickly look at other issues in relation to the new Veterans Charter. The most pressing shortcomings to address, and the main source of discontent amongst veterans, are those related to financial support. Adequate financial support is a key enabler to many intended veteran outcomes, such as successful transition to a new civilian career, reasonable standard of living and quality of life, and improved physical and mental health.

There are five main issues with the financial support provided under the new Veterans Charter: first, the insufficiency of the economic financial support provided after age 65 to at-risk totally and permanently incapacitated veterans; second, the drop in income for veterans who are transitioning from a military to a civilian career, as the earnings loss benefit pays only 75% of their pre-release salary; third, the accessibility to the permanent impairment allowance and the permanent impairment allowance supplement, which is a problem for many severely impaired veterans; fourth, the unfair practice of providing a reduced earnings loss benefit to part-time reservists who suffer an injury or illness related to service; and fifth, the non-economic benefit designed to compensate for pain and suffering, the disability award. This benefit is supposed to have kept pace with civilian court awards for pain and suffering, but it has not.

The shortcomings that have been presented to government through my reports and by the many witnesses who have appeared before the House of Commons and Senate committees on veterans affairs over the past several months are impediments to achieving the charter's core objective.

● (1555)

**The Chair:** You have one minute.

**Mr. Guy Parent:** With a few focused improvements, the new Veterans Charter could become a system of benefits and programs that has a tangible and positive impact on all veterans and their families, a system that veterans can be proud of rather than the object of unabated discontent.

In closing, I have a simple vision of what the new Veterans Charter should be: a well-integrated system of programs that provides the transitioning veteran with optimism for the future and for the new opportunities available to him or her. In other words, veterans should be able to look forward to the future with enthusiasm and with a sense of purpose rather than feeling overwhelmed with the present, and longing for a past that is no longer possible. To create this optimism for all veterans, substantive improvements need to be made to the new Veterans Charter, and in particular to financial support programs. Government has the opportunity to make a real difference for veterans and families by resolving long-standing problems with the new Veterans Charter.

Thank you, Mr. Chairman.

**The Chair:** Thank you very much for your presentation.

We'll begin members' questions with Mr. Cullen. We can do seven-minute rounds for the first four, if that's acceptable.

Mr. Cullen.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** As long as I'm in the first four, then I'm very enthusiastic about your proposal.

**The Chair:** Well, you're the first one.

**Mr. Nathan Cullen:** Thank you to all our witnesses for being here today.

As you can see just by your colleagues at the table, this is an incredibly diverse piece of legislation. The five of you would not normally appear before a House of Commons committee together, because we are going right through the gamut here from veterans' issues to the temporary foreign worker program to manufacturing to food. The challenges we have with the process you are now involved in are with the massive and complex nature of this legislation in an omnibus bill.

The challenge we'll have here today—and I won't take up any more time on this—is that in order to understand what the implications are, committee members from all sides of the House, I would say, are somewhat incapable of anticipating what the impacts are going to be for everything from temporary foreign workers all the way through to our veterans. We'll try, but I remove any expectation that the House of Commons is doing a thorough job. That's not possible. We also exist under time limitations.

Mr. Worswick, I want to start with you. Much has been made of the temporary foreign worker program and the potential abuses, as you talked about. We do see these things probably by a minority of employers who are abusing the system, and I mean that in both ways. One is gaming the system to replace Canadians with temporary foreign workers, because, for various reasons, they prefer having temporary foreign workers to giving a job to Canadians. The second side of abuse is abusing the workers themselves. There seem to be opportunities, given the way the program is drawn up right now, for temporary foreign workers to be abused by unscrupulous employers, whatever the number.

Can you offer a fix on the first part that would prevent employers from gaming the system? We saw that with HD Mining, and we have seen it with a number of examples that have made the news. As the current program is designed, it just seems too easy to simply make an “effort” to find a Canadian—not really try—and then simply bring in temporary foreign workers, which was the intention of the employer from the start.

**Prof. Christopher Worswick:** Sure. I can try to address that issue. I think it's a difficult problem. I'll start off by saying I don't think there's an easy solution. The easiest solution is to just not have the program, but I think there are some benefits to the program.

I did a piece for IRPP in Montreal last year, in which I looked at some of these issues. I think we need to try to make it a program that's attractive to employers who get a really large benefit from bringing in a temporary foreign worker and not very attractive for those who get only a small benefit under the terms of the arrangement. So maybe some kind of sliding fee structure might create that kind of incentive. If you're a repeat user of the program, something like sort of an experience-rating structure, such as they have with EI, could work.

• (1600)

**Mr. Nathan Cullen:** Let's talk about the second side, and then I want to move on to another topic. In terms of punishing bad employers, the Conservatives two years ago, as you know, announced a blacklist for employers who abuse the system. In two years, no one was put on the list up until a month ago, and I think a couple of McDonald's franchises, a couple of employers, were thrown on when this really started to hit the news. It was maybe coincidence, but I suggest not.

Is there some mechanism that could be better used for those few employers who do abuse the system—who abuse temporary foreign workers, in fact—which would prevent this from happening more in the future, rather than having some pretend blacklist or bad employers list that doesn't get used?

**Prof. Christopher Worswick:** Without commenting on the past, I think in principle the decision last year to begin excluding employers

was a good move, and I think financial penalties are another way to go. But obviously, it only works if it is fully implemented. I think that can work. I think employers will respond to those types of incentives, and I agree with what you said. I think this is a very small minority of employers in practice.

**Mr. Nathan Cullen:** Yet the principle of Canadian law and human rights is that even the small incidents matter to us all, right?

Mr. Lavoie, in your presentation you said a word that caught my attention. You talked about uncertainty. With regard to the manufacturing sector in Canada, speak to us briefly about the uncertainty that's been created, because from my understanding, particularly with the larger companies and with resource-based companies, uncertainty is a word they don't want to use when they talk about government programs and services, because it has all these other effects.

**Mr. Martin Lavoie:** Absolutely. In our sector, most of the temporary foreign workers are in positions that are highly skilled. The preference of our members would be to hire Canadians, but sometimes that's just not possible. When we look at the data for southern Ontario, there have been just over 5,000 temporary positions in all sectors, 70% of them in advanced manufacturing, and 93% for under 12 months.

It creates uncertainty when people hear a lot of the things in the media. They think we're going to put everybody from McDonald's to advanced manufacturing companies in the same basket. Our president wrote letters to some members of Parliament, which I can send to you after, which call specifically for an advanced manufacturing skilled workers program. We're even ready to fix a certain above-average wage threshold for temporary employment, if necessary. We're not in the business of paying foreign employees less than what's in the Canadian market.

**Mr. Nathan Cullen:** Thank you.

**The Chair:** You have only one minute.

**Mr. Nathan Cullen:** Oh boy, one minute....

Sorry, Mr. McGuire, I'm going to go to Mr. Parent.

I want to understand this difference, because we've had veterans talk to us about the fairness and about the potential lawsuit in the waiting because of the clawback, which began in 2006. I think your suggestion was that the government is not legally obligated to go back even to 2012 for the recompensation of this clawback to injured veterans, yet the Manuge decision and the case referred to the changes in 2006.

Are you suggesting that what's being done is fair? Why are so many veterans contacting us to say the opposite?

• (1605)

**The Chair:** Could you give just a brief response, please?

**Mr. Guy Parent:** Certainly.

What we're looking at is the fact that, yes, there was no obligation on the government to follow the court's judgment, because the court's judgment was in fact for a specific client base, the SISIP clients. So that had to do with the new Veterans Charter and insurance under SISIP.

The government of the time actually decided to look at the possibility. In fact it stopped all clawbacks from Veterans Affairs Canada payments, and at the same time it looked at retroactivity. You can see that the population affected here is more than just the new veterans clients. We're talking about the war veterans allowance clients as well. So we're talking about going back 40 or 50 years.

With regard to fairness, we think the government acted fairly. Going forward we would rather see money spent on people who would be destitute at 65 rather than on having people who are now well off get more retroactively.

**The Chair:** Thank you, Mr. Parent.

Mr. Saxton, go ahead, please.

**Mr. Andrew Saxton (North Vancouver, CPC):** Thank you, Chair.

Thanks to our witnesses for being here today.

My first few questions will be for Professor Worswick.

Our government introduced changes to the temporary foreign worker program to ensure that Canadians have the first chance at available jobs, while cracking down on employers who abuse the program.

Would you agree with the general direction of these changes?

**Prof. Christopher Worswick:** Yes, I would. I think they're definitely a move in the right direction. I still have some concerns, as I have already indicated, that at the less-skilled end of the occupational or wage distribution, this program could have negative effects, but I think this is a move in the right direction.

**Mr. Andrew Saxton:** What would be your assessment as to the approximate percentage of employers who might be abusing the TFW program or have abused it in the past?

**Prof. Christopher Worswick:** I have no data to base that on. I would think it would be less than 5%.

**Mr. Andrew Saxton:** So it's very low.

**Prof. Christopher Worswick:** I would say it's low.

**Mr. Andrew Saxton:** So then you agree that suspending the TFW program would hurt small businesses across the country and also hurt the economy. Would you agree with that?

**Prof. Christopher Worswick:** I think if you suspended the entire program, it would hurt the economy. I don't know how large that effect would be, but it would hurt.

**Mr. Andrew Saxton:** So you believe the program is serving a worthwhile process and that, once reformed, it could be a good program.

**Prof. Christopher Worswick:** Yes, but just to be clear, I think the existence of positions for temporary foreign workers who come in with, say, some form of post-secondary education, including skilled

trades-type qualifications, is beneficial. I think there may be negative consequences for the others. I think on net it's probably a positive.

**Mr. Andrew Saxton:** Thank you.

The expression of interest system improves how the government manages applications, resulting in faster and more flexible processing while also increasing the labour market responsiveness of the immigration system. Moreover, the introduction of a two-step application process in certain economic classes will help prevent the accumulation of new backlogs by ensuring that only the best candidates, not simply the first ones, are able to apply to immigrate to Canada.

Do you concur with the assessment that this new EOI process will speed up application processing while ensuring that Canada can attract the best skilled immigrants?

**Prof. Christopher Worswick:** Yes, I think that's highly likely to happen. Especially given the fact that we've been so slow at the process in the past, it's likely that would speed it up. Whether it completely solves the problem or not is a different story. But I agree.

**Mr. Andrew Saxton:** Okay.

So you think the expression of interest system is a good route to take?

**Prof. Christopher Worswick:** I think it's going to bring in skilled workers more quickly, and I think it's going to help us compete with the other countries that are taking similar approaches.

**Mr. Andrew Saxton:** Okay, thank you.

My next questions are for Mr. Lavoie.

Mr. Lavoie, our government introduced the economic action plan to create jobs and grow the economy and to ensure prosperity. What measures in the economic action plan 2014 will help members of your organization compete in the global marketplace?

**Mr. Martin Lavoie:** There are many measures that I think are very beneficial. This government has been very aggressive on trade agreements. That's really good news. I think CETA was great news for us. I think the next big one is the Trans-Pacific Partnership. That's definitely a big one. I think last year's extension of the accelerated capital cost allowance was also a good measure to improve productivity. This measure is going to end by 2015, but we still think we need to keep an aggressive depreciation rate for machinery equipment to at least stay on par with U.S. depreciation.

**Mr. Andrew Saxton:** Okay, thank you.

Now, since coming to office in 2006, our government has cut taxes in just about every way that Canadians pay them—in fact in 180 different ways—while reducing red tape for businesses as well through initiatives like the one-for-one rule.

Can you share your thoughts on the need to continue to cut red tape?

**Mr. Martin Lavoie:** Absolutely. I travel across the country meeting our companies, and regulations and red tape are always in the top three issues that are raised, along with R and D tax credits and labour issues. So I think it's almost an ongoing battle, because the one-for-one rule is great in principle, but it's maybe more difficult to apply. We're quite supportive of it. We dedicate a lot of time to looking at those things and trying to get feedback from our members as well.

•(1610)

**Mr. Andrew Saxton:** Have you heard from your members what areas in particular they find most onerous when it comes to red tape?

**Mr. Martin Lavoie:** In the last couple of years, that would be all of the changes introduced in the scientific research and experimental development tax credit. For example, the documentation requirements are much greater than they used to be, and a lot of our members only find out when they're audited. So we actually met with CRA recently to convey that message to them and to make sure they got industry input so they could try to fix the way that.... They want to reduce red tape at the top of the pyramid, but they want that to be translated to the technological reviewers on the floor. So that's one area that is very problematic. A lot of our members think it's just not easy to apply for and to claim R and D tax credits. Also, all the changes and interpretations are very difficult to follow as well.

**Mr. Andrew Saxton:** Okay, thank you very much.

I have no further questions, Chair.

**The Chair:** Thank you very much, Mr. Saxton.

Mr. Cuzner, go ahead, please.

**Mr. Rodger Cuzner (Cape Breton—Canso, Lib.):** Thanks, Mr. Chair.

It's great being here with my evil twin today.

Mr. Lavoie—

**The Chair:** I'm much taller.

**Mr. Rodger Cuzner:** —I'll have you know that you sort of waded into some dangerous waters there. You'll notice the chairman is not only clean-shaven but in a foul mood as well, because his Bruins lost last night.

Between 2006 and 2012, the number of temporary foreign workers more than doubled in this country. Give me a profile of your organization as to, for your members, how much your investment in skills training would have increased over that same period of time.

**Mr. Martin Lavoie:** We don't have numbers on how much companies actually spend. What we hear a lot from our members in certain areas, engineering for example, is that, in some areas of the country, where there's a lot of construction going on for natural resource extraction, such as for oil sands or with the shipbuilding contracts coming in, companies are really worried about putting too much money into training and then losing the employees. So that's one area.

At the same time, though, they invest a lot of time when somebody who's out of school comes to their plant. What I hear a lot is that they're just not ready to work. Most of them have a very good

theoretical knowledge of what they should be doing in the plant, but they've never worked with the equipment.

**Mr. Rodger Cuzner:** If I could put it this way—and we only have seven minutes here—it's sort of an arse-first approach to thinking that through, whether or not you want to invest in training. I agree wholeheartedly with the minister that industry should have more skin in the game, and I would think it would be worthwhile, before we.... Nobody's going to fight over some of the entry-level positions with low-skilled wages, but in a high-tech sector like yours, people are wondering why we can't get somebody who was trained here. For somebody who's been with the company, why aren't we investing in training to have them fill that position?"

So I would suggest that your industry should start to monitor the number of dollars they invest. I don't doubt that they invest, but I think it would be a good measurable.

Mr. Parent, this comes off something that Mr. Cullen had initiated. I don't pretend to have a deep knowledge of this, but I have had interventions on it in my office. Perhaps you could just clarify.

There was no legal obligation, more so a moral obligation, on the part of the government, and they fulfilled that moral obligation with retroactivity back to May 2012 in the wake of the Manuge decision. But what I'm hearing from people in my riding is this. Why didn't they go back to when the charter was initiated in 2006?

Are you hearing those same rumblings? Is there a constituency out there advocating for that position?

**Mr. Guy Parent:** We receive a lot of complaints every year, and I must say that we have received very few complaints on this matter. We have received some, though, I must be honest. For us it's an issue of compensation and not fairness, because the court case dealt with an insurance company and its clients, quite different from the government program.

In the case of Veterans Affairs Canada, according to legislation, money was taken back from these allowances in the earnings loss benefit. When the government decided not to carry on with the clawback, our biggest concern at the time was that the government didn't move very fast in coming up with an answer that would actually...because there were a lot of expectations out there. Certainly we thought it took too long to come up with a decision, and then, once the decision was made, it took too long to come up with the details.

We are satisfied that it actually meets the principles of fairness. There's a saying in the ombudsman world that you must be careful not to pursue fairness in such a way that you disadvantage the others. In this case, for us, fairness is to use the money that's available going forward to fund the programs that are now lacking, such as no income after 65.

•(1615)

**Mr. Rodger Cuzner:** Okay.

Mr. Worswick, with regard to the temporary foreign workers program, last week, in response to a question about the low-skilled stream for the temporary foreign workers, Minister Kenney said that the Liberals began the program in 2002; all the Conservatives have done since then is put on additional regulations and restrictions.

I agree with half his answer. We did begin it in 2002, but to tighten regulations.

That's in contrast to what Minister Finley said in 2008, that "We are processing a record number of temporary foreign worker applications.... We have made it faster and simpler for employers to hire a foreign worker".

Which would you say would be closer to the genesis of the program: more restrictions and regulations have been placed on it, or what some might think as Mr. Kenney having had to come in and sort of clean up the mess that Ms. Finley made?

**Prof. Christopher Worswick:** I'm not an expert on the details of the history of that part of the program, but as has already been articulated, the program expanded quite significantly over the 2003 to 2010-12 period. To me, it doesn't seem like it tightened up. It seems like it expanded and became easier. That's my reading overall.

May I make a quick comment related to your previous question?

**Mr. Rodger Cuzner:** Is that on the investment in training?

**Prof. Christopher Worswick:** Yes, the training point.

**Mr. Rodger Cuzner:** Okay.

**Prof. Christopher Worswick:** I think one of the key things to keep in mind with temporary foreign workers is turnover. We can say, look, we've advertised this job, no Canadians have taken it, and a temporary foreign worker is prepared to come. Now, what you implicitly have with a temporary foreign worker is a worker who is not going to leave, whereas I think for a lot of employers the issue is that they can bring someone in, they can train them, and then six months or a year later the person will leave. If employers are facing turnover, they're not going to be that likely to invest in training, I would have thought, on theoretical grounds.

My sense is that this is one of the reasons why temporary foreign worker programs, if they grow too large, can be problematic. Even if workers are equally productive, the employer will always want the worker who will stay.

**The Chair:** Thank you.

Thank you very much, Mr. Cuzner. That's it.

**Mr. Rodger Cuzner:** Much as you'd like me to continue....

**The Chair:** I would, yes.

You can go and watch your Leafs play tonight somewhere.

**Voices:** Oh, oh!

**A voice:** Speechless.

**The Chair:** We'll go to Mr. Keddy, please.

**Mr. Gerald Keddy (South Shore—St. Margaret's, CPC):** We'll leave the hockey analogies out of it.

Thank you, Mr. Chairman.

Welcome to our witnesses. It's an interesting disgusting...or discussion here today.

**Voices:** Oh, oh!

**A voice:** [*Inaudible—Editor*]...the Leafs.

**Mr. Gerald Keddy:** There's a Leaf comment; I'm still hurting on it, okay?

Mr. McGuire, in your role as chair of the anti-money-laundering committee at the Chartered Professional Accountants of Canada, I'm sure you've had a chance to look at what we've done in this budget. The number of changes to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act that are embedded in here are certainly important for the Canadian government to be able to collect taxes that have been delinquent and deliberately not paid and to really look at international crime and terrorist activity.

We've put in a number of amendments here. First of all, we've strengthened the customer due diligence standards, including for politically exposed foreign and domestic persons. We've closed the gaps of the regime, such as online casinos, to persons and entities that deal in virtual currencies and foreign money services businesses. We've improved compliance monitoring and enforcement. We've strengthened information sharing. For instance, we allow FINTRAC to disclose to federal partners on threats to national security. We've repealed the regulation-making authority pertaining to the ministerial directive power, under part 1.1 of the act, in order to bring part 1.1 into force, and other technical amendments there.

Understanding the nature of what we're dealing with, the underground activity that we're dealing with, and the difficulty of dealing with that, in your assessment I would hope you'd think these amendments go some way in the right direction to actually dealing with this type of criminal activity. But is there anything else we could add to that list?

• (1620)

**Mr. Matthew McGuire:** Thank you very much for your question.

I do agree that the amendments go a long way in the right direction. One of the important things from my perspective is how far the amendments go to align with the international standards. I would say they get us almost all of the way there.

Where I think we should focus going forward is on effectiveness. In the next evaluation, the FATF will evaluate Canada's measures to control money laundering. By most estimates, about \$55 billion is laundered through Canada every year. They will be evaluating not just whether or not our program conforms to their standards but whether or not we're achieving the things we look to achieve.

There are two things that I think are important in that regard. The first is the ability to track our effectiveness. The second is a greater emphasis on civil forfeiture regimes. I'm not sure I'd comment on budget implementation act measures themselves, but I do think more resources in Canada should be put into the prosecution side of things and the civil forfeiture side of things. At the moment, we have the equivalent of a firehose going into a garden hose. FINTRAC is producing incredible intelligence in thousands of cases. We need to be able to act on them in an appropriate way.

**Mr. Gerald Keddy:** Thank you.

Mr. Webber, you raise a number of points. Most of them really involve an ongoing discussion about harmonization with Canadian regulations and American regulations. You represent the fresh fruits and vegetables, the perishable group. Do you also represent other perishables, such as the fresh fish industry or Christmas trees?

**Mr. Fred Webber:** No, sir. It's strictly related to fresh fruits and vegetables.

**Mr. Gerald Keddy:** Has there ever been any consideration of expanding that? In my part of the world, and Mr. Cuzner could concur, when it comes to fresh fish, when you're crossing the border out of Atlantic Canada into the U.S., typically one load in every 70 or 80 is stopped for a compliance check. That's a serious problem with a load of fresh fish. Most of the time we don't lose the entire load, but sometimes we lose a portion.

**Mr. Fred Webber:** When the DRC model was put forth originally under NAFTA, a portion of our charter...I hate to say "required", but it did require that we be open to look at other commodity groups. We were approached by a couple of firms in Mexico regarding sugar and coffee. Those were never followed up on.

It is certainly something we could expand into. I think the fruit and vegetable part of it is strictly because both the U.S. and Canada have had these rules in place since the thirties.

**Mr. Gerald Keddy:** Could you give me some idea of how long your dispute resolution can take? If you have a tractor-trailer stopped at the border and you have a high-value product on there, hours are important.

**Mr. Fred Webber:** In the vast majority of our cases it's a quick phone call. We handle hundreds, if not thousands, every year just by talking to people about what is the right thing to do.

Probably the strength of what we do, though, is in the default rules that kick in for members. There are times when there is that delay at the border, it's been out of refrigeration for a period of time, and it may no longer be suitable for a supermarket to bring that in and put it in a dry tray. A lot of what we do is to work with the parties to get that product to a secondary marketing chain so that we can mitigate the loss.

The actual disputes we have on paper that go to an arbitrator are really very few. Even for those, on the smaller cases that are less than \$50,000, it's usually 90 days from the time it comes through our door until there's a written enforceable decision. The ones that are for more money obviously take a bit more time. They're required to have a hearing and to bring in a little more well-trained arbitrator. But the vast majority of what we do is work with the parties to very quickly resolve it amicably online.

It really is a great industry. I like to say it's the last bastion of free enterprise. People want to do the right thing.

• (1625)

**The Chair:** Thank you.

Thank you very much, Mr. Keddy.

[Translation]

Mr. Caron, go ahead. You have five minutes.

**Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP):** Thank you very much, Mr. Chair.

I would also like to thank all the witnesses for joining us today.

My questions will be for Mr. Worswick first.

Yesterday, we heard the testimony of Dominique Gross, professor at Simon Fraser University and researcher specialized in this area. She said that one of the problems with our temporary foreign worker program is the poor quality of information on the labour market.

Do you agree with that statement?

[English]

**Prof. Christopher Worswick:** Sure. I'm familiar with Dominique's work. I think the issue there, as I understand it, is that it's just very difficult to know....

As I said, if you think about the process, the employer advertises a vacancy at a particular wage. If no one applies, or no one suitable applies, then they can approach the federal government for a temporary foreign worker. I think the issue is how we decide whether that wage is appropriate or not.

My understanding of Professor Gross's idea is that if we had better information, then we'd have a better estimate of what that local wage is for that particular occupation. I'm sure we could improve in that regard, but I think it's also a difficult thing to do.

[Translation]

**Mr. Guy Caron:** You also seem to agree with her on another aspect.

I know the reality is different for every sector, but in many cases, Canadian companies do not manage to find qualified Canadian workers because the salary they offer is not high enough. With access to temporary foreign workers being easier and simpler, there is more pressure to have lower wages. Actually, Canadian workers are forced to accept wages that, without this program, would not be as low.

[English]

**Prof. Christopher Worswick:** There are a couple of things I'm comfortable saying. One thing I'm certainly comfortable saying is that with a large temporary foreign worker program, it's hard to see how you get wage growth. If you imagine a situation where the economy's growing, wages should tend up. If employers always have the option to bring in temporary foreign workers, I think at the very least it will slow wage growth. The bigger question is whether it depresses wages, actually causes real wages to go down. My belief is that it can, but I don't think it always does.

[Translation]

**Mr. Guy Caron:** In her study, she came to the conclusion that not only did this issue contribute to maintaining the unemployment rate at the same level, particularly in the case of pilot projects in Alberta and British Columbia, but it also had the impact of depressing wages.

You are in favour of implementing application fees for temporary foreign workers. I think the fee is \$275. Dominique Gross believes that the amount should be much higher, considering that some programs in Europe are very successful, particularly in Switzerland.

In your view, should the application fees be higher?

[English]

**Prof. Christopher Worswick:** I think we should look at raising them, but as I said earlier I wouldn't do a fixed fee across the board. I think Mr. Lavoie mentioned something earlier about employers being willing to pay more to bring in qualified temporary foreign workers.

One way to think about this is instead of saying you have to pay the temporary foreign worker more, you could have to pay a significant fee, maybe \$1,000. I don't know what the right number is. I suspect it's above \$275. If you're wondering whether we really want to take that money out of the economy, you could rechannel that into training or use some of it to try to solve the underlying reason we need temporary foreign workers in the first place.

[Translation]

**Mr. Guy Caron:** Mr. Lavoie, are some of your members small and medium-sized businesses?

**Mr. Martin Lavoie:** They represent 85% of the members.

**Mr. Guy Caron:** I remember that when you appeared here before, you talked favourably about the hiring tax credit for small businesses. However, the credit will not be renewed.

What impact will that have on your members?

•(1630)

**Mr. Martin Lavoie:** That tax credit was much appreciated. Of course, it also helps with the cash flow. I cannot tell what the impact will be, but it will definitely cause a bit of disappointment.

**The Chair:** Thank you, Mr. Caron.

[English]

Mr. Allen, go ahead, please, for five minutes.

**Mr. Mike Allen (Tobique—Mactaquac, CPC):** Thank you very much, Mr. Chair.

Thank you to our witnesses for being here.

Mr. Webber, I'd like to start with you. I've had folks from the perishable and fresh fruit sector visit my office the last couple of years, and I have a large table-stock potato business in the riding. You talked in your concluding comments a little bit about the risk of nonpayment, especially on the side of bankruptcy and other things and about how the U.S. system is a little better than Canada's when it comes to that.

The first part of it, this harmonization, was one pillar that the folks talked to me about. How much of a problem is that lack of payment to our sellers here in Canada, and does this harmonization pillar get us on the right road to tackling that next?

**Mr. Fred Webber:** Just for a bit of a clarification, as you say, there really are two pillars here. The first pillar is dealing with slow-pay or no-pay contract issues between solvent businesses.

**Mr. Mike Allen:** Right.

**Mr. Fred Webber:** What we're talking about here will get us a long way towards resolving that problem with our neighbours around the world, quite frankly, but particularly with the United States.

In terms of the second part of this, when there is an insolvency, it is a trade irritant. I will say that. It is beyond the scope of the amendments we're talking about here today.

The trade irritant is the fact that since 1984 Canadian sellers have been able to go into the United States and they're treated exactly the same way as U.S. firms are. So when there's a bankruptcy—and I want to stress that there's a very limited trust, because there has been a lot of miscommunication about that—what it really does is trace the accounts receivable through. So if the buyer goes bankrupt and he takes your potatoes and sells your potatoes, they try to find that receivable from the potatoes and bring it back to you.

What we've accomplished here in pillar one will help, but without the trust or some similar tool that will help equate that, I think it will remain a trade irritant simply because Canadians are getting something for free.

**Mr. Mike Allen:** Okay. I'm glad we got the first part of it anyway, at least for the solvent companies. I know we have to do some thinking about tracing those receivables. It's kind of an interesting thing.

Mr. Lavoie, you're the second person who has brought up the full U.S. harmonization and labelling issue. It came up the other day in the committee meeting when we were talking about labelling in Canada versus prior to importing.

I think Mr. Keddy brought this up the other day when he offered the alternative regarding whether it would be better to handle that through an amendment or by regulation instead. I think the reply to that question was that regulations could handle it. I would like to get your opinion on that.

**Mr. Martin Lavoie:** I agree that regulations could handle it. We also feel a lot of pressure to get that bill passed, because June 1, 2015, is going to be the implementation date. I would say it could be handled by regulation.

**Mr. Mike Allen:** Okay. So that's a good alternative.

Mr. McGuire, I'd like to go to you. You talked a little bit and I was intrigued by your comment with respect to proposed section 68.1, regarding FINTRAC and how they would seal details regarding a reporting entity. You talked a little bit about being able to protect the reporting entity on that. I wondered what specifically were you thinking about. Did you have a specific amendment in mind on that, which would protect that reporting entity? What was your thought there?

**Mr. Matthew McGuire:** Thank you.

The idea is simply that a suspicious transaction report happens when a financial institution or accountant gets to the point where they suspect the client they are dealing with is involved in money laundering or terrorist financing. There's a threshold they get to, and they describe in fair detail within the suspicious transaction report what they found suspicious, the basis of suspicion, and what they've done about it.

It also can reveal a fair bit about the mechanisms the institution used to detect the behaviour in the first place. In my view, having that information become public could be detrimental in a whole number of ways. In the U.S. we've seen lawsuits started by the subjects of the reports against the institutions that filed them.

I think there must be a mechanism to either summarize the information in the suspicious transaction report, or otherwise redact or anonymize it for the purposes of those proceedings.

• (1635)

**Mr. Mike Allen:** The idea of what you were saying in terms of a change was that there would be wording in there to protect those actual entities. It would just say there would be no reporting, or something like that.

**Mr. Matthew McGuire:** That's right. It would talk about redacting the information related to the reporting entity that submitted it in the first place.

**Mr. Mike Allen:** Thank you.

Thank you, Chair.

**The Chair:** Am I starting with Mr. Rankin or Mr. Cullen?

**Mr. Nathan Cullen:** Yes, please.

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** Thank you, Mr. Rankin.

This is not for our witnesses, but I want to give committee members a heads-up that we'll be submitting a motion, not on Bill C-31, but to bring Minister Kenney to committee to talk about the temporary foreign worker program. We're hearing a lot of testimony on it, Chair, and I think that would benefit the committee. I know it's a moving target for the minister as well. He's spent some time making modifications or cancelling or suspending certain aspects of the program. More and more I'm of the inclination that the finance

committee would do well to hear from the minister for some short time, depending on his availability.

I'm just giving committee members a heads-up on that.

**The Chair:** Thank you.

We'll go to Mr. Rankin now, please.

**Mr. Murray Rankin (Victoria, NDP):** Welcome, witnesses.

My first question is for Professor Worswick.

Back in October you did an economic analysis. In your paper you commented on the changes made to the temporary foreign worker program last year and on the fact that the government created a blacklist to suspend employers who misused the program.

We know that as of today there are only four companies on the list, and all of them have been added in the last couple of weeks. In light of the numerous concerns of abuse that have been raised across the country—for example, Alberta alone has seen 100 cases of abuse—do you find that the enforcement of those provisions has been stringent enough?

**Prof. Christopher Worswick:** It's hard for me to say. Certainly, historically we've had a significant problem with enforcement. To be fair, I do think the changes that Minister Kenney has implemented have been, as I said, in the right direction.

It's hard for me to comment on whether there should have been more firms on the list. Probably there should have been, but I think we have to be realistic about the situation in that the people who know about the abuse are the temporary foreign workers, and they don't have a very good incentive to bring that to light. That's definitely a challenge for the government.

I think the idea of blacklisting firms, at least the threat of it, is essential. I think the threat of financial penalties is essential. How it's implemented, I don't know.

**Mr. Murray Rankin:** Having a threat that's credible, obviously, in most enforcement regimes, is seen as important.

In your October paper, you also stated, “considering the large global pool of less-skilled workers, many of whom might willingly come to Canada to find work, increasing flows of TFWs could have significant negative consequences for less-skilled Canadian workers”.

What kind of negative consequences were you referring to, and by what mechanisms would they come to be?

**Prof. Christopher Worswick:** I've already mentioned that it could eliminate wage growth for these workers. We haven't had a large amount of wage growth over the last 30 years in Canada.

If every time we see wages going up, the firm continues to advertise at the past wage or the current wage without accounting for the growth, then you could see a situation in which these workers really wouldn't see a wage increase.

**Mr. Murray Rankin:** You're saying essentially, in simple terms, that it has the effect of wage growth suppression?

**Prof. Christopher Worswick:** Yes.

**Mr. Murray Rankin:** Thank you.

My next question is for Matthew McGuire of the Chartered Professional Accountants of Canada.

In the written paper you presented, you say:

Common among reporting entity sectors is a frustration with identification standards, particularly in cases where the client is not physically present at the time of identification. Altogether, the program of client identification is not proportionate to risk, is burdensome compared to the regimes in other countries, and that situation does not appear to be addressed in this bill.

I wonder if you could elaborate on those comments.

**Mr. Matthew McGuire:** Certainly.

Increasingly, as you might expect, interactions for financial services and otherwise take place without meeting the client face to face and pressing palms. They happen in online environments, over the phone, and in a number of other ways.

At the moment, the way things are set up, the non face-to-face measures require reliance on, for one thing, six months of Canadian credit history. You can imagine a new Canadian coming in not having that credit history and not being able to satisfy that requirement. The necessary condition is some sort of reliance on a Canadian credit history. The second thing is the sufficient condition. The sufficient condition is that you have to prove you have a Canadian deposit account or you have to clear a cheque. These combinations of methods rely on old systems. They are slow, and sometimes they can become frustrated. In the case of a credit check, if there is not an exact match of the address, for instance, the whole identification can be frustrated.

• (1640)

**Mr. Murray Rankin:** You commented that it's burdensome compared to the regimes in other countries. How do other countries do it better than Canada does?

**Mr. Matthew McGuire:** Other countries are relying on the new technologies that are available for identification. There are even private sector initiatives whereby you can evaluate the credibility of a passport by electronically scanning it. There are any number of mechanisms that address that concern.

**Mr. Murray Rankin:** Nothing in this bill addresses that.

**Mr. Matthew McGuire:** I think it needs to provide for a risk-based approach that leaves much of the decision-making up to the financial institution, which isn't the place to understand—

**Mr. Murray Rankin:** Is there nothing in this bill to address your concern?

**Mr. Matthew McGuire:** No.

**The Chair:** Thank you, Mr. Rankin.

Mr. Van Kesteren, go ahead, please.

**Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC):** Mr. Worswick, I'm going to go with you. I want to talk some economics.

You said, I'm going to quote from an article, "The reason employers choose to bring in foreigners rather than hire local youth is the 'elephant in the room' in the debate around temporary foreign workers, Worswick said, and it has to do with work ethic".

I have a son, and he's pretty sharp. He's a little suspicious of evolution. He said, "Dad, if we'd evolved, I think we would have turned out to be like a big old snake. We'd have about one meal a month, just lie around, and not have to do a lot. Instead, about three times a day, I'm hungry and it just kind of reminds me I have to get up and get back to work."

I'm probably a little older than you are, but you probably have the same memories. I remember as a kid in my neck of the woods down in southwestern Ontario—a lot of farming goes on there—we couldn't wait until harvest time, the spring or the fall, because if we wanted to wear blue jeans when we went back to high school, we had to make a little bit of money. It's somewhat ironic that the very people who criticize the foreign worker program the most are the ones who have implemented these things that have caused it. I'm just wondering if you want to comment on that.

I have one final observation. We always have had foreign workers, haven't we? We used to call them immigrants. Again, back in my day, people would come into this neck of the woods. I know our friends from Quebec were the ones who picked the tomatoes. We just had this steady supply of people, but we've run out of that. Is there any turning back? Is there a way we can get out of this?

**Prof. Christopher Worswick:** There's a lot there to talk about. I'm very much making a distinction between immigration and temporary foreign workers. I think they're two very different programs.

**Mr. Dave Van Kesteren:** They served the same purpose years ago.

**Prof. Christopher Worswick:** I think they both still serve the same purpose in the sense that they're both sources of labour supply or labour services to our economy, but with immigration we're making a commitment to bringing a person in and allowing them to stay permanently. We typically do this without any requirement. Well, traditionally, there's been a small employer nomination track, and it is now likely to grow. But historically, we haven't said you can't come unless the employer says they can't replace you.

I do think they're different. I think the movement towards temporary foreign workers is quite recent, with the exception of the agricultural worker program.

You mentioned migration of young workers from Quebec into other parts of the country. That was an important source of labour to the agricultural sector. I have no problem with that. I believe in free mobility of labour within Canada.

**Mr. Dave Van Kesteren:** They're not coming anymore. That's the point I'm making. They're not coming. The kids aren't going into the fields, and so we—

**Prof. Christopher Worswick:** I would say it depends on the wage rate. I think if employers pay a high enough wage, they will find a supply of local labour.

**Mr. Dave Van Kesteren:** But you're an economist—

**Prof. Christopher Worswick:** Yes.

**Mr. Dave Van Kesteren:** —and we both know that when we start messing around, when we start doing things, there are always ramifications.

You must agree that we have industries, that we've created industries, which we've agreed are critical to our region.... They're spinoff—we consider that spinoff as the reason for that—but we are competing with, say, the Americans, who have a huge pool of labour from Mexico in terms of migrant workers or illegal immigrants.

I guess this is the question I'm asking: have we put ourselves in a corner where we really have no choice? I'm talking about the low end of the spectrum.

•(1645)

**Prof. Christopher Worswick:** I firmly believe we have a choice. I'm not advocating this, but we're talking hypotheticals. If we hypothetically decided to stop temporary foreign workers for less educated workers, it would hurt some individuals and some firms. I don't think it would have a large impact on the country.

**Mr. Dave Van Kesteren:** It would wipe us out in, say, Chatham-Kent—Essex, in the Leamington area, where they rely solely on the foreign worker program for the farming.

**The Chair:** You have 30 seconds left.

**Mr. Dave Van Kesteren:** We're at the point now where we must have that pool of labour.

**Prof. Christopher Worswick:** I guess, rightly or wrongly—I know we don't have much time here—I would probably exempt the agricultural sector because I don't see big problems in it. It's a bit of a cop-out, but we've had that program for a long time. Most of the stories don't seem to be coming from it.

But I take your point that it might be hard in certain regions.

**Mr. Dave Van Kesteren:** Too bad we don't have more time, because I think we could talk about this for a long time.

**The Chair:** Thank you, Mr. Van Kesteren.

I'm going to take the final round. I appreciate a lot of the clarification by many of you on your suggestions for amendments.

I want to follow up, in the time I have, with you, Mr. Lavoie. You said in your statement, "Our members' survey indicate year after year that more than 50% of manufacturers are currently facing skills and labour shortage...". That's certainly what I hear in my region, and it's certainly what I hear from a lot of business organizations. Yet there have many national studies done, by the C.D. Howe Institute, Parliamentary Budget Officer, TD Economics, essentially saying that there is no national labour shortage whatsoever, that this is a problem that has been overblown in terms of its attention.

What is your response to that? It's certainly not the reality faced in my riding, but my riding may be an anomaly. You're a business organization with members across the country. How do you respond to those kinds of reports?

**Mr. Martin Lavoie:** I would say that if you talk to colleges and polytechnics and you ask them how many people they take in their programs, or what their rate of placement is, a lot of them are approaching above 95%. They tell us that they have more applications than they can take; they could place more people.

I don't know how to reconcile these numbers, but what I hear from my members and from applied research and colleges is really in line with what we're hearing from our members. I can't see how I can

reconcile why they're saying that or why they think there's no problem. I don't see why our members would say so if it weren't a problem. The labour and skills shortage is one of the top issues I keep hearing all the time across the country.

**The Chair:** It's one of the top issues consistently that you hear from your members.

**Mr. Martin Lavoie:** Consistently with research and development as well.

**The Chair:** Are there certain sectors within the manufacturing coalition that face bigger challenges than others?

**Mr. Martin Lavoie:** It's pretty broad. It's not one particular sector. We've heard it recently from even the food processing sector. We've heard it from the metals and the plastics, from natural resource-related sectors, from construction related to manufacturing. We've heard it in a lot of different skilled trades for sure.

**The Chair:** Okay.

In my remaining time, I want to go to you, Professor Worswick.

I come from Alberta. I represent Edmonton—Leduc, which has areas like Nisku that are suffering from a real shortage of all types of labour. Just looking at your recommendation on the temporary foreign worker program going forward, if you look at the three prairie provinces—I'm going off memory here—I think for 2013 the unemployment rate for Saskatchewan was 4%, for Alberta it was about 4.6%, for Manitoba it was 5.5%, for Ontario and Quebec it was around 7.5% and 7.6%, and it was higher in Atlantic Canada. Obviously we have different regional realities in this country. We're facing a bigger challenge on the Prairies in terms of accessing labour.

Should we have a temporary foreign worker program that recognizes different regional realities and says that employers in regions where it's 4% unemployment ought to be perhaps facing a different reality from employers facing 11.5% unemployment?

**Prof. Christopher Worswick:** I support that kind of direction. I've made this point clear, I think, in other venues that temporary foreign worker programs make a lot of sense in booming regions of a country, where you might have to see very large wage increases in order to attract workers from the less successful regions.

Especially with something that might be related to a commodity cycle where the boom might not last forever, do you really want to attract a bunch of people across the country who might have to go back again to communities that have been hurt?

I do support a limited temporary foreign worker program. I like the idea of focusing it on more skilled and educated people, because I think the supply responses are smaller there, because you might have to wait until someone finishes their training before they can really enter that area. Targeting it at regions of the country that are booming makes sense.

• (1650)

**The Chair:** Would you also favour, perhaps, considering other measures? A lot of employers who approach me say 5% of their employees are temporary foreign workers; so 95% are Canadian citizens or permanent residents.

Is it fair for the government to say, for a certain maximum percentage of employees, use temporary foreign workers, to thereby ensure that the vast majority of people the employer is hiring are Canadian?

**Prof. Christopher Worswick:** I think that is a good idea. It's something I've considered. I don't know what the percentage is, but I think in situations where 100% are temporary foreign workers, I would think that would raise alarm bells. This might be a questionable enterprise in this regard.

**The Chair:** I think that's to put it mildly, yes.

**Voices:** Oh, oh!

**The Chair:** My time is up. I will cut myself off, as I do others.

I want to thank you very much for being with us this afternoon and contributing to our discussion on Bill C-31.

Colleagues, we're going to take a break for a couple of minutes. Before I do, I've passed around the budget for Bill C-31. Could I have someone move this budget?

**Mr. Nathan Cullen:** I so move.

**The Chair:** It's moved by Mr. Cullen.

(Motion agreed to)

**The Chair:** Thank you so much for that.

We'll suspend for about five minutes.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1700)

**The Chair:** I call this meeting back to order. This is meeting 36 of the Standing Committee on Finance. We're continuing our study of Bill C-31.

I apologize for the heat. We are endeavouring to address that.

I want to welcome our second panel. Speaking as an individual, we have Ms. Sandra Nelson. From the Canadian Museums Association, we welcome back Mr. John McAvity. From the Canadian Taxpayers Federation, we have Mr. Gregory Thomas. From the PEI Mutual Insurance Company, we have Mr. Blair Campbell. From the Progressive Contractors Association of Canada, we have Mr. Sean Reid.

Thank you so much for being with us. You each have five minutes maximum for your opening statements, and then we'll have questions from our members.

We'll begin with Ms. Nelson, please.

**Ms. Sandra Nelson (As an Individual):** Thank you.

We sit before you today as proof that the TFW program is broken. I am Sandy Nelson, and with me today is Shaunna Jennison-Yung. We are two waitresses from Weyburn, Saskatchewan.

Further to our brief, which you have already received, the following points highlight our concerns.

First, an employer such as ours can simply restructure his business and discharge all staff and keep only the people he wants by saying, "We offered jobs and they didn't want them." Clearly, in our case, jobs were not offered to us. We believe all staff did not receive the notice of discharge. If it were the case, was Service Canada notified? Were new LMO contracts applied for? Were ROEs issued? This, to us, is a blatant abuse of the federal guidelines. The same guidelines state that TFWs or LMOs should be laid off first in times of work shortage.

Second, I myself in January 2014 lost 20 hours a month to the then TFW, and was told she needed her 40 hours per week.

Third, there's the question regarding TFWs coming here to do specific jobs. Is it not against the rules to have someone hired as a waitress or server to then work in housekeeping while the restaurant is under construction, without a change to the contract? As well, a TFW cook is dishwashing part-time and has taken hours from a Canadian dishwasher to ensure that her 40 hours a week are filled. This particular Canadian is now getting, at most, nine hours a week.

On the hotel side of the business, is it not against the rules to have housekeepers going to the bosses' homes to do chores such as yardwork and cleaning? Also included in their duties is the cleaning of bosses' vehicles. This is paramount to slavery. As contract workers, they simply oblige.

Next, we would like to discuss the LMO itself. Shaunna saw firsthand a Canadian applicant who was applying for a prep cook job sit and wait to speak to the boss for an hour. The applicant seemed qualified and was eager for a job. After talking with the boss, the young man left. The boss, Harry, then tossed the application aside, explaining to Shaunna that the job had to be posted in order to get an LMO for a brother-in-law of a current employee from the Philippines. This was the norm, as people did apply for jobs in all categories at the hotel, including housekeeping.

There needs to be safeguards for Canadians such as us. The media was a last resort for us, as we first contacted labour standards, human rights, program integrity services, and the office of Jason Kenney. We did meet with Dustin Duncan, our local MLA, and although he would do what he could, his hands were tied.

There needs to be more information readily available to Canadians regarding the reverse discrimination they may be experiencing in their workplaces. There needs to be more than a telephone number to report abuses. Even a lawyer can't help in regard to this program, since it is a federal program and there are no laws and no legislation to address these issues.

We believe as well that what our boss did in the discharging of all employees was done at this particular time to indeed protect one TFW who had just recently obtained landed immigrant status. The other employee, a cook, who was discharged along with us has been here for approximately seven years and still has only landed immigrant status, which for him is good enough. He could become a citizen, but as he says, he has an open permit to work for five years, and the only right he hasn't got is the right to vote. We don't know how many keep just their landed immigrant status, but that should be an interesting statistic to know.

We believe the reasons more people don't speak up include not knowing what their rights are, no one to actually handle complaints, and having others turn it into a racist issue.

It has been quoted time and time again that the government will not tolerate employers who hire foreign workers when Canadian workers are available and willing to do the same jobs. Yet here we are. The province has started an investigation, and for that we are grateful. However, they can do nothing as it pertains to this program. We have yet to hear from any person from Jason Kenney's office, even though there is to be an urgent investigation.

There must be a tightening of these rules immediately. We sit before you today maintaining that this program is severely broken. We hear talk of stiff fines, suspensions for rule breakers, and severe consequences for abuse. Where is it? We dare anyone to read our brief and tell us that our former employers did not break the rules. As Canadians, we feel unwelcome in our own country. This is unfair not only to us but also to the vulnerable temporary foreign workers now in this country.

• (1705)

I would like to add that we did get an e-mail from Jason Kenney's office on May 13 regarding our e-mail of April 7. As noted in the letter, no information will be divulged due to privacy issues. None of our questions will be answered, and it is apparent that we will not be interviewed or be part of this investigation. We cannot understand why we as complainants would not be part of an official investigation process.

Thank you.

**The Chair:** Thank you, Ms. Nelson.

We'll now hear from the Canadian Museums Association.

**Mr. John McAvity (Executive Director, Canadian Museums Association):** Thank you, Mr. Chair.

In the interests of time and temperature, I will try to be under the five-minute line.

We are very pleased to be here. I'm John McAvity, the executive director of the association. We have approximately 2,000 not-for-profit museums and galleries all across Canada. They welcome about

60 million visitors each year, so they're enormously important and spread out, from large metropolitan cities to small rural communities. They're also extremely popular and are viewed very favourably by Canadians. In fact, according to studies, 96% of Canadians believe museums contribute to a better quality of life.

I believe I speak on behalf of all of our members when I say that we were very pleased with the federal budget of February 11, which protected the museum programs at the Department of Canadian Heritage and also at the Canada Council for the Arts, programs that are vital to the well-being of our country's museums. There are, however, two other issues that we would like to bring forward to you today.

The first is division 11, which amends the Museums Act of Canada in order to transfer responsibility for two programs, the virtual museum of Canada and online works of reference, to the Canadian Museum of History. Particularly, we are concerned that there was a lack of consultation. We did not see this decision coming, and there are a number of subsequent questions that we are awaiting clarity on.

As a national museum, the Canadian Museum of History is a world-class institution that adheres to the highest professional standards. We applaud its mandate of raising the profile of Canadian history and have no doubt about its capacity to deliver on these programs being transferred to it.

Our concern refers to clause 193, in which proposed subsection 9 (3) states:

The Canadian Museum of History may support other museums or organizations that have a purpose that is complementary to its own

On the positive side, the transfer of these programs does represent an opportunity to renew and broaden these programs, integrating new forms of technology and helping the programs move forward. We do not want to see these programs be narrowed. We want to ensure that our nation's heritage is not restricted to historical artifacts or archival materials, as per the museum's role, but also through art, science, oral history, and other forms of culture. We argue for the very broadest definition possible.

I should also go on to talk a bit about the virtual museum of Canada, because it is an important program that supports museums across the country and teaches them the process of developing online exhibits as well as helping to digitize museum collections. We need to ensure that it and the other program being transferred are inclusive and accessible to the whole community.

A second matter of concern to our community is the recent changes to the cultural property review board in this budget. This is a very valuable program that assists in the protection of cherished historical items and encourages the growth of private giving in Canada. In the last two reported years, the board's permits and actions resulted in over 34,000 items of outstanding significance and national importance, valued at over \$178 million in tax credits, being saved for the public good in our museums and galleries.

On February 11, the federal budget effectively closed down one donation model that some taxpayers had used. Some had used favourable tax treatments, fluctuations in values, and exemptions from capital gains to their advantage, all very legal activities. These shelters are now ineligible under the program. Some professionals are wondering what further changes may be coming.

The next part in Bill C-31 sees the authority of the cultural property review board being transferred from the Minister of Canadian Heritage to a new administrative tribunal. Again, there was no consultation. We were not aware of this change.

We are wondering where all of this is leading. Assurance is badly needed for the integrity, openness, and long-term stability of the cultural property review program.

We thank you for your time.

• (1710)

**The Chair:** Thank you very much for your presentation.

We'll now hear from Mr. Thomas, please.

**Mr. Gregory Thomas (Federal Director, Canadian Taxpayers Federation):** Thank you, Mr. Chair, and members of the committee.

We welcome this opportunity to present to you on behalf of our 84,000 supporters across Canada, the Canadian Taxpayers Federation, Canada's oldest and largest taxpayers' advocacy organization.

We realize the first-ever appearance by the leader of the official opposition to a parliamentary committee is a tough act to follow.

I understand that it's now mandatory to lead with some Latin, so I'd like to say *boni pastoris est tondere pecus, non deglubere*. The emperor Tiberius advised his regional governors that it is important to shear the flock of sheep and not to slaughter them, in reference to taxation policy.

**Voices:** Oh, oh!

**Mr. Gregory Thomas:** So we bring you that reminder in the spirit of the day and in the new spirit of reviving classical languages at the Commons committee meetings.

With regard to the debate around the future of Canada's supply of workers, we remain troubled that since the financial meltdown of 2008 the average Canadian couple—each partner earning \$50,000, at least—between them and their employers, they're sending \$934 a year more to Ottawa in employment insurance payroll taxes than they were at the onset of the recession. We think that Parliament ignores the fact that this money is coming right off people's paycheques. It is diminishing their disposable income and it is making it more difficult for a consumer-led recovery that generates employment and prosperity. It makes it tougher for Canadian families.

We think that the absolutely first order of business with family-friendly tax relief in the coming budget has to be getting these payroll taxes back in line and getting this program under control. By the government's own projections, the government is expecting to bring in at least \$4 billion, and possibly \$5.5 billion more, in employment insurance payroll tax revenue than goes out in benefits.

Yet, for every dollar of payroll tax revenue that's collected, the government is spending 11¢ on administration.

How does this affect Canada's labour markets? We just heard a story today of a boat maker in New Brunswick who moved to Maine. He cited employment insurance regulations as one of the biggest aggravating factors. A young person today can work 26 weeks in any major Canadian city, whether it's Halifax, Moncton, Calgary, or Vancouver, and they won't even get their contributions to the EI fund back. People who are working and making a working person's wages don't even get their contributions back. Yet in some of these economic regions, someone can work the identical number of hours and get \$17,000 in EI benefits.

Well, no wonder we're having a hard time filling job vacancies in Canada, when, depending on your postal code, you can get \$17,000 in benefits, while someone living in a major city where there is work gets nothing. They don't even get their contributions back. It's an injustice. We urge this committee to tackle that issue.

• (1715)

**The Chair:** Thank you, Mr. Thomas.

We'll go to Mr. Campbell, please.

**Mr. Blair Campbell (General Counsel, Corporate Secretary, PEI Mutual Insurance Company):** Thank you, Mr. Chairman.

I for one will not be complaining about the heat, after the winter we've had in Prince Edward Island.

**Voices:** Oh, oh!

**Mr. Blair Campbell:** My name is Blair Campbell. I'm the general counsel and corporate secretary for Prince Edward Island Mutual Insurance Company. I come to you in this capacity, but I also sit on the executive committee of the Canadian Association of Mutual Insurance Companies.

I'm here today to address division 14 of part 6 of Bill C-31. It provides, in part, rules to enable the conversion of mutual insurance companies to capital stock companies, which is otherwise known as demutualization. I come to you to express grave concern over this decision and to explain the impact that these rules may have on our companies, and in particular on rural Canada.

Our company, Prince Edward Island Mutual Insurance Company, is one of 100 mutual insurance companies serving in the property and casualty insurance market in Canada. Our company, like many of our sister mutuals, was formed by farmers between 100 and 175 years ago out of need in the farming sector and for rural property owners to provide insurance that was not adequately serviced by stock companies. Mutuals are still relevant today in rural Canada. Most of our companies are based in small Canadian towns. We have boards that consist of local farmers and business people. We serve local residents, make decisions locally, and serve the needs of many rural Canadians.

Our companies were founded on principles of mutuality and sharing. They were not formed based on capitalistic principles or ideals of individual property rights. As mutualists, we believe the assets of a mutual insurance company are a common good. They are indivisible. The surplus of our companies has been built up as security for the policyholders over many generations. This surplus was not accumulated to become the property of a particular generation. Members of the company do not have any direct or even notional ownership rights in the assets of the company, as when they leave, there is no payment of a share in the company. The surplus is held for the policyholder's benefit while they are a mutual policyholder.

The best example of proper disposition of the surplus of a mutual is in Quebec with cooperatives. When they convert, the assets of the cooperative will stay in the cooperative federation or system. As well, in France, if we are looking for precedent, policyholders voting on a demutualization proposal must also vote on the disposition of the surplus, which must be to a continuing mutual company or companies, or charity.

A demutualization decision by the policyholders of the day will be made out of self-interest. It won't be made out of acknowledgement of the sacrifice or contribution of prior generations, or the interests of future generations that will be served by mutuals. If enabling laws are made, our companies will be at risk of conversion for the purpose of expansion of existing stock companies with predatory ambitions of growth. Mergers and acquisitions professionals will become skilled in lucrative practices, converting mutual companies to stock companies.

I would just give you the example of the life companies. When the rules were made, the life companies served 50% of the life insurance market—life companies are different from our property and casualty companies—but now they serve less than 5% of that market.

It may be impossible to monitor and defend against the predatory and greed-based motivation in the examples I've given you. We are at the precipice of a decision that may have the effect of gutting the mutual industry in Canada. This will have irreversible effects on our companies and the cost of insurance services provided to Canadians, especially rural Canadians.

**The Chair:** One minute, please.

**Mr. Blair Campbell:** It's valid for government to say no to the circle of self-interest and refuse to create enabling laws. It is preferred that no enabling rules be established, but if there are to be enabling rules, it is vital to get them right. These decisions should receive the highest level of scrutiny within the company with supermajority quorum and approval thresholds. In Ontario there is a 90% requirement on this question.

The surplus of the company should remain in the mutual insurance system. Questions on the demutualization should be addressed by government as opposed to deferring to the courts. Not passing disrespect to the courts—I have the utmost respect for them—but politicians with public input are best suited to set public policy, especially in novel areas of the law, as opposed to deferring to courts.

Finally, government should pass a law requiring that all policyholders of a mutual are considered a mutual or voting member of the company. That will solve the problem with 4% of the mutuals where they have gotten themselves into a distorted ownership picture with a narrow mutual ownership situation. There is one company of 800,000 policyholders that suggests that they have 1,000 mutual policyholders. They have \$1.6 billion in surplus, and this company is the principal driver of these rules.

Thank you.

• (1720)

**The Chair:** Thank you, Mr. Campbell.

We'll go to Mr. Reid, please.

**Mr. Sean Reid (Vice-President, Federal and Ontario, Progressive Contractors Association of Canada):** Thank you, Mr. Chair.

We have covered a lot of ground on this panel already, I can see. I will cover a couple of topics, but I've also heard in previous sessions a lot of discussion around temporary foreign workers. I'd be happy to talk about that in the questions, if need be.

It's my pleasure to be here on behalf of the Progressive Contractors Association of Canada to share our perspective on Bill C-31.

PCA represents and supports progressive unionized employers in Canada's construction industry. Our member companies employ approximately 30,000 skilled tradespeople, unionized primarily by the Christian Labour Association of Canada.

In western Canada, where we account for about 40% of all natural resource industry construction and where provincial regulations best support the hiring and training of young workers, registered apprentices comprise over 35% of the total PCA workforce. Despite our leadership in the recruitment and development of new tradespeople, PCA member companies, like most companies in Canada's construction industry, continue to struggle to find enough workers to meet growing demand. This is particularly pronounced in B.C., Alberta, and Saskatchewan.

It's in this context that I want to express PCA's strong support for the measures within part 6 of Bill C-31, and to share our thoughts on how these measures fit into a broader plan for addressing Canada's workforce development challenges both today and into the future.

It starts with promoting and enabling skills training and apprenticeship in Canada. There are numerous barriers to entry for Canadians considering a career in the trades. These barriers include cost, proximity to employers and training providers, and family circumstances.

The Canada apprentice loan announced in the 2014 budget is a welcome step towards tackling some of these issues. For many of our prospective employees, the loan will help cover a variety of hidden costs of transitioning from a low-opportunity career path or occupation into the skilled trades—the cost of new tools and equipment, transportation costs, and income supplementation during technical training, just to name a few.

It's our hope that once implemented, this program will be flexible enough to accommodate someone who decides to change trades early on in their apprenticeship journey. At the same time, the program should maintain enough focus to facilitate improved completion rates.

While these sorts of investments in apprenticeship will help the longer-term landscape, they will not help our companies address the immediate acute skills shortages we are experiencing in certain regions and occupations. We must also look abroad to fill those gaps.

PCA supports the balanced approach of the federal government reflected in Bill C-31 pertaining to immigration. Our members are particularly excited about the potential of the express entry system, not only for recruiting high-demand tradespeople, such as heavy equipment operators and welders, but also hard-to-find corporate professionals, including engineers, project managers, and estimators. We'll continue to work closely with the federal government on the development and implementation of this new system.

I do want to highlight one other area around which we believe more can and should be done; namely, to better facilitate the mobility of workers in Canada from regions of high unemployment to regions of low unemployment. One solution that we believe the federal government should take a closer look at is the creation of a work travel grant or a lump sum training and mobility grant accessible through the EI system. Mobility grants allow a person who is unemployed in one area of the country to utilize future employment insurance benefits in the form of a lump sum payment in order to relocate to another area of the country where workers are needed. The funds advanced from the EI payments would then be used to fund job search, training, and relocation costs.

In conclusion, PCA thanks the committee for this opportunity to share our views on Bill C-31. I'd be happy to take any questions you have.

• (1725)

**The Chair:** Thank you very much for your presentation.

Colleagues, the first four members will have seven-minute rounds.

We'll start with Ms. Sims, please.

**Ms. Jinny Jogindera Sims (Newton—North Delta, NDP):** Thank you very much, Chair. It is a pleasure to be here today.

My questions will be directed toward Ms. Jennison-Yung. I want to thank both Ms. Nelson and Ms. Jennison-Yung for appearing before us today, but more so for their courage, more so for their courage.

When the story broke of what happened to you—it's a story that's reflected, by the way, from coast to coast to coast—I can tell you that you became well-known household faces. Everybody knew the

story. It galvanized Canadians and pointed out to them the kind of abuses that do exist.

After the story broke, the Minister of Employment and Social Development was quoted as saying:

Our message to employers is clear: We will not tolerate any abuse of the temporary foreign worker program....to ensure that Canadians are first in line for available jobs and to ensure that employers do not take advantage of foreign workers.

In this context, I have a series of questions for you. I would really appreciate yes or no answers, because time is very limited.

Did the minister blacklist your employer?

**Mrs. Shaunna Jennison-Yung (As an Individual):** No.

**Ms. Jinny Jogindera Sims:** Who is currently working at the restaurant: Canadian residents or citizens, or temporary foreign workers with LMOs? You'll have to give more than a yes or no on this one.

**Mrs. Shaunna Jennison-Yung:** There are three Canadians part-time, we believe, and the rest who are employed there are—

**Ms. Jinny Jogindera Sims:** How many make up the rest?

**Mrs. Shaunna Jennison-Yung:** There would be six, I believe. They're either on contract or landed immigrant.

**Ms. Jinny Jogindera Sims:** Thank you.

Have you heard from the minister or his office by phone?

**Mrs. Shaunna Jennison-Yung:** No.

**Ms. Jinny Jogindera Sims:** Have you received anything personally, in writing, from the minister's office?

**Mrs. Shaunna Jennison-Yung:** No.

**Ms. Jinny Jogindera Sims:** Did you receive a form letter from the Department of Employment and Social Development stating that ESDC takes the integrity of the temporary foreign worker program seriously and will not tolerate any abuse of the program?

**Mrs. Shaunna Jennison-Yung:** Yes.

**Ms. Jinny Jogindera Sims:** Thank you.

Would you suggest that the fact the government has done absolutely nothing about the abuse you reported well over a month ago, a story that was splashed on the front pages of newspapers and covered by almost every visual media outlet as well, the government is tolerating abuse of the program?

**Mrs. Shaunna Jennison-Yung:** Yes.

**Ms. Jinny Jogindera Sims:** If you could ask anything or say something to the Minister of Employment and Social Development if he were sitting here—I'm sure he will get this message—or if you got to meet him face to face, what would you want him to know, or what question would you want answered?

**Mrs. Shaunna Jennison-Yung:** There's one question we want answered: where's our investigation, and can you explain to us how this is right, how this is not wrong, by your guidelines set out for this program?

**Ms. Jinny Jogindera Sims:** What I'm gathering from you is that you warned the government about this employer, yet the status quo remains at that restaurant. I find that actually quite heart-wrenching. You're seeing, in the place where you worked, other people working there when you are not. It's really heartbreaking. You were good employees. Both of you had been there for a long, long time. You took a big risk in coming forward with this story, a big risk, and I want to thank you for it.

Can you tell me what your job prospects have looked like since you very bravely came forward on this?

**Mrs. Shaunna Jennison-Yung:** I was offered a job in another establishment, but the offer was rescinded due to the fact that they employ foreign workers. I am obviously not wanted in that respect.

• (1730)

**Ms. Jinny Jogindera Sims:** Just to be clear, you were offered a job by this other place.

**Mrs. Shaunna Jennison-Yung:** Yes.

**Ms. Jinny Jogindera Sims:** They then rescinded the offer because they said they had temporary foreign workers on site.

**Mrs. Shaunna Jennison-Yung:** Not in so many words, but they made it obvious that the offer was not there anymore.

**Ms. Jinny Jogindera Sims:** Thank you very much.

Recently the CEO of McDonald's gave a response to the news story that its franchises turn away Canadian applicants to bring in cheaper foreign labour.

Your colleague actually talked about a situation that describes that. You've seen that happen. You've seen how it's treated.

This is what the CEO had to say:

"This has been an attack on our brand. This has been an attack on our system. This is an attack on our people. It's bull....I used those words when I described my conversation with the minister last week. He gets it."

The story goes on:

Betts says he was "incredibly impressed" with the minister, adding, "He really knows his stuff. And I'll say he knows his stuff from a business person's perspective."

"Yes, they are disenfranchised. Some of them don't work for us anymore. But in the scheme of things, it doesn't matter."

"This story has been brewing for a lot of years. And you know at the end of the day we just happen to be the business that got tapped into it and we weren't the first..."

After your experience, what does hearing comments like that feel like?

**Mrs. Shaunna Jennison-Yung:** It doesn't give us a whole lot of confidence. It took a lot of thinking and courage to finally come out

and do what we did, not just for ourselves, but for all Canadians who find themselves in this position.

We are very disappointed that we're not worth the time or the effort of this government to stand behind their words, get this investigation going, and stand up for us.

**Ms. Jinny Jogindera Sims:** Once again, let me tell you that your heart-wrenching story has touched Canadians.

**Mrs. Shaunna Jennison-Yung:** Thank you.

**Ms. Jinny Jogindera Sims:** I get emotional every time I think about it and about the many, many Canadians I hear from, permanent residents and new immigrants, who are saying that it's the same for them.

To both of you, thank you for your courage. I know it's a very emotional time. You know that we'll keep pushing until this program gets fixed.

**Mrs. Shaunna Jennison-Yung:** Thank you.

**The Chair:** We'll go to Mr. Van Kesteren first.

**Mr. Dave Van Kesteren:** Thank you, Chair.

I thank all of you for coming.

I wasn't going to go first, but I want to respond to this.

First of all, I've listened to your story, and what I heard is a very sad story. It must be something that has been very difficult for you.

When I saw the notes today and saw that you were coming, I did a little bit of investigating. I went on Google and tried to find the story. I found one story, and it is in the paper. You're absolutely right. After that, I found nothing. I was kind of at a loss, so I looked up the owner. I called and talked to the owner.

As is so often the case—and Mrs. Jennison-Yung, I'm not here to judge; that's certainly not my job—there's another side to the story. Of course, that other side talks about having to make some changes in the status of the business. It's a business, and one has to pay the bills and has to pay for the lights and all the others costs that are incurred when one runs a business.

I asked the owner some of these pointed questions, because I had your testimony. I asked him to tell me, because if I was going to talk about this, I needed him to tell me that he took issue with this, which is fair enough, because he's not here. Quite frankly, it's really unfair for us to make a judgment.

The other thing I should mention as well is that we're not here to make that judgment. I want to say at the outset that this case at this moment is being looked at, and he couldn't comment on all these things because this case is before a tribunal that looks after this type of thing.

The owner had some different numbers, and I jotted them down. As far as the foreign workers go, you're right. There are some foreign workers who are working there, but I think he talked about three foreign workers out of ten in the restaurant. In housekeeping, he tells me, it's half and half.

Again, I say that because you're going to say one thing and he's going to say another thing. That's for the courts or for those who identify these things.

Please understand I'm not here to criticize or even challenge you on these things. I just want this committee to understand that without having all the facts in front of us, it's pretty hard for us because, understandably, you may not even have all those facts. That's why we're going to look at these things.

I want to say as well that the minister is very concerned about this. This issue is being investigated. We have introduced laws within the temporary foreign worker program such that if abusers are found, they will be charged. I can assure you that is the case.

Do you know what the unemployment rate in your neck of the woods is?

• (1735)

**Mrs. Shaunna Jennison-Yung:** I do not know what it is in particular.

**Mr. Dave Van Kesteren:** It's 3.1%.

We've had this discussion among the different panel members. This is what makes it so difficult. There are those who say, for instance, maybe in Mr. Keddy's neck of the woods, that they need these people in the fishing industry. Then there'll be those who say, "No, you have a high unemployment rate and you don't need them." There are people in Mr. Reid's end of the world who say that they have to have these people. But it's 3%, which is virtually nothing, by the way. When economists talk about 3%, there is no unemployment. So there is a reason to have the program.

I don't want to get into too many technical explanations, but as far as evaluating and administering the program go, when we have regions in our country that have virtually no labour pool, we have to administer it.

There are two things I wanted to say. First of all, we don't have Mr. Siourounis here to defend himself. The other thing is that we are investigating this.

I also want to thank you for coming out.

I just wanted to say that because I think we don't have the whole story.

Thank you.

Mr. Chair, how much time do I have left?

**Mr. Murray Rankin:** Does the witness get to answer, Mr. Chair?

**Mr. Dave Van Kesteren:** I didn't ask for your—

**The Chair:** Order.

As members know, the time allocated to a member is the member's time.

Mr. Van Kesteren, do you want to move on?

**Mr. Dave Van Kesteren:** How much time do I have?

**The Chair:** You have two minutes.

**Mr. Dave Van Kesteren:** Oh, good.

I want to talk to Mr. Reid. I want to talk about the foreign worker program.

I want you to tell us the other side of the foreign worker program, what you're experiencing in your neck of the woods, which is the same neck of the woods, which has a severe labour shortage. Can you maybe just tell this committee?

**Mr. Sean Reid:** Our contractors are small, medium, and large industrial contractors building the resource sector in western Canada. These are companies with workforces in the thousands. We don't search for just one welder; we search for 50 or 100 welders at a time, or for 200 welders in some cases.

When a project ramps up, we go to every extent possible to first look in the immediate area. If we're talking about the Fort McMurray area, for example, we'll look in the Fort McMurray area. We'll then look in Calgary and Edmonton. Then we'll look in B.C. and ultimately out east as well. The reality is that to ramp up for some of these projects, there just aren't enough welders at the scale we're talking about, in terms of the demand on contractors, to address those needs in the timeframe we have.

We support all the government's work and investment in developing apprenticeships, but we have an immediate problem. If we want to continue to keep these projects moving at a prosperous and efficient rate, we have to get more people in here, and that's what the temporary foreign worker program actually helps us address.

**Mr. Dave Van Kesteren:** Very quickly, the fact that you're pulling the labour pool, this is affecting every aspect of labour, I would assume, from the skilled to the unskilled.

• (1740)

**Mr. Sean Reid:** I would say that it's primarily the high skilled but certainly there are skills at all.... In some circumstances we're short of general labour as well, but definitely we're feeling the pinch at the higher skilled labour level.

**The Chair:** Thank you, Mr. Van Kesteren.

Mr. Cuzner, go ahead, please.

**Mr. Rodger Cuzner:** Thanks very much.

Could we be fairly quick? We have only seven minutes.

This is for Mr. Thomas first. We prefer shearing the sheep to slaughtering them, but if the wool is used to pull over our eyes, then we get a little testy, so I know you wouldn't want to do that.

Perhaps you could give us a quick comment. Your reference is that the premiums paid for EI are really an indirect tax. Some argue that they would be best used to invest in skills training; others say they should be used for job creation, if they go back to employers. Do you have a quick thought on that?

**Mr. Gregory Thomas:** We would prefer that the money be left in the pockets of working Canadians to go out and spend in the economy, because the overhead administrative costs—11¢ for every dollar that makes it into the pocket of a recipient—are unheard of. Those support the economy in the national capital region, obviously, but it's not an efficient system and it should be reformed.

**Mr. Rodger Cuzner:** Do you see it as an indirect tax, really?

**Mr. Gregory Thomas:** It's the most direct tax, because you can't shelter it by putting money into retirement savings. It's a regressive payroll tax, and it has an immediate effect on diminishing consumer spending in Canada, which is—

**Mr. Rodger Cuzner:** I'm going to cut you off, because I want to get in a little question for everybody.

Ms. Jennison-Yung, I first want to identify the situation that Ms. Nelson referred to in her comments, the uncomfortable situation that the temporary foreign workers found themselves in, of doing household chores for the employer. I really respect the fact that you've taken their well-being into consideration.

Were all of you, the temporary foreign workers and you folks, let go on the same day, or were you guys let go, and the temporary foreign workers were kept on?

**Mrs. Shaunna Jennison-Yung:** Well, we're not sure of that.

We all got a formal written notice of discharge saying that they were discharging all staff. At the time, they said the contract workers would get a different letter later. This is one of our questions for Mr. Kenney, because if we were all discharged—and as the letter stated, “all staff have been discharged and we will interview those we want to come back and work for us”—and the employer fired or laid off temporary foreign workers, Service Canada would need to be notified. ROEs would need to be printed up, and new LMO applications would need to be submitted. That was the process under which everyone was fired.

**Mr. Rodger Cuzner:** With absolute respect, I know Mr. Van Kesteren to be an honourable member. I know he wasn't trying to imply anything by where he was going with his questioning, but were the temporary foreign workers doing the same work that you guys were doing? Is that work being done by temporary foreign workers now?

**Mrs. Shaunna Jennison-Yung:** Absolutely.

You're right. We can't get that information on who is on contract and who is not. All I would like to say to his question is that if he's saying there are only two or three or it doesn't matter, they still have their jobs. Ms. Nelson and I do not.

**Mr. Rodger Cuzner:** Thanks very much.

Mr. Reid, how much are your members spending now on skills development apprenticeship?

**Mr. Sean Reid:** I don't have the immediate number handy, but it's a significant portion. Virtually all of our members pay into—

**Mr. Rodger Cuzner:** You guys do track that, though.

**Mr. Sean Reid:** We do. We all pay into a training fund that is robust.

**Mr. Rodger Cuzner:** What is the participation rate? Would most of your members be involved in the apprenticeship and training?

**Mr. Sean Reid:** It's about 95%.

**Mr. Rodger Cuzner:** What about your commitment to hiring apprentices?

**Mr. Sean Reid:** Apprentices are 35% of our workforce.

**Mr. Rodger Cuzner:** Is that right across the membership?

**Mr. Sean Reid:** That's throughout western Canada. The ratios in Ontario don't allow us to do 35%, but where we can, we have 35% in apprenticeship.

● (1745)

**Mr. Rodger Cuzner:** Obviously, with the increase in the number of temporary foreign workers, I would imagine that the amount of money invested in training over the last six years would have increased considerably as well proportionally.

**Mr. Sean Reid:** There's no question. Our membership invests substantially in training. We've been very supportive of the work that the federal government has done on training in the recent budgets. But, at the end of the day, again we're talking about significant economic enterprises out west that require a scale of workforce that we don't have.

**Mr. Rodger Cuzner:** What percentage of your members will access and utilize the job grant?

**Mr. Sean Reid:** Our expectation is that it will be substantially leveraged by our membership. PCA has been a strong supporter of it.

**Mr. Rodger Cuzner:** Mr. Campbell, I'll turn to you with regard to the whole situation around demutualization.

We're seeing our rural communities just sort of gutted, really, for a couple of different reasons. What kind of impact is this going to have on small communities across the country?

**The Chair:** You have one minute.

**Mr. Blair Campbell:** I know that the availability of insurance affects the availability of credit to buy properties and to improve properties, farms, businesses, and whatnot. If the mutuals aren't there to provide the services that they currently provide...

**Mr. Rodger Cuzner:** Is there a risk they could be snapped up by outside buyers and—

**Mr. Blair Campbell:** That's a significant risk.

**Mr. Rodger Cuzner:** —they would just sort of galvanize around one service provider?

**Mr. Blair Campbell:** Yes.

**Mr. Rodger Cuzner:** The moms and pops are gone, and the big box providers are the ones that...

**Mr. Blair Campbell:** That's right.

Decisions will be made on a different street. They won't be made on Main Street in Summerside. They'll be made on Bay Street, perhaps. Decisions are made differently on that basis. I know from our own experience pricing is a big factor, especially in the rural areas.

**The Chair:** Thank you, Mr. Cuzner.

We'll go to Mr. Saxton, please.

**Mr. Andrew Saxton:** Thanks to our witnesses for being here today.

I'd also like to begin by recognizing and thanking Mrs. Jennison-Yung and Mrs. Nelson for being here today.

I was, as many people were, moved by their story. I want to assure you that our government is serious about reforming this program to make sure that Canadians do come first. That's extremely important.

I'd just like to ask you what you think about the penalties we've proposed to employers who abuse the program.

**Mrs. Shaunna Jennison-Yung:** You'll have to let me know what —

**Mr. Andrew Saxton:** But you do agree, though, that employers who abuse the program should be penalized.

**Mrs. Shaunna Jennison-Yung:** That's right. That's what the federal guidelines say, that they will be penalized, blacklisted, and fined, but we don't know what that means or what that looks like.

**Mr. Andrew Saxton:** But the new legislation is going to be significantly tougher on employers—

**Mrs. Shaunna Jennison-Yung:** Yes.

**Mr. Andrew Saxton:** —so that we can crack down on employers who are abusing the program. I would assume that you would be supportive of a move of that nature.

**Mrs. Shaunna Jennison-Yung:** Oh, absolutely, because I truly believe that if there are consequences to these actions, then people will think twice about abusing this program, whether that abuse is towards Canadians or temporary foreign workers themselves.

**Mr. Andrew Saxton:** Right. It's our understanding that the opposition is actually going to be opposing our proposal to strengthen the penalties against employers. I'm sure you're surprised to hear that as well.

**Mrs. Shaunna Jennison-Yung:** Well, I'm here because of the issue I'm here for. We are here to support tougher sanctions and more blacklisting. Let's see some of these fingers actually get slapped, so that they don't do it again. That's what I'm here to support.

**Mr. Andrew Saxton:** Good. Thank you very much. I appreciate that.

**Mrs. Shaunna Jennison-Yung:** Thank you.

**Mr. Andrew Saxton:** My next question is for Sean Reid.

Mr. Reid, there's a strong relationship between educational programming and the skills demanded by industry. Skills matching is critical not only to the success of our students but also to our graduates' ability to be immediately productive upon entering the workforce. As a result, various stakeholders and businesses have called for the loosening of restrictions to entering the skilled trades. Budget 2014 provided, as you know, over \$100 million for the new Canada apprentice loan program, providing tens of thousands of apprentices with access to interest-free loans.

Do you support the government's investments in the skilled trades as a part of the diverse strategy to create jobs and economic opportunities for young Canadians?

● (1750)

**Mr. Sean Reid:** We absolutely support the government's focus on the skilled trades. If you'd like, I can elaborate a little bit.

**Mr. Andrew Saxton:** Please elaborate.

**Mr. Sean Reid:** Sure. We see three barriers in particular when we talk about people coming into the skilled trades, which, we should acknowledge, is probably the highest growth sector of employment in the country. First of all, there are barriers of perception. What I'm talking about there is that frankly, people think skilled trades are for dummies, that smart people go to universities, and dummies go to skilled trades as a last resort. Clearly, the tone that the government has been setting over the last several years is one that rejects that presupposition, and we support that.

Second is barriers to entry. In some cases, I should say, there are significant provincial barriers in terms of apprenticeship ratios and the expansion of compulsory trade certification. We support the minister's work on bringing the provinces together to discuss those barriers and hopefully bring them down.

The third is really the barrier to mobility. That's an issue we see a lot of. We have tradespeople in southern Ontario or in parts of the Maritimes, who for one reason or another find it prohibitively expensive to move to where the employment opportunities really are in the west, for example, or perhaps in northern Ontario. That's the one area in which we want to encourage the federal government to continue to focus its attention: facilitating greater mobility for people to move to where the employment opportunities are.

**Mr. Andrew Saxton:** I have just one more question.

On the temporary foreign worker program, as you know, and it has been discussed here today, our government has proposed significant changes to reform and improve the temporary foreign worker program. I'd just like to ask if you agree within those proposed changes.

**Mr. Sean Reid:** We do. We think it's a balance. The approach the government is taking on the temporary foreign worker program is balanced, and we particularly want to continue to encourage the federal government to focus on a temporary foreign worker program that addresses the acute skill shortages in specific occupations and in specific regions.

**Mr. Andrew Saxton:** Thank you very much.

Chair, how much time do I have?

**The Chair:** You have about a minute and a half.

**Mr. Andrew Saxton:** Terrific. Thank you.

My next question is for Gregory Thomas.

Gregory, welcome.

Would it be your assessment that the amalgamation of government bodies such as ACOA and ECBC is an effective way of providing government services while respecting taxpayer dollars?

**Mr. Gregory Thomas:** We certainly wholeheartedly support these reforms as well as the administrative tribunals and the administrative tribunal support services.

**Mr. Andrew Saxton:** Okay. As you know, since coming to government, we've reduced taxes in just about every single way that Canadians pay taxes, in fact, in over 180 different ways, including reducing red tape on businesses with the one-for-one rule, for example.

Do you support our reforms for cutting back red tape?

**Mr. Gregory Thomas:** We do. We've consistently supported the tax reductions that have come forward, and we're particularly excited, as the government enters a surplus, by the prospects of additional tax relief in next year's budget.

**Mr. Andrew Saxton:** Thank you very much.

Thank you, Chair.

**The Chair:** Thank you, Mr. Saxton.

[Translation]

Mr. Caron, you have the floor. You have five minutes.

[English]

**Mr. Guy Caron:** *Merci beaucoup.*

As my colleague Ms. Sims said, thank you to Ms. Nelson and Ms. Jennison-Yung for their courage but also for making this testimony.

I'd like to go back quickly to something that Mr. Van Kesteren mentioned. I'll be paraphrasing, because I don't have the exact formulation, but basically, after contacting the owner of the business, the owner of the business basically said, "Well, we are in a tough business, especially right now, and we have difficult decisions to make."

To me, that sounds a lot like saying, "You're paid too high; we'll fire you so that we can actually find a way to get people lower"—

**The Chair:** Mr. Van Kesteren.

**Mr. Dave Van Kesteren:** On a point of order, Chair, I did not say that.

You need to go back to the blues.

**Mr. Guy Caron:** I'm not saying that you did say that; I'm paraphrasing the owner who you talked to...in your comments.

**Mr. Dave Van Kesteren:** Okay, because I did not say that.

**The Chair:** Let's refrain from members saying what other members said.

**Mr. Guy Caron:** I'm not saying that Mr. Van Kesteren said that; I'm saying that's what the owner he talked to said. People will be able to refer to the answer because it's on record.

Ms. Jennison-Yung, I'd like you to actually confirm for me if that's what happened there. Basically you got fired, and the justification given to you was that...?

•(1755)

**Mrs. Shaunna Jennison-Yung:** We were given no reason at all. We were just dismissed.

**Mr. Guy Caron:** Okay. We'll see on the record what reason the owner gave when he talked to Mr. Van Kesteren.

The topic of procedure was brought up, and how things happen. Mr. Saxton knows very well that we will be voting in committee on the over-300-page bill. On some of the things we'll be voting in favour, and on some of the things we'll be voting against. But in the House we'll be stuck having one single vote on more than 300 pages of legislation, of which temporary foreign workers will be about two pages. So that's the way it works.

[Translation]

I would like to go back to Mr. Campbell and address the issue of demutualization.

Last year, as part of this committee's work, we had a briefing on demutualization. At that meeting, we talked a great deal about the Economical Mutual Insurance Company.

Are you familiar with the situation?

[English]

**Mr. Blair Campbell:** I'm somewhat familiar with the situation, yes.

[Translation]

**Mr. Guy Caron:** In a minute or so, could you summarize it for us so that we understand it clearly? This issue is extremely complex.

[English]

**Mr. Blair Campbell:** It is our understanding that Economical Mutual wishes to demutualize. They currently have, as I said, 800,000 policyholders; however, less than 1,000 of them claim to be mutual policyholders.

In the mutual, the members are the owners of the company. I talked about the property rights issue earlier in my presentation. In a demutualization of Economical, with \$1.6 billion in surplus plus the value of the business as a book of business, the value to each of those fewer than 1,000 policyholders would be significant.

[Translation]

**Mr. Guy Caron:** So in this particular case, just under 1,000 individuals are mutual policy holders, but around 1 million people are regular policy holders. Through demutualization, those with mutual policies that have accumulated over 125 years, would each have \$1.6 billion in surplus, while those with regular policies would be left out in the cold.

Is that right?

[English]

**Mr. Blair Campbell:** I think that's the original intent. I don't know what their intent is now. Of course, their intent will be guided by the laws and regulations that are put in place by government.

[Translation]

**Mr. Guy Caron:** Given the situation and the intent of Economical Mutual Insurance Company at the time, and based on the situation we have experienced in the past, what do you think the impact will be if the legislation proposed by the government is enforced?

[English]

**Mr. Blair Campbell:** The proposed legislation is opening the door to creation of regulations, so the regulations will further define what those rules look like.

One of the provisions in the bill that's under consideration deals with the minister's ability to defer questions, and perhaps ownership questions, to the courts. It's my view that this is really a public policy decision that needs to be addressed with public input, instead of a technical legal argument on a novel area of law, and I think Parliament is best suited to deal with the question.

**The Chair:** Thank you.

We'll go to Mr. Keddy, please.

**Mr. Gerald Keddy:** Thank you, Mr. Chairman.

Welcome to our witnesses.

Mr. Campbell, I'd like to pick up on the thought that the rules surrounding demutualization and ownership rules would be better made by political entities rather than judicial ones. I find that a little bit surprising, because most of the time when it comes to division of property and assets, that ends up being a court-regulated process anyway.

**Mr. Blair Campbell:** The court may take a strict property rights interpretation, whereas when you look at the creation and formation of Economical Mutual, or any mutual for that matter, what was the intent of that surplus? What was the intent of the ownership? How did the ownership structure wind up at 1,000 members?

I think you understand what I'm saying; do you?

• (1800)

**Mr. Gerald Keddy:** No, no, that's an interesting statement, but I don't think we can take it just on a single case. I mean, obviously, for mutualized companies, and insurance companies in this case, there has to be a process for demutualization. That process has to be fair and equitable and allow shareholders to be able to get their assets, if they have assets in the company, out of the company. That's what's intended in the budget bill.

I do take a little bit of exception to something. You made a comment about mutual insurance companies being the only insurance companies for rural Canada. You know what? I farmed for 25 years, and I used a mutual insurance company in Atlantic Canada. I had great service and a great agent. I still run a very modest little farming operation, but I don't use a mutual insurance company anymore. I didn't get anything for the assets I invested with the company; plus my insurance is cheaper, and I have more of it.

So there are two sides to that, and I think that needs to be put on the record: there are other companies. In this case, I think competition is.... Whether it's good or bad, it's not for us to decide, but it's fair.

**Mr. Blair Campbell:** Yes. I know that in our experience as a mutual company, we are a company that will consider business that stock companies do not or that other insurers do not. In your case, you may be a very favourable risk. Oftentimes stock companies, big companies, like to cherry-pick risk. So that may be a compliment to you.

**Mr. Gerald Keddy:** For example, there's a difference in insuring my tractor for the highway. Every farmer needs PL and PD in order to go on the highway with a farm vehicle. Under a private insurance company, it's considerably cheaper, almost half, than under a mutual insurance company. So every case is separate: that's what I'm trying to say. I appreciate your testimony, but I want to put that on the record.

To John McAvity from the Canadian Museums Association, two entities that are out there, the virtual museum of Canada with that online presence, and the Canadian encyclopedia of music and the directory of Canadian biography, these are newer online resources that never used to exist. They have comprehensive information in them available now to all of Canada's museums to assist in the development of those.

How accessible are they to your organization? How often do you use them? How important are they to you?

**Mr. John McAvity:** Actually, they're public programs. They're not new programs. They've been in existence for a number of years, and they are available to all Canadians. They're open and accessible. That, to us, is a very important asset.

Our concern is simply in the transfer to the Museum of History. Will they be bound by narrower criteria that is the role of the Museum of History, or will they be broader, to include art, natural science, history, technology, other disciplines, other subjects? We would argue for the broadest possible application.

**The Chair:** Okay. Thank you.

Thank you, Mr. Keddy.

We'll go to Ms. Sims, please.

**Ms. Jinny Jogindera Sims:** My question is for Ms. Jennison-Yung again.

Let me see. The government has reduced red tape, which has meant that the temporary foreign worker program has now ballooned to well over 350,000. Almost every day in the media, we are seeing stories of abuse. More people came forward today, as was witnessed on TV.

You lived in this community for a long time, yes or no?

• (1805)

**Mrs. Shaunna Jennison-Yung:** Yes.

**Ms. Jinny Jogindera Sims:** You've been a long-term employee, yes or no?

**Mrs. Shaunna Jennison-Yung:** Yes.

**Ms. Jinny Jogindera Sims:** Were you laid off?

**Mrs. Shaunna Jennison-Yung:** I was dismissed.

**Ms. Jinny Jogindera Sims:** You were dismissed. You're not employed, but the temporary foreign workers who were working at the time are employed. That's through no fault of their own, by the way. It's not their fault.

**Mrs. Shaunna Jennison-Yung:** Right.

**Ms. Jinny Jogindera Sims:** Right. Thank you.

Do you have bills to pay, or did your bills just stop the day you lost your job?

**Mrs. Shaunna Jennison-Yung:** No, ma'am, I have bills.

**Ms. Jinny Jogindera Sims:** You have bills to pay.

What we have here is a situation in which you have a Canadian person living in a community for a long time, not working through no fault of their own, and instead what we have is an employer who has brought in workers who he can treat in a very different way because they are vulnerable.

Thank you.

I'll hand it over to my colleagues.

**Mr. Murray Rankin:** Thank you.

I also just want to say, Ms. Jennison-Yung, that I appreciate very much your being here, and I want to say that we've heard today that the minister is very concerned about how the temporary foreign worker program is going.

Have you been told by any federal officials that any new laws would be made backwards in time to fix your situation?

**Mrs. Shaunna Jennison-Yung:** No.

**Mr. Murray Rankin:** Okay.

I'd like to ask a question of Mr. Thomas.

First of all, Mr. Thomas, welcome. It's nice to see you again. Thank you for raising the tone of the debate with a Latin phrase to begin. That was very good. I also appreciate your efforts with the giant balloon of Senator Duffy across Parliament Hill recently. That was very, very funny as well.

You've heard from Ms. Nelson and Ms. Jennison-Yung today. On behalf of the Canadian Taxpayers Federation, do you think what you've heard is either fair or good public policy for Canadians?

**Mr. Gregory Thomas:** No.

**Mr. Murray Rankin:** Okay. Thank you.

I want to ask Mr. McAvity something.

Your organization is an important one. I know it well. We've met before.

I wasn't very clear about your proposed subsection 193(3) of the Museum of History's legislation, which may support other museums if they have a complementary purpose. You weren't consulted on some changes. Could you elaborate? I wasn't clear on what you were suggesting.

**Mr. John McAvity:** First of all, we were not consulted on or aware of the transfer of two very major programs to the Museum of

History. We have all the faith in the world in the Museum of History. It's a very well run organization.

The question is what does "complementary to" mean? We're arguing that that should be a very broad definition. What is history? Whose history are we talking about? Is there a beginning and an end? How do you define that? It is an elastic word.

**Mr. Murray Rankin:** Your organization and, I think, a number of organizations for which you speak have hired students for internships over the years. Could you comment on any changes in federal funding that may have affected that?

**Mr. John McAvity:** Actually, we previously recommended to this committee that additional funds be put into internship programs. We operate on behalf of the Government of Canada what is called Young Canada Works. It is so oversubscribed and it is so important to developing skills by younger Canadians that we are turning down 90% of the employers' applications, not those of the young people—that would be a ginormous figure—but 90% of those of the museum employers across Canada.

**Mr. Murray Rankin:** Why are you turning down 90% of the employers' applications?

**Mr. John McAvity:** There is insufficient funding to meet the demands of the program.

**Mr. Murray Rankin:** In the past, who has provided that funding to you?

**Mr. John McAvity:** The Government of Canada has.

**Mr. Murray Rankin:** And it no longer provides that funding?

**Mr. John McAvity:** No, it still does. It has been consistently funded. We have started going out actively to the private sector and bringing in some corporate and private money to help with internships. That's a major challenge for us, but at least we're showing entrepreneurship in doing that. The Government of Canada has been investing more and more in youth employment. We've simply not seen any benefits from the recent \$50 million and the previous \$40 million that were added.

**Mr. Murray Rankin:** And 90% are now being turned down as a consequence.

**Mr. John McAvity:** Ninety per cent of internships are. Yes.

**Mr. Murray Rankin:** Thank you.

**The Chair:** Thank you, Mr. Rankin.

I have Mr. Allen on the list.

**Mr. Mike Allen:** Thank you very much, Mr. Chair.

Thank you to all of our witnesses for being here today. I appreciate your taking the time.

Mr. Thomas, I'd like to start with you. I'd like to ask you a few questions with respect to EI.

Do you agree that in principle, in the long run, the EI system should be financed by the premiums of the people who will be recipients of it?

•(1810)

**Mr. Gregory Thomas:** Yes. We believe that training should be part of the education system within K to 12 and in post-secondary education. We don't believe it's the obligation of a Canadian worker to fund training programs for others out of EI payroll taxes. We also believe that EI should be similar to the Canada pension plan, such that money comes off your cheque; it's invested for you in the event that you suffer a loss of employment; and if you manage to stay employed throughout your productive life, and your family, your spouse, and your dependants all manage to stay productively employed, then you get to keep those funds into your retirement.

**Mr. Mike Allen:** So you disagree with the part II programs for labour training and labour market development agreements and that type of thing that we have with—

**Mr. Gregory Thomas:** Yes. We believe that funding them out of a regressive payroll tax is bad public policy.

**Mr. Mike Allen:** At the end of the day, if you look at the budget numbers—and granted, the Government of Canada did subsidize EI premiums over the downturn in the economy—it's going to be the end of 2015 before the EI operating account comes out of the negative position it's in. Then, budget 2014 says, “as a result, in September 2013 the EI premium rate for 2014 was frozen at the 2013 level of \$1.88 per \$100 of insurable earnings and it was announced that the rate will be set no higher than \$1.88 for 2015 and 2016”, and the chart shows it's going down to \$1.47. So, in fact, over the seven-year timeframe, it will actually start to go down again in the cumulative account.

Do you think it's a responsible position that we should be managing this over a period of years as opposed to just jumping the premium up and down?

**Mr. Gregory Thomas:** I don't want to take too much of your time, but between the previous government and the current government, you had a \$57 billion surplus in the EI account in the 2010 budget, which was liquidated into general revenue. So—

**Mr. Mike Allen:** Actually it was the Liberals who did that.

**Mr. Gregory Thomas:** —the economy could use a shot in the arm now. Canadians have paid through the nose for a recession they didn't create. If you want to see economic activity and consumer spending, you should get those rates down sooner rather than later.

You're taking in \$5.5 billion more in revenue this current fiscal year, 2014-15, than you're paying out in benefits. For the next budget, in 2015, our strong advice would be to get that down. As far as the notional deficit in the EI operating account goes, that's all smoke and mirrors. That account was created to create a deficit.

**Mr. Mike Allen:** Well, part of it's in the \$5 billion deficit right now anyway.

Mr. Reid, I'd like to go to you.

With respect to the apprentices, you said about 35% of your people are apprentices where possible. It struck me with some of the testimony that we've heard regarding youth employment and other types of situations about the trades that there are inconsistencies across provinces. I just wanted to know how you are partnering with community colleges and how you are working to try to frame your block release program so that there's consistency across the country

in this. It seems to me that some of our students are getting hung up in block release, and it's taking them a long time to get out into the workforce.

**Mr. Sean Reid:** Let me try to answer that as well as I can. I'm not sure we see a ton of issues with block release, per se. I think the biggest restrictions or challenges we face are actually regulatory at the provincial level. Frankly, to western Canada's benefit, Ontario is shutting out apprentices through its high apprenticeship ratios and compulsory trade certification. People are leaving to go to western Canada.

That, to us, is probably the strongest barrier we're seeing in that regard.

**The Chair:** Thank you, Mr. Allen.

I'll take the next Conservative round, if there's no objection.

Mr. Reid, at the end of your presentation you talked about a mobility grant. You said, “The funds advanced from EI payments would then be used to fund job search, training and relocation costs.”

Would this be a repayable loan? If the person is relocating, would they get an advance from EI and then, after they work in their position for perhaps a few months, pay that back? Is that how it would work?

•(1815)

**Mr. Sean Reid:** No. It would be essentially reaching forward into your EI contributions and basically taking a lump sum instead of the regular contribution you get every two weeks, or whatever it is.

**The Chair:** This is a person who is currently collecting EI payments, then.

**Mr. Sean Reid:** They're currently collecting EI, yes.

**The Chair:** That clarifies that. I appreciate that suggestion.

Ms. Jennison-Yung, on the situation that you and your colleague describe, I don't know the particulars. I don't know what particular restaurant that is, or what hotel. But this describes clear rule breaking. This describes someone, if this is all true, who clearly broke the rules of the program. They did not hire Canadians preferentially, when that is exactly what people are supposed to do under the current rules.

I guess what makes this doubly upsetting for me is that I come from an area—I represent Edmonton—Leduc—of very low unemployment; an area that is really searching for all types of people in all types of occupations; an area where some very decent employers are facing some really tough challenges. They have maybe 5% of their workforce as temporary foreign workers, and their concern is that they get tarred with the same brush that the employer you're describing gets tarred with.

Frankly, there's actually a fair amount of common ground between you, between those employers, and I think between the policies advanced by the government in the sense that those people who break the rules ought to be held to account. You've made those points here today. I fully support that, and I'll certainly follow up to ensure that this is done. It's certainly fair to ask for an investigation.

With respect to the blacklist, it's fair to ask that anyone who transgresses this program be put on a blacklist, absolutely. The good employers, frankly, support that 110% as well. There's a lot of common ground on that.

I just want to go back, though, to what was mentioned earlier by Mr. Saxton. To me, this bill seems to partially move in the direction of what you're recommending with respect to the fines. You're saying that employers who break the rules ought to be investigated, held accountable, put on a blacklist. What this legislation will enable the government to do is fine these companies. If these companies then break the rules, they ought to be held to account. The surest way of punishing a company like this is to fine them very quickly so that they see there is an immediate cost to this kind of activity, and it acts as a deterrent to any others who are thinking they should do this.

Perhaps you could comment on that, on the government imposing fines on those companies that do break these rules.

**Mrs. Shaunna Jennison-Yung:** I understand that they want to change and make the fines more, but in all the literature that we could find, that was something that was already in place. It stated

that companies that were caught abusing the programs would be fined, and possibly do criminal time.

Our standpoint is that if this had already been done, and the rules had already been followed, then perhaps we wouldn't find ourselves in this situation. Just saying now that they're going to levy heavier fines, which would...

How many fines have been given out in the first place?

**The Chair:** Just to clarify, the blacklist has been established.

**Mrs. Shaunna Jennison-Yung:** I got that.

**The Chair:** What this does, in part 6, is it enhances the monitoring and enforcement of this program and enables the minister, the government, to apply “administrative monetary penalties”, which is a technical way of saying fines.

**Mrs. Shaunna Jennison-Yung:** Right.

**The Chair:** It will actually empower the government to levy fines, which I think you and I are in complete agreement on.

**Mrs. Shaunna Jennison-Yung:** Oh, and we absolutely agree with that as a point, but you have to move forward and take those steps to actually use that blacklist, which still only has four companies on it, and impose those fines.

**The Chair:** I appreciate that, and I look forward to seeing it. The vote on that division will be interesting.

I appreciate all of you being with us here this afternoon. Thank you so much for your testimony and for responding to our questions. If there is anything further you wish the committee to consider, please submit it to the clerk. We will ensure that all members get it.

Thank you so much.

Thank you, colleagues.

The meeting is adjourned.

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# *Anti-Money Laundering and Anti-Terrorism Financing in Canada*

Chartered Professional Accountants  
Canada  
FINTRAC 101  
March 4, 2015

Canada

# ***FINTRAC's Mandate***

- Produce financial intelligence relevant to money laundering, terrorist activity financing, and threats to the security of Canada.
- Ensures compliance of reporting entities with the legislation and regulations.



# Interactions with the FATF



**Financial Action Task Force (FATF)**



**FATF recommendations**



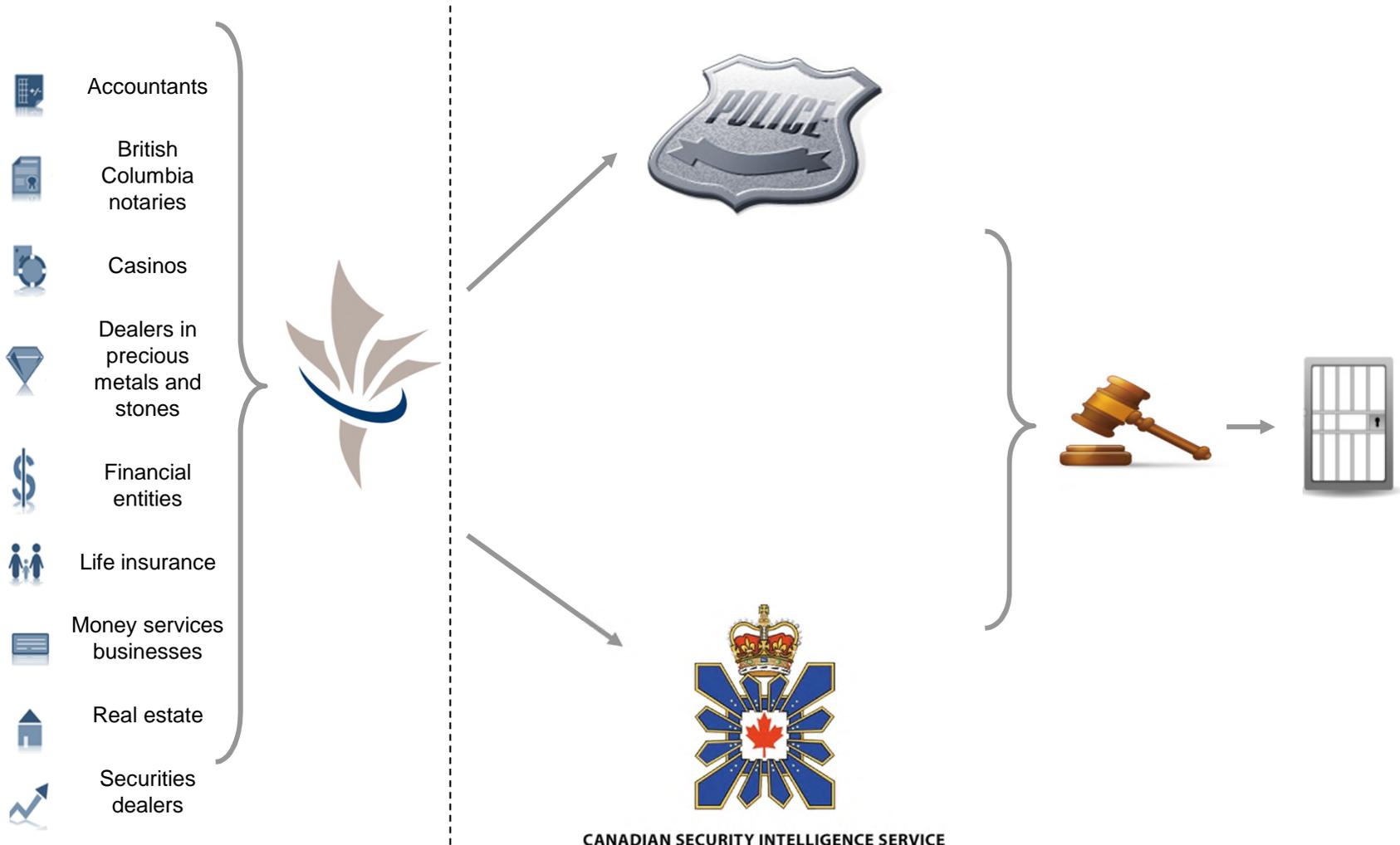
**Integrated into Canadian legislation and regulations**

- Accountants
- British Columbia notaries
- Casinos
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- Financial entities
- Life insurance
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# Roles and Responsibilities

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# ***Regional Operations and Compliance Sector***

- Responsible for the National Compliance Program under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA).
- Regional offices are responsible for program delivery and ensure reporting entities fulfill compliance obligations.



## *Triggering Activities*

- Receiving or paying funds;
- Purchasing or selling securities, real property or business assets or entities;  
or
- Transferring funds or securities by any means.



# *Obligations*

- Reporting
  - Suspicious Transaction Reports  
(including attempted suspicious transactions)
  - Terrorist Property Reports
  - Large Cash Transaction Reports
  
- Record Keeping
- Client Identification
- Third Party Determinations
- Compliance Regime



# ***Compliance Regime***



# ***Risk Assessment***

- Analysis of potential threats and vulnerabilities
- Complexity: size and risk factors of your business
- Risk Assessment Methodology: sector-specific guidance



## *Record Keeping*

- Effective record keeping system
- Machine-readable or electronic forms
- Must readily produce paper copies
- Information required for any one record can be stored separately, but must be able to be readily put together
- Not required to keep copies of reports submitted to FINTRAC (other than STR)
- Exceptions – 5 year records



# *Updated Guidelines*

- Publication of updated Guidelines
  - Guideline 4
    - Implementation of a Compliance Regime
  
  - Guideline 6
    - Record Keeping and Client Identification



# *Risk-Based Approach*

## STRATEGY

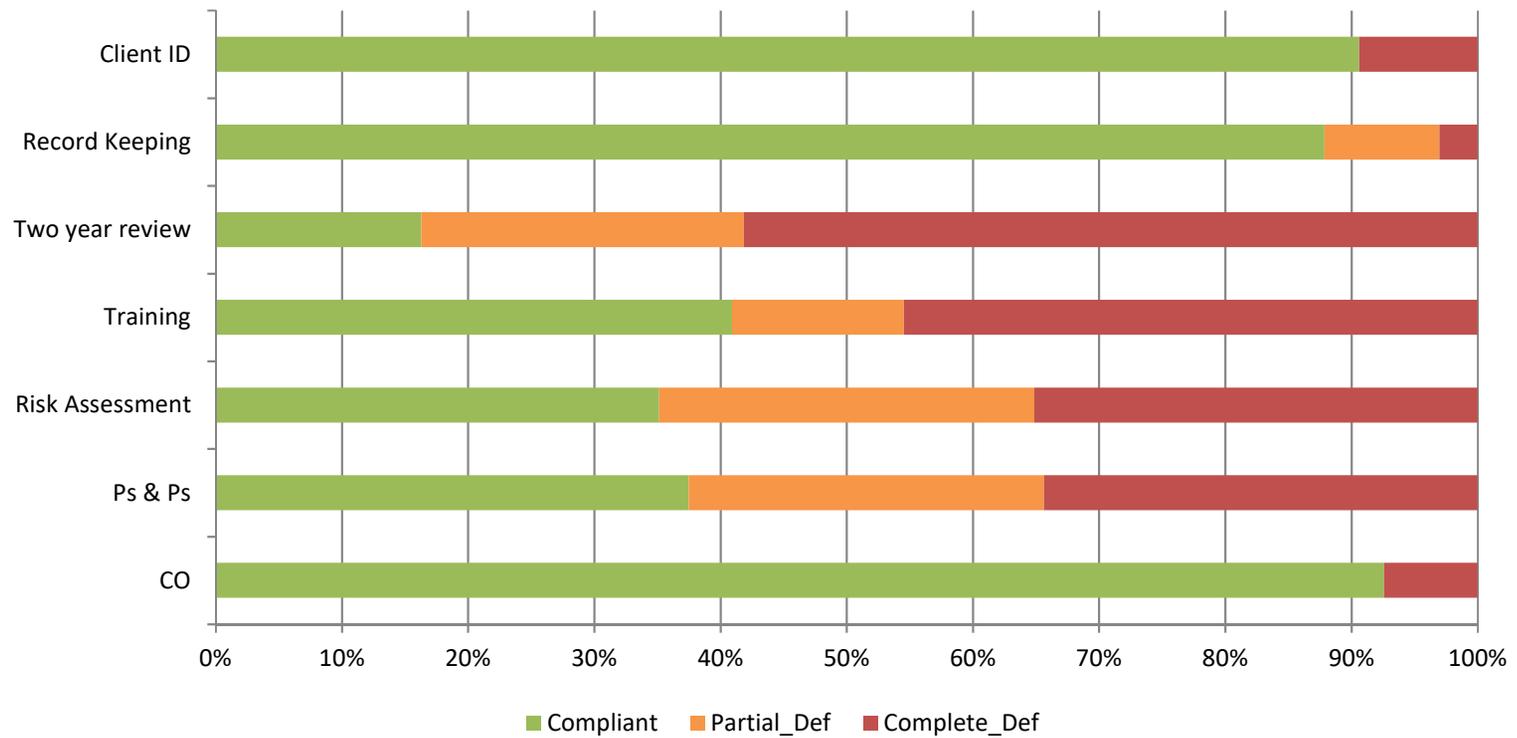


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# Examination Results in the Accountants Sector

Proportion of Deficiencies Cited



## ***Our Joint Mission...***

- public safety of Canadians
- integrity of Canada's financial system

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T. 416 977.3222 Téléc. 416 977.8585  
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## Minutes / Procès-verbal

Committee/Study Group: Comité/Groupe d'étude:	<b>Anti-Money Laundering &amp; Anti-Terrorist Financing Committee (AML &amp; ATF)</b>	Attendees/ Membres présents:	Michael Ecclestone Bruce McMeekin Michael Pawliw Barry (by phone)
Meeting Date/ Date de réunion:	March 4, 2015	Regrets / Regrets:	Jean Monica
Chair / Président(e):	Matthew McGuire		
CPA Canada / CPA Canada:	Marial Stirling Gigi Dawe Cheryl Charbonneau, Recording Secretary, Minutes by Minute (by phone)		
Guests / Invités:	Lisa Douglas Frank Lofranco		

Discussion	Action
<p><b>Welcome and Introductions</b> <i>Matthew McGuire</i></p> <p>Everyone was welcomed to the first meeting of the Anti-Money Laundering and Anti-Terrorism Financing Committee.</p>	
<p><b>FINTRAC Session</b> <i>Lisa Douglas and Frank Lofranco</i></p> <p>Discussion with reference to the Annual Report from the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) regarding the compliance examination findings in the accounting sector.</p> <p>Lisa Douglas and Frank Lofranco from FINTRAC shared a presentation on Anti-Money Laundering and Anti-Terrorism Financing in Canada entitled FINTRAC 101. Highlights from the presentation:</p>	

Discussion	Action
<ul style="list-style-type: none"> <li>• Quality reporting is essential to ensure compliance with the Canadian legislation and regulations.</li> <li>• Triggering activities for a reporting entity involve the movement of funds for a client.</li> <li>• Reporting entities engaged in triggering activities have obligations regarding reporting, record keeping, client identification, third party determinations and compliance regime.</li> <li>• An effective compliance regime protects an organization. This involves a compliance Officer, Risk Assessment, Training, Policies &amp; Procedures, Program Review and Record Keeping.</li> <li>• A Risk Assessment involves the analysis of potential threats and vulnerabilities to the organization.</li> <li>• A Risk Assessment Methodology (Guideline 4) is available as guidance for conducting a risk assessment. Sector-specific workbooks are being developed for further explanation.</li> <li>• Updated guidelines are available on the FINTRAC website.</li> <li>• To determine risk, FINTRAC considers an organization's risk assessment and history of compliance activities.</li> </ul> <p>The Examination Results in the Accountants Sector was reviewed. This involved 44 examinations of accounting firms from April 2012 to February 2015. Organizations were assessed regarding their observance or deficiencies to a compliance regime. Discussions regarding the results and the role of AML &amp; ATF:</p> <ul style="list-style-type: none"> <li>• Organizations in the accounting sector are generally assessed as lower risk.</li> <li>• To ensure compliance, an organization must be aware of their reporting obligations.</li> <li>• AML &amp; ATF can assist by enhancing guidance to raise awareness of reporting entities, with workbooks and webinars.</li> <li>• Examinations look at the entire compliance regime, starting with reporting and then consideration to all the other aspects (record keeping, etc.).</li> </ul> <p>The Joint Mission of FINTRAC is the public safety of Canadians and the integrity of Canada's financial system.</p>	
<p><b>Response to FINTRAC's Feedback</b> <i>Matthew McGuire</i></p> <p>The Committee discussed the presentation from FINTRAC and the opportunities to raise awareness in the accounting sector: Feedback from the group:</p> <ul style="list-style-type: none"> <li>• Guidance is available to achieve compliance, but more outreach is needed.</li> <li>• A Compliance questionnaire would have to be done provincially.</li> <li>• Tools are needed to assist organizations conduct the mandatory two year reviews.</li> <li>• Promotion and marketing of the CPA Canada Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation is needed. Consideration should be given to another webinar and promotion of the Guide in the CPA Canada magazine.</li> <li>• A long term project could incorporate this information with the continuing education obligation for accountants.</li> <li>• Compliance obligations are a responsibility of accounting organizations.</li> </ul>	

Discussion	Action
<p>Next steps for AML &amp; ATF:</p> <ol style="list-style-type: none"> <li>1. Consider a bulletin or annual reminder of AML obligations to the membership.</li> <li>2. Investigate the addition of an AML webinar as part of the ongoing education training options for CPA's.</li> <li>3. Arrange a joint webinar for the members with FINTRAC on reporting obligations.</li> <li>4. Consider marketing of materials through an annual update webinar, magazine articles, and twitter postings.</li> </ol>	
<p><b>Current Mandate</b> <i>Marial Stirling</i></p> <p>The revised Anti-Money Laundering &amp; Anti-Terrorist Financing Committee of the Chartered Professional Accountants of Canada Terms of Reference was circulated to the group. The Objectives and Responsibilities were derived from CPA Canada's Strategic Framework. It was emphasized that members have a commitment to attend meetings and/or provide feedback on documents and materials.</p>	
<p><b>Strategy Session</b> <i>Matthew McGuire</i></p> <p>The group reviewed the submitted Activities-to--Date &amp; Potential Future Initiatives document and agreed with the direction for the AML &amp; ATF Committee. Discussion and suggestions from members:</p> <ul style="list-style-type: none"> <li>• It is important to maintain CPA Canada's reputation relating to adherence with international standards.</li> <li>• Consider adding an annual update webinar from the AML &amp; ATF Committee.</li> <li>• Is there relevance for the Integrity Framework in Anti-Bribery and Corruption in the AML &amp; ATF Committee? Consider adding Sanctions as part of the scope of the committee.</li> <li>• Item 7 may no longer be necessary.</li> <li>• Small group of members to prepare a submission on behalf of the accounting sector for the FATF Examiner's Report which considers adherence to Standards within each sector.</li> <li>• Ad hoc telephone meetings may be necessary for consideration of an immediate response to draft regulations.</li> </ul>	<p>Marial to revise the Potential Future Initiatives as per the group discussion.</p> <p>Matthew McGuire, Michael Ecclestone and Michael Pawliw to prepare submission to FATF.</p>
<p><b>Policy Interpretations</b> <i>Matthew McGuire</i></p> <p>After review of the FINTRAC Policy Interpretations re Accountants &amp; Accounting Firms, it was determined that a Policy Interpretation request on the fundamental issues of providing accounting services to the public and receiving, paying and transferring funds is necessary. A draft request will be prepared.</p>	<p>Michael Ecclestone to prepare a draft Request.</p>

Discussion	Action
<p><b>Other Business</b> <i>Marial Stirling</i></p> <p>A reminder to all AML &amp; ATF Committee members to sign the CPA Canada Code of Conduct and Intellectual Property Rights Agreement.</p>	<p>Forward signed copy to Marial.</p>
<p><b>Wrap-up &amp; Next Meeting Date</b></p> <p>The next meeting date is to be announced.</p>	

## Minutes / Procès-verbal

Committee/Study Group: Comité/Groupe d'étude:	<b>Anti-Money Laundering &amp; Anti-Terrorist Financing Committee (AML &amp; ATF)</b>	Attendees/ Membres présents:	Gene DiMira Bruce McMeekin Barry Hawn Monica Stark
Meeting Date/ Date de réunion:	Monday, July 20, 2015	Regrets / Regrets:	Michael Ecclestone
Chair / Président(e):	Matthew McGuire		
CPA Canada / CPA Canada:	Marial Stirling Gigi Dawe Cheryl Charbonneau, Recording Secretary, Minutes by Minute		

Discussion	Action
<p><b>Welcome and Approval of the Agenda and previous Minutes</b> <i>Matthew McGuire</i></p> <p>The Chair welcomed everyone to the teleconference Meeting of the Anti-Money Laundering &amp; Anti-Terrorist Financing (AML &amp; ATF) Committee.</p> <p>No changes were made to the Agenda.</p> <p>Motion to accept the Minutes of the Wednesday, March 4, 2015 AML &amp; ATF Committee Meeting as written by Bruce McMeekin. Approved.</p>	
<p><b>Proceeds of Crime and Terrorist Financing Alert</b> <i>Marial Stirling</i></p> <p>The Proceeds of Crime (Money Laundering) and Terrorist Financing—Know Your Obligations Alert written by Marial Stirling was shared with the Committee. This document is a reminder to the profession of their obligations with regards to the legislation and regulations. This Alert is scheduled to be published shortly.</p>	
<p><b>New and Proposed AML &amp; ATF Legislation</b> <i>Matthew McGuire</i></p> <p>The Committee reviewed the Proposed Amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2015 (PCMLTFA) to determine if they should provide a comment letter</p>	M. McGuire, G.

Discussion	Action
<p>and which areas to comment on. It was noted that other industry groups are responding to the proposed amendments. Each proposed amendment was discussed with agreement from the Committee to:</p> <ul style="list-style-type: none"> <li>• Not comment on the first section dealing with politically exposed persons, as this has little impact on Accountants.</li> <li>• Comment on the section about the identification of clients needs to be clarified and rewritten.</li> <li>• Comment on the section that reporting entities must assess and document the level of risk of its affiliates. It was suggested to request an exemption for accountants not participating in international money transactions.</li> <li>• Comment on Section 9 regarding the time frame for reporting suspect trading.</li> </ul> <p>After discussion the committee agreed to comment on the Proposed Amendments relating to the above areas by the deadline of Wednesday, September 2, 2015. Committee members will collaborate to provide comments on each section of the Proposed Amendments.</p>	<p>DiMira, and B. Hawn to draft comments on Sections 1 and 2. B.McMeekin and M. Stark will comment on Section 3.</p> <p>M. McGuire to circulate a timeline for completion of the letter.</p> <p>M. McGuire will have MNP assist with the translation service.</p>
<p><b>FINTRAC's New Risk-Based Approach Guidance</b> <i>Matthew McGuire</i></p> <p>This Guidance document was circulated to the Committee for information and discussion. The Six steps to the Risk-based approach are explained. More sector specific guidance will follow this document. Concerns were expressed that this is guidance but it is being treated as law. It is believed that accountants are in the medium to low risk sectors. It was noted that the Department of Finance will be releasing the National Threat Assessment regarding the money laundering threats and vulnerabilities in Canada.</p>	
<p><b>Proposed Changes to Finance AML &amp; ATF Public-Private Sector Advisory Committee (PPSAC)</b> <i>Matthew McGuire</i></p> <p>PPSAC has changed its participation structure so that members are representatives of an industry sector. Working groups will be formed to address particular issues to increase participation.</p>	<p>M. McGuire will continue to attend these Meetings as a representative of the AML &amp; ATF Committee of CPA Canada.</p>
<p><b>Further Discussion re: Name/Mandate of AML &amp; ATF Committee</b> <i>Marial Stirling</i></p> <p>Staff explained that further discussion was needed to clarify the mandate and scope of the AML &amp; ATF Committee. It was agreed to broaden the mandate to include Financial Crime such as Anti-Bribery and Corruption. The Terms of Reference will include that the Committee provides guidance in these areas to members and that information is accessible as a resource for any-sized firm.</p> <p>Members agreed that the scope of the mandate should expand to include financial crime, anti-bribery and corruption and sanctions and that the name of the Committee should reflect this expansion. An alternative name was not agreed upon.</p>	<p>Members to consider alternative names for the Committee.</p>

Discussion	Action
<p><b>CPA Canada's AML Webinar Questions</b> <i>Marial Stirling and Matthew McGuire</i></p> <p>In May 2014, CPA Canada presented a webinar on Compliance with Canada's Amended Anti-Money Laundering and Anti-Terrorist Financing Legislation. During this webinar there were over 125 questions submitted which suggests confusion and misconceptions in this area. The Committee was asked to consider how to prepare a response to these questions. It was agreed and determined that these questions could be worked into the Guide when the Act and regulations are updated. Members suggested that a follow-up webinar be planned on the obligations with an AML program. It was agreed that an annual update webinar should be arranged.</p>	<p>An annual webinar to update the members on the AML legislation.</p>
<p><b>Need for Clarifications from FINTRAC</b> <i>Matthew McGuire, Mike Eccelstone &amp; Bruce McMeekin</i></p> <p>The Committee reviewed the draft questions to FINTRAC for clarification of 2009 Policy Interpretation No. 32 to the FINTRAC policy application group. After discussion all members agreed to submit the request for policy interpretation with changes to question three (3).</p>	
<p><b>Professor B. Tupman's Comment re: Accountants</b> <i>Matthew McGuire</i></p> <p>The extract from Professor B. Tupman's comments to the House of Commons Committee on Finance regarding accountants as part of terrorist financing was shared with the Committee. The Committee would like to hear more explanation and evidence to support his comments. It was suggested that M. McGuire contact Professor B. Tupman and extend an invitation as a guest for the next Meeting to support his claim. It was also mentioned that he could share any materials in advance of the Meeting.</p>	<p>To contact B. Tupman to speak as a guest for the next meeting.</p>
<p><b>Submission to FATF</b> <i>Matthew McGuire, Mike Eccelstone &amp; Bruce McMeekin</i></p> <p>At the last Meeting, it was agreed to prepare a formal submission to the FATF prior to FATF's 2015 evaluation of Canada's accounting sector. The submission would address the effectiveness of Canadian legislation and FINTRAC with relation to money laundering and terrorist financing risk for accountants. The draft submission was reviewed and will be completed for September or October 2015.</p>	<p>M. McGuire, M. Eccelstone &amp; B. McMeekin to continue to work on this letter.</p>
<p><b>Other Matters</b> <i>Marial Stirling and Matthew McGuire</i></p> <p>The Blog – J. Bruce McMeekin Law on FINTRAC AMP was submitted for information of the Committee. Bruce McMeekin provided the background and summary of the guidance for accounting firms.</p> <p>Staff shared with the Committee that the recent Anti-Bribery and Corruption webinar had over 3,200 attendees with 85 questions submitted. Webinars are archived on the CPA Canada website and can be accessed by members through the professional development tab.</p>	
<p><b>Wrap-Up and Next Meeting Date</b></p> <p>The next Meeting date is to be determined.</p>	

# Alert

JULY 2015

## Proceeds of Crime (Money Laundering) and Terrorist Financing—Know Your Obligations

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), the regulator in charge of Canada's anti-money laundering and anti-terrorist financing (AML & ATF) regime, has indicated to the Chartered Professional Accountants of Canada (CPA Canada) that the accounting sector's AML & ATF compliance efforts require improvement.

CPA Canada's AML & ATF Committee is, therefore, issuing this Alert to remind reporting entities (accountants and accounting firms) of their obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* and its Regulations when they engage in certain activities. The Committee is providing additional guidance in this Alert based on the results of FINTRAC's past examinations of accountants and accounting firms.

FINTRAC has also issued guidance and policy interpretations to assist the accounting sector in applying the legislation in practice. Responsibilities include client identification, record keeping, reporting and a compliance program.

The AML & ATF regime faces many challenges in its fight against money laundering and the financing of terrorists. The accounting sector plays a very important role in this battle given the nature of its work. The sector's adherence to the legislative requirements to the fullest extent possible will, therefore, contribute to the detection and deterrence of money laundering and terrorist financing.

## Consequences of Non-Compliance

FINTRAC has the authority to conduct examinations and issue administrative and criminal penalties against reporting entities when it identifies non-compliance. The severity of the penalties is proportional to the significance of the non-compliance. Administrative penalties for single violations can be imposed up to C\$500,000 in very serious cases. Where there is significant or repetitive non-compliance, the range for criminal penalties can be up to a maximum of C\$2 million and/or five years imprisonment depending on the type of failure.

In light of the significance of the potential sanctions, accountants and accounting firms must understand and comply with their AML & ATF obligations.

## Key AML & ATF Obligations

In order to determine whether you have obligations under the AML & ATF legislation, first review the definition of ‘accountant’ and ‘accounting firm.’ If you fall within the definition, then assess whether any of your activities is considered a ‘triggering activity’ (including the receiving, paying or transferring of funds; purchasing or selling real property, business assets or entities; or purchasing, transferring or selling securities). If so, evaluate whether you fall into one of the following exemptions in which case you are under no obligation to comply with the legislative requirements:

- an accountant performing all triggering activities on behalf of an employer
- an accountant or accounting firm performing all triggering activities in respect of an audit, review or compilation engagement
- an accountant or accounting firm acting solely in the capacity of a Trustee in Bankruptcy

If you have obligations because you are an accountant or accounting firm that engages in a triggering activity, the AML & ATF requirements for the accounting sector are summarized below, including amendments to the legislation with an effective date of February 1, 2014 (also see **Further Information** below for more guidance):

1. Maintain the required records and file the appropriate FINTRAC forms and reports when you:
  - receive funds of C\$3,000 or more (maintain a Receipt of Funds Record and perform proper client identification)
  - receive funds of C\$10,000 or more in cash (maintain a Large Cash Transaction Record, perform proper client identification and file a Large Cash Transaction Report)
  - have reasonable grounds to suspect money laundering or terrorist financing – a suspicious activity or transaction (file a Suspicious Transaction Report)
  - have knowledge of terrorist property (file a Terrorist Property Report and inform the RCMP and CSIS immediately)
2. Recognize the establishment of a ‘business relationship’ with any client for which two or more transactions (triggering activities) are performed involving the creation of a Receipt of Funds Record and the filing of a Large Cash Transaction or Suspicious Transaction Report within any rolling five-year period. The purpose and intended nature of the business relationship must be documented. The business relationship must also be monitored on an ongoing basis to keep client identification information current, detect suspicious transactions and reassess client risk levels.

3. Designate an AML & ATF Compliance Officer with the appropriate qualifications, experience and up-to-date knowledge to be accountable for the entity's AML & ATF compliance program.
4. Develop and maintain a money laundering and terrorist financing risk assessment and risk mitigation plan. While the legislation prescribes measures for higher risk activities, FINTRAC does not prescribe, as part of its risk-based approach, a particular form of risk assessment.
5. Develop and keep up-to-date, written AML & ATF compliance policies and procedures. These should be tailored to reflect the risks associated with the reporting entity.
6. Develop and maintain an ongoing AML & ATF training program.
7. Ensure that an effectiveness review/self-assessment is performed and documented every two years to assess the effectiveness of the compliance regime's risk assessment, policies and procedures and training program. The results should be reported to a senior officer within 30 days of the review.

CPA Canada urges the accounting sector to follow the regulatory requirements indicated above. Based on the results of past regulatory examinations conducted by FINTRAC, it is particularly important to focus on and improve performance in the following two key areas to achieve better AML & ATF compliance:

1. mandatory two year effectiveness reviews
2. risk assessment and effective risk mitigation plans

Enhanced emphasis in those two areas is essential for accountants and accounting firms to fulfill their obligations and participate effectively in the struggle against money laundering and terrorist financing.

## Further Information

Additional detailed guidance on how accountants and accounting firms can comply with AML & ATF requirements, sample forms for internal record-keeping and questionnaires are available in CPA Canada's 2014 publication *A Guide to Comply with Canada's Anti-Money Laundering (AML) Legislation*.<sup>1</sup> The Guide also contains reproductions of FINTRAC forms in place at the time of publication (please refer to FINTRAC's website at [www.fintrac-canafe.gc.ca](http://www.fintrac-canafe.gc.ca) for the most current versions of the forms).

<sup>1</sup> CPA Canada's AML compliance guide is available at: [www.cpacanada.ca/en/business-and-accounting-resources/strategy-risk-and-governance/corporate-governance/publications/new-anti-money-laundering-guide-2014](http://www.cpacanada.ca/en/business-and-accounting-resources/strategy-risk-and-governance/corporate-governance/publications/new-anti-money-laundering-guide-2014)

### DISCLAIMER

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Innovation, Science and  
Economic Development Canada

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Développement économique Canada

Canada

# CORPORATIONS CANADA

Register of individuals with significant control



# AGENDA

- Objectives and corporations affected
- Defining ISC and ISC Register
- Access to the ISC Register and penalties
- Regulations and guidance materials
- Feedback

Note: Any information provided by Corporations Canada is not intended to be a substitute for legal advice.

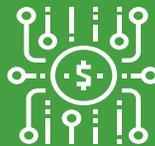


# OBJECTIVES

- [CBCA corporations](#) are required to create and maintain a Register of individuals with significant control (ISC Register)
- Knowing who controls a corporation



Increases  
transparency of who  
owns or controls  
corporations



Assists investigative  
bodies in exposing  
activities, like money  
laundering and tax  
evasion



Helps Canada meet its  
international  
obligations



# CORPORATIONS AFFECTED

- *Budget Implementation Act, 2018, No. 2* (Bill C-86) made amendments to the CBCA obligations that apply to all CBCA corporations, except
  - reporting issuers
  - corporations listed under a designated stock exchange as defined by the *Income Tax Act*
- Amendments in force on June 13, 2019

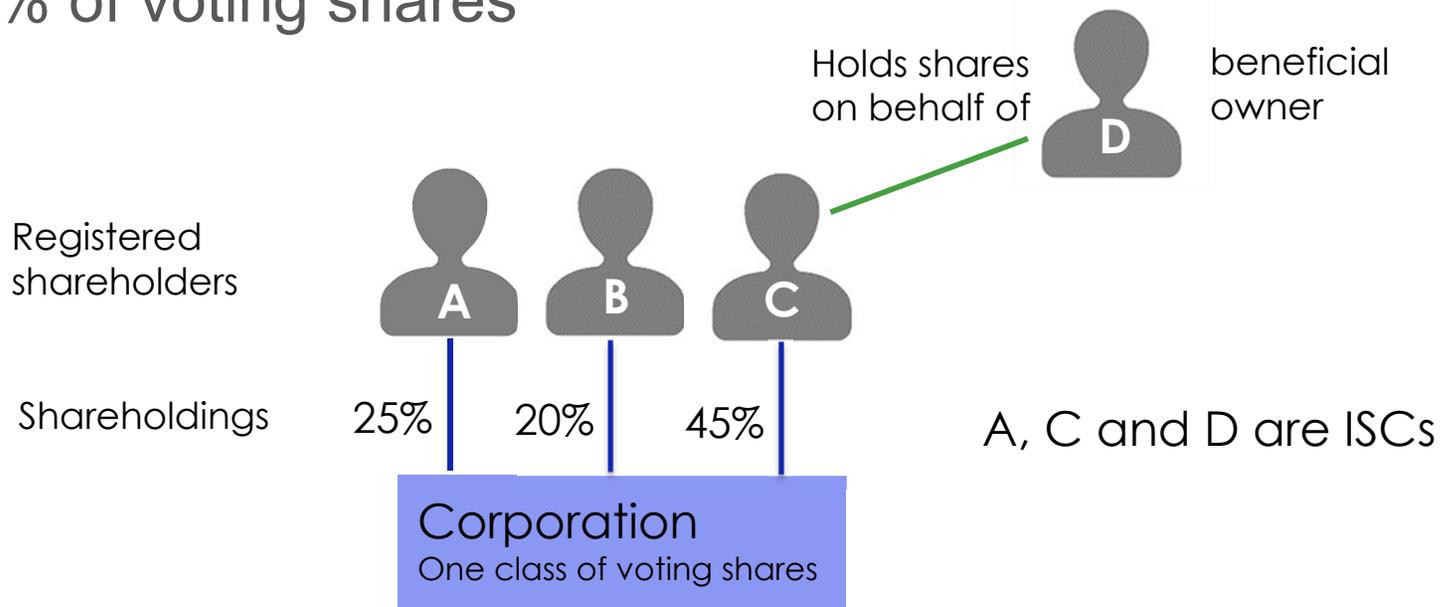


# DEFINING ISC AND ISC REGISTER



# WHAT IS AN ISC

1. An individual who directly or indirectly owns at least 25% of voting shares



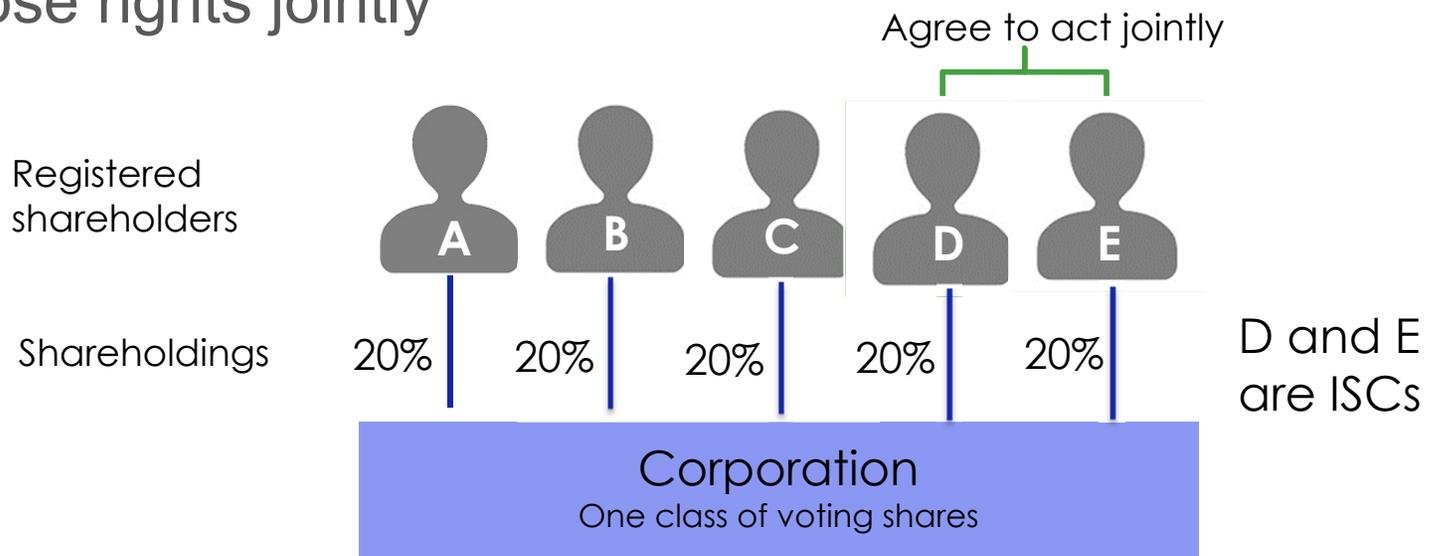
# WHAT IS AN ISC (cont'd)

2. An individual who directly or indirectly owns at least 25% of all shares measured by fair market value
  - Where there are more than one class of shares
3. An individual who has direct or indirect control or direction of at least 25% of voting shares or of all shares measured by fair market value
4. An individual who has any direct or indirect influence that would result in control in fact of the corporation



# WHAT IS AN ISC (cont'd)

- 5. Two or more individuals who jointly hold an interest described in 1 to 4 or have an agreement to exercise those rights jointly



# ISC REGISTER

- Document that contains the required information about individuals who have significant control over the corporation



Name, date of birth and last known address



Jurisdiction for tax purposes



Date on which the individual became and ceased to be an ISC



Description of how the individual meets the definition of significant control

- Register is to be kept with the other corporate records
- [Model template is available](#)



# STEPS TO CREATE AN ISC REGISTER

1. Corporation contacts its registered shareholders and asks for information so that it can determine who is an ISC
2. Corporation determines who else it may need to contact for information
3. After determining who is an ISC, the corporation records their information in the Register



# REASONABLE STEPS TO MAINTAIN

- Corporations must take reasonable steps once a year to update the information in the ISC Register



☑ Contact ISCs and ask if their information has changed



☑ Contact registered shareholders who are not ISCs and ask for information so that it can determine who is an ISC



☑ After determining if there are any new ISCs or if there is a change in the information in the Register, the corporation records that information



# ACCESS TO THE ISC REGISTER AND PENALTIES



# ACCESS TO THE ISC REGISTER

- Corporations must provide any information requested by Corporations Canada
- Shareholders and creditors can access the information with an affidavit and restrictions on the use of the information
- The public does not have access to the information



# ACCESS TO THE ISC REGISTER – INVESTIGATIVE BODIES (PROPOSED)

- *Budget Implementation Act 2019 No. 1* (Bill C-97) was tabled April 8, 2019 – not yet approved by Parliament
- Provides investigative bodies\* with warrantless access to the ISC Register when information is needed for investigative purposes related to offences in the Schedule to the CBCA
- Corporations receiving a request must respond as soon as feasible

\* Investigative bodies are defined to be any police force, or CRA and its provincial equivalents



# PENALTIES

	CORPORATION	DIRECTORS AND OFFICERS	SHAREHOLDERS
Offence	<ul style="list-style-type: none"> <li>Fails to meet the ISC Register requirements without reasonable cause</li> <li>Fails to meet request from investigative body</li> </ul>	Knowingly: <ul style="list-style-type: none"> <li>Fail to prepare and maintain the ISC Register or meet request from investigative body</li> <li>Allow false or misleading information to be recorded in the ISC Register</li> <li>Allow false or misleading information to be provided to any person or entity</li> </ul>	Knowingly fail to meet their obligations regarding the ISC Register
Fines	Up to \$5,000	Up to \$200,000	Up to \$200,000
Imprisonment	N/A	Up to 6 months	Up to 6 months



# REGULATIONS AND GUIDANCE MATERIAL



# REGULATIONS

- No regulations will be in place for June 13, 2019
- There is regulatory authority that allows us to:
  1. Identify a class of corporations that would be exempt from having to create and maintain an ISC Register
  2. Set out steps to take if a corporation is not able to identify any ISCs
  3. Prescribe the form of the Register
  4. Set out steps for updating ISC Register



# GUIDANCE MATERIAL

- Guidance material primarily targets small private corporations trying to meet their obligations without professional help

→ **70%** of corporations fall under this category



Initial information is available on the website



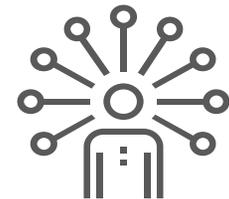
Information will be added and modified as project progresses, and based on feedback



# FEEDBACK

- We would welcome feedback and suggestions on
  - guidance already released  
<http://corporations.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08216.html>
  - additional material that could assist your client corporations in meeting their obligations
  - what regulations could help.

To reach us: [IC.corporationscanada.IC@canada.ca](mailto:IC.corporationscanada.IC@canada.ca)



# New beneficial ownership rules are coming in June. Are you ready?

*Bruce Ball, FCPA, FCA, CFP*

*April 9, 2019*

A host of measures to fight money laundering and improve corporate transparency will impact accountants. CPA Canada and the federal government have teamed up to prepare CPAs for beneficial ownership rules. Learn more [here](#).



The federal government has made changes to the Canadian Business Corporations Act that may affect many Canadian accountants and others who need to maintain information on beneficial ownership starting June 13 or face stiff penalties. The

changes are part of a suite of amendments to federal legislation and regulations aimed at combating anti-money laundering and corruption. The federal beneficial ownership rules will affect corporations governed by the CBCA.

CPA Canada and the federal government have teamed up to prepare Canadian CPAs for changes to comply with requirements for new beneficial ownership registers – which is the first major new requirement to come into force.

There has been a huge demand among our CPA members for Corporations Canada's info and feedback sessions on the Register of Individuals with Significant Control (<http://corporations.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08216.html>).

For those who would like to see first-hand what was presented at these sessions, Corporations Canada has made a recording (</-/media/site/operational/tx-taxation/docs/02127-tx-corporcanadarecording-en.pptx?la=en&hash=90303A46BAA422E690C4E5F5ED8D79FF3C2602A6>) available to all CPA members.

Now you have the option to learn some key takeaways on the ISC Register from Corporations Canada on your own time and schedule.

### **To listen to the recording, just:**

- open the document (</-/media/site/operational/tx-taxation/docs/02127-tx-corporcanadarecording-en.pptx?la=en&hash=90303A46BAA422E690C4E5F5ED8D79FF3C2602A6>) (.pptx)
- view the presentation in Slide Show mode
- advance to the next slide as prompted by the speaker

If you have any further questions or issues viewing the presentation, feel free to email Corporations Canada ([mailto:IC.corporationscanada.IC@canada.ca?subject=Beneficial ownership rules](mailto:IC.corporationscanada.IC@canada.ca?subject=Beneficial%20ownership%20rules)).

### **Update: Additional live sessions on beneficial ownership**

Corporations Canada will be holding two more live sessions on **June 4 and June 6** for CPAs. Use password **CPA123** to register.

ISC Register Info and Feedback Session (<https://www.eventbrite.com/e/isc-register-101-and-feedback-session-english-june-4-tickets-60838082342>) (June 4, 1pm - 2:30pm EDT)

[ISC Register Info and Feedback Session \(https://www.eventbrite.com/e/isc-register-101-and-feedback-session-english-june-6-tickets-62594698428\)](https://www.eventbrite.com/e/isc-register-101-and-feedback-session-english-june-6-tickets-62594698428) (June 6, 1pm - 2:30pm EDT)

Beneficial ownership registers offer better corporate transparency which is a necessary ingredient to strengthen Canada's anti-money laundering regime. Internationally and at home, CPA Canada has been working closely with the federal government and through IFAC and other international efforts to combat anti-money laundering and corruption.

The new beneficial ownership information requirements for federally incorporated companies were passed into law in December 2018 and will become effective June 13, 2019. They are just one set of legislative changes the government plans to introduce. Others were announced in the federal budget on March 19 and if tabled in a bill this session, new measures could also be passed into law by this June.

Corporations will need to maintain a register of information on individuals having significant control over it. Given the nature of the information to be collected and maintained, it will likely be CPAs, along with lawyers and corporate secretaries, who are tasked with helping their clients or employers deal with the recordkeeping requirements.

Corporations and their individual directors, officers and shareholders can also be held accountable for non-compliance, and the penalties for non-compliance are harsh.

It is important that all CPAs are aware of changes occurring in this area both within Canada and internationally. You can find additional information in the May edition of PIVOT, where an expert panel discusses white-collar crime and anti-money laundering efforts; in the January edition where a [column \(/en/news/pivot-magazine/2019-01-04-bruce-ball-beneficial-ownership\)](/en/news/pivot-magazine/2019-01-04-bruce-ball-beneficial-ownership) lays out what Ottawa's corporate reporting overhaul means for CPAs; and on the CPACanada.ca website at the [AML policy webpage. \(/en/the-cpa-profession/about-cpa-canada/key-activities/public-policy-government-relations/policy-advocacy/other-policy-topics\)](/en/the-cpa-profession/about-cpa-canada/key-activities/public-policy-government-relations/policy-advocacy/other-policy-topics)

The provinces are expected to enact similar requirements for corporations formed under provincial statutes in the future based on joint federal-provincial agreements. On April 2, British Columbia was the first province to introduce its own legislation to require registers of beneficial ownership information for provincially incorporated companies.

Under the new CBCA rules, if an individual's interests or rights amount to 25 per cent or more of the voting rights, or 25 per cent or more of the fair market value (FMV) of shares, when compared with all of the corporation's outstanding shares, that individual will have significant control. On interests and rights, the rules refer to an individual who is the registered holder or beneficial owner, or has direct or indirect control over the shares. When two or more individuals are acting jointly or in concert, their holdings are combined and compared with these same rights and interest tests. Finally, when an individual has any direct or indirect influence over the corporation that results in control in fact, they are also deemed to have significant control.

Other than the simplest cases, such as where one individual owns a single corporation, these recordkeeping requirements could be quite complicated. In particular, the broad definition of "significant control" means you need to trace through a tiered corporate structure to identify which individuals ultimately hold interests and rights in shares. You then need to determine whether the holdings are significant. You also need to review the impact of a shareholders' agreement or other similar agreements.

Once those having significant control of a corporation are determined, the registry must include the following information for each of these individuals:

- their name, date of birth and address
- their jurisdiction of residence for tax purposes
- the day on which they became or stopped being an individual with significant control
- a description of how the individual has significant control over the corporation, including a description of any interests and rights they have in shares of the corporation
- a description of the steps the corporation takes to keep this registry up-to-date each year
- any other prescribed information

Adding to the burden, the registry needs to be reviewed and updated each fiscal year. If changes occur at other times in the year, the register must be updated accordingly within 15 days of the change.

## WHERE WILL COMPLICATIONS ARISE?

These rules will generally apply to private corporations, so the use of a value test will cause complications due to the use of shares other than common shares. In particular, complexity will arise for corporations that have issued fixed value preferred shares, which are a common tax, financial and succession planning tool. They typically have a first call on a corporation's value, with the rest of the value accruing among the common shareholders. So, unless the value of fixed value shares held by one individual is clearly above or below the 25 per cent threshold, the corporation as a whole will need to be valued and compared to the value of the fixed value shares.

Another complication may arise where a corporation has issued both voting and non-voting common shares. Valuations of private corporations for other purposes are done infrequently, if at all. And, on top of the need to value the corporation as a whole, it will also be necessary to value the specific classes of shares held by an individual.

More complications may stem from the rule requiring corporations to track the days when individuals start and stop being beneficial owners. This may be especially hard where shares or a particular class are near the recordkeeping threshold but fluctuate in value relative to the value of the corporation as a whole.

The complexity of complying with these rules will clearly rise with the complexity of the corporation's share structure. Further, starting with 2021 tax years, more requirements will take effect for trusts. These rules will require details on the identities of beneficiaries, settlors and trustees. Interaction of these rules with the recordkeeping rules for corporate beneficial owners will be especially complex for the many Canadian trusts that own shares of corporations.

## WHO CAN VIEW THE REGISTRY INFORMATION?

For owners of corporations, one key question is who will have access to the registry information. In a February 2018 Department of Finance Canada discussion paper, the federal government says it is thinking about creating a national registry of corporate information and suggests that it may consult on whether to make the registry public. The House of Commons Standing Committee on Finance agreed with the creation of a registry but recommended against public access.

These issues are up for debate in the future. For now, the CBCA changes in Bill C-86 only require corporations to maintain the required registry information. These corporate records will be available to the CRA and other regulators, such as bodies charged with dealing with anti-money laundering and other activities, under their

existing authority to request information. Of note in the recent federal budget, further amendments were proposed to the CBCA that will make the beneficial ownership records more readily available to tax authorities and law enforcement. The CBCA also states shareholder and creditors can have access to the information if some conditions are met.

## CPA CANADA SUPPORTS A BALANCED APPROACH

We raised some of these issues with Finance Canada in a May 2018 [submission](https://www.fin.gc.ca/consultresp/amlatfr-rpcfata/mlatfr-rpcfata-17.pdf) (<https://www.fin.gc.ca/consultresp/amlatfr-rpcfata/mlatfr-rpcfata-17.pdf>). Our submission highlights our support for corporate information requirements that improve transparency and consistency across jurisdictions. However, we also caution against new requirements and expectations that may be duplicative or confusing, especially where elements of key information may already be available to other parts of government such as through the tax system.

We also suggest undertaking a risk assessment to weigh the projected benefits of the new rules against the expected costs and regulatory burden on legitimate Canadian businesses and their owners. Further, CPA Canada agrees with the concepts, cited in Finance Canada's discussion paper, of maintaining the balance between deterring and detecting money laundering and terrorist financing, and improving corporate transparency while respecting the constitutional and privacy rights of Canadians.

A number of other countries have adopted or are adopting similar beneficial ownership regimes. We believe that analyzing the strengths and weaknesses of these regimes would help ensure that successes and lessons learned are applied in Canada

## WHAT SHOULD BE DONE TO GET READY?

Development of the pan-Canadian framework bears watching, but, for CPAs, the immediate concern is determining how to help clients and employers comply with the CBCA requirements coming into effect in June.

It is CPAs who will have a hand in this complex recordkeeping and should act now to ensure they are ready when the rules for corporations take effect. Corporations should begin notifying shareholders of the new requirements, and a process should be put in place to track and maintain the required information. We will continue to monitor developments and keep you informed on emerging issues of importance for you.

## **CPA CANADA COVID-19 UPDATES**

[\(/EN/MEMBERS-AREA/PROFESSION-NEWS/2020/MARCH/CPA-CANADA-CORONAVIRUS-UPDATES\)](#)

*July 20, 2020*

CPA Canada is carefully monitoring COVID-19 for any new developments relating to its impacts. Be sure to check this page on a regular basis.

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# KEEP THE CONVERSATION GOING

Have you come across any additional issues that may affect CPAs as they cope with the new beneficial ownership recordkeeping rules? You can keep the conversation going by posting a comment below.

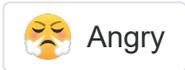
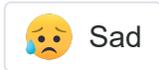
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## HIGHLIGHTS

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# Anti-Money Laundering and Terrorist Financing Update

MICHELE WOOD-TWEEL, VP REGULATORY AFFAIRS

SEPTEMBER 2, 2020



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# Presentation Topics

- 1) Strengthening Canada's Anti-Money Laundering and Terrorist Financing (AMLTF) regime - background and context
- 2) Recent activity and developments of interest 2016-2020
- 3) Overview of Beneficial Ownership
- 4) Amendments to PCMLTFA Regulations
- 5) Legislation, Regulations and FINTRAC Resources
- 6) COVID-19 Evolving MLTF Risks
- 7) Closing Thoughts, Questions?

# 1) Background and context for strengthening Canada's Anti-Money Laundering and Terrorist Financing (AMLTF) regime

# Strengthening Canada's AMLTF regime: Background

- Financial Action Task Force (FATF) 2016 Mutual Evaluation Report on Canada noted deficiencies
  - FATF is a global money laundering and terrorist financing watchdog and is the inter-governmental body setting international standards
- Canada's reputation at risk: US State Department's Report on Money Laundering identifies Canada as a "Major Money Laundering Jurisdiction"
- July 2020 Basel AML Index: independent annual ranking assessing the risk of MLTF around the world – Canada ranked 94th/141 countries on a highest to lowest risk scale

# Strengthening Canada's AMLTF Regime: Context

- Money Laundering is global – “professional” launderers seek system gaps and stable economies and financial systems
- Money launderers may involve other unwitting individuals, including professionals, or organizations in what may be a series of events or transactions designed to conceal the illicit intent
- 70% of money laundering utilizes corporations
- FINTRAC reports most disclosure packages issued in 2018-2019 were regarding Ontario, British Columbia and Alberta
- FINTRAC reports top three underlying offences related to financial intelligence disclosures in 2018-2019 were: 32% Fraud, 30% Drugs and 11% Tax Evasion

## 2) Overview of Recent Activity and Developments of Interest

# Overview of Recent Activity and Developments of Interest 2016-17

2016 FATF report on Canada noted deficiencies including

- Beneficial Ownership
- Lawyers and law firms not Reporting Entities
- Additional requirements should apply to sectors including Accountants

Public-Private sector committees formed by federal Department of Finance

- Advisory Committee on MLTF
- Legislation and Regulation subcommittee
- Guidance, Policy and Interpretation working group

# Overview of Recent Activity and Developments of Interest 2018

- Department of Finance consultation paper considered “green paper” issued – signals change such as Beneficial Ownership (BO)
- Parliament’s Standing Committee on Finance makes 32 recommendations from its review of Canada’s AMLTF legislation, some applicable to accounting profession such as:
  - Government should consider implementing a body similar to UK’s Office of Professional Body Anti-Money Laundering Supervision regarding Canadian self-regulated professions
- Federal and Provincial Finance Ministers publicly address BO

# Overview of Recent Activity and Developments of Interest 2019

- Proceeds of Crime(Money Laundering) and Terrorist Financing Act (PCMLTFA) Regulations overhauled – most changes effective June 1, 2021
- CBCA private companies required to keep BO registers – direct potential impact to CPAs in a variety of roles
- FATF updates Risk Based Approach Guidance for Accountants
- BC commissioned four reports dealing with money laundering and launches the Cullen Commission to review Money Laundering, make findings of fact and recommendations for sectors including the accounting profession

# Overview of Recent Activity and Developments of Interest 2020

Momentum building for BO register requirements for all private companies – significant change for corporate Canada

Intense analysis taking place federally and provincially regarding publicly accessible registry(ies)

Cullen Commission begins formal hearings in February, continues May-June and will reconvene October 2020 – April 2021

PCMLTFA Regulations further revised – additional changes effective June 1, 2021

# 3) Overview of Beneficial Ownership

# What is Beneficial Ownership

- Who *really* owns and/or controls an asset or entity and it means
  - Looking through share structures
  - Looking through corporate structure
  - Looking through trust structure
  - Looking for ultimate control that may not be by way of ownership
  - Looking behind nominees
- Not (easily) knowing who really owns and/or controls an asset or entity allows for privacy or secrecy that may be law abiding and legitimate, or not...

# Beneficial Ownership – Why it Matters

- 2016 FATF Report indicated concerns
- Canada's lack of Beneficial Ownership transparency is being used by criminals to evade tax and launder dirty money from crimes including human trafficking, illicit drugs and firearms
- Recall: Majority of money laundered (70%) occurs using corporations
- Lack of transparency has created a risk to our society, businesses, global reputation and international partners

# What does Increased Beneficial Ownership Transparency do?

- It allows authorities to identify and charge for crimes committed
- It allows for authorities and others such as those participating in the AML/TF regime to prevent crime
- It allows for authorities and others such as those participating in the AML/TF regime to prevent the proliferation of dirty money in a financial system and an economy
- It allows a country to join other international jurisdictions in the prevention, detection and prosecution of crimes including MLTF

# New Canadian Beneficial Ownership Rules

A recent change to the Canada Business Corporations Act (CBCA) in support of AML legislation:

- 1) As of **June 13, 2019** all **CBCA corporations** required to create and maintain a list of individuals with *significant control*.
  - *Significant control is 25% of the Voting or Fair Market Value (FMV) of shares, held directly or indirectly by an individual.*
  - Penalties for non-compliance
  
- 2) Starting with **2021 tax years**, trusts have new requirements including the need to detail the identities of beneficiaries, settlors and trustees
  
- 3) Provincial legislative and consultative developments ongoing

## New Beneficial Ownership Rules: Implications

New rules are expected to improve corporate transparency to help combat money laundering and tax evasion

Requirements will have implications for CPAs who own, govern or operate a private company; Members in public practice and industry need to be aware

Publicly accessible Beneficial Ownership information in Canada is a potential near term development

May 2020 International Federation of Accountants (IFAC) and CPA Canada released *APPROACHES TO BENEFICIAL OWNERSHIP TRANSPARENCY: The Global Framework and Views from the Accountancy Profession* <https://www.ifac.org/knowledge-gateway/contributing-global-economy/discussion/approaches-beneficial-ownership-transparency-global-framework-and-views-accountancy-profession>

# 4) Amendments to PCMLTFA Regulations

# Amendments to PCMLTFA Regulations: Background

July 2019, wide-ranging amendments were made to PCMLTFA Regulations – *most changes are effective June 1, 2020*

June 2020, additional specific amendments were made to the Regulations – *most changes are effective June 1, 2020*

These amendments to the Regulations strive to align Canada's AMLTF regime with international standards set by FATF, level the playing field of Reporting Entities and strengthen the regime

Federal Department of Finance has indicated the AMLTF Regime must be continually updated to respond to emerging risks and evolving international standards

## Highlights of Regulation Changes Include:

- Suspicious Transaction Reports (STRs) – timing for filing changed to as soon as practicable – April 2020 STR guidance issued by FINTRAC <https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/Guide2/2-eng>
- Large Cash Transactions – transactions made over a 24-hour period now aggregate – required to report when C\$10,000 or more
- Virtual Currency – Numerous changes including VC dealers must now register with FINTRAC

## Highlights of Regulation Changes Include:

- Identification – document used to verify ID was required to be “original, valid and current” changed to “authentic, valid and current”
- Expanded obligations for Accountants and Accounting Firms to ascertain and take reasonable measures to confirm beneficial ownership information when required to verify the identity of an entity
- Requirements concerning domestic or foreign Politically Exposed Persons (PEP), Head of an International Organization (HIO) or a close associate or family member of a PEP now applicable to Accountants and Accounting Firms

# 5) Legislation, Regulations and FINTRAC Resources

# Legislation, Regulations and FINTRAC Resources

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

<https://laws-lois.justice.gc.ca/eng/acts/P-24.501/>

**FINTRAC guidance:**

<https://www.fintrac-canafe.gc.ca/guidance-directives/1-eng>

FINTRAC guidance is provided to help individuals and entities understand their obligations under the PCMLTFA and associated Regulations, including how one may be assessed in an examination.

FINTRAC is updating its guidance materials for the amended Regulations and new information appears frequently, so be sure to check back regularly

# 6) COVID-19 Evolving MLTF Risks

# COVID-19 Evolving MLTF Risks

- Pandemic's disruptive force has interrupted and changed the plans of those with MLTF objectives
- FATF reports increased risks and threats for MLTF that are expected to continue in the pandemic period
- New vulnerabilities have been created through the disruption and health and economic challenges
- Those with MLTF objectives are finding new opportunities

# COVID-19 Evolving MLTF Risks

Examples of potential MLTF Risks during Covid-19 include:

Laundering of ill-gotten funds from government pandemic programs

Stockpiling of cash because of border/travel restrictions that may be redeployed through otherwise legitimate businesses suffering severe economic challenges and in need of financing

Laundering of ill-gotten funds obtained through increased cyber activities such as identity theft, Business Email Compromise etc.

## COVID-19 Evolving MLTF Risks

New global, jurisdictional and sector MLTF risks during the pandemic period require awareness and understanding

Reference should be made to relevant and local sources for updates on risk such as FINTRAC's Special Bulletin on COVID-19: Trends in Money Laundering and Fraud

<https://www.fintrac-canafe.gc.ca/intel/operation/covid-eng>

FATF Webinars provide a global perspective: *COVID-19 and the Changing Money Laundering and Terrorist Financing Risk Landscape and The Impact of COVID-19 on the Detection of Money Laundering and Terrorist Financing*

<http://www.fatf-gafi.org/publications/fatfgeneral/documents/covid-19-webinars.html>



# Closing Thoughts, Questions?

## Thank you!

## Media Release / Communiqué

### **CPA Canada offers input to better support federal government in fight against money laundering and terrorist financing**

**TORONTO, May 7, 2014** – Chartered Professional Accountants of Canada (CPA Canada) today reiterated its support to help the federal government deter money laundering and the financing of terrorist activities.

Matthew McGuire, chair of CPA Canada’s Anti-Money Laundering Committee, was in Ottawa appearing before the Senate Committee on Banking, Trade and Commerce. He addressed proposed amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

“Canada’s professional accountants are committed to working with the federal government in the fight against money laundering and organized crime,” said McGuire, who also is a partner and national anti-money laundering practice leader for MNP LLP, the sixth largest public accounting firm in the country.

His presentation suggested that the regulations of the Act be broadened to cover professional accountants performing work in Canada but who are not among those provincially regulated, especially when it comes to obligations relating to money laundering risks.

He also raised the need for Canada to align its anti-money laundering legislation with recent recommendations by the Financial Action Task Force. McGuire said this should be done prior to the next mutual evaluation with the international organization,

In addition, he called for better information sharing relating to the outcomes of Suspicious Transaction Reports submitted by accountants, financial institutions and other organizations to the Financial Transaction and Reporting Analysis Centre of Canada, the country’s financial intelligence unit.

McGuire also requested greater clarity around regulations that will support laws relating to ministerial countermeasures.

“We are concerned about the practical extent to which systems and processes can be designed to adhere to them, and the agility required of professional accountants,” noted McGuire. “We would like sufficient lead time for compliance with the directives.”



He added that the government faces a difficult balancing act.

“We understand the balance that must be struck between reporting and record-keeping and identification requirements that properly deter and detect money laundering and terrorist financing activities,” explained McGuire. “However, we need to ensure that the measures being imposed address material risks and have a chance at being effective, without causing undue burden to legitimate transactions conducted in the private sector.”

### **About CPA Canada**

CPA Canada is the national organization established to support unification of the Canadian accounting profession under the Chartered Professional Accountant (CPA) designation. It was created by the Canadian Institute of Chartered Accountants (CICA) and The Society of Management Accountants of Canada (CMA Canada) to provide services to all CPA, CA, CMA and CGA accounting bodies that have unified or are committed to unification. As part of the unification effort, CPA Canada and the Certified General Accountants Association of Canada (CGA-Canada) are working toward integrating their operations this year. Unification will enhance the influence, relevance and contribution of the Canadian accounting profession both at home and internationally. [www.cpacanada.ca](http://www.cpacanada.ca)

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For more information or to arrange an interview, contact:  
Tobin Lambie, principal  
CPA Canada  
(416) 204-3228  
[tlambie@cpacanada.ca](mailto:tlambie@cpacanada.ca)

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# CPAs: International crime fighters

*Joy Thomas, MBA, FCPA, FCMA, C. Dir.*

*June 14, 2017*

When you think of a global network of crime fighters, you probably don't immediately think of accountants. But you should.



Recently, the International Federation of Accountants (IFAC) released a study titled [“The Accountancy Profession — Playing a Positive Role in Tackling Corruption.”](https://www.ifac.org/system/files/publications/files/IFAC-The-Accountancy-Profession-Playing-a-Positive-Role-in-Tackling-Corruption.pdf) (<https://www.ifac.org/system/files/publications/files/IFAC-The-Accountancy-Profession-Playing-a-Positive-Role-in-Tackling-Corruption.pdf>) It was the third part in IFAC's look at the importance our profession plays in society.

The key finding in this report is that where a country's governance architecture is stronger, the role played by professional accountants in tackling corruption is amplified. Professional accountants — with their focus on ethics, education and

oversight — are instrumental in fighting crime worldwide.

It's a truth that we here at CPA Canada have known for a long time, but it's great to have studies such as this confirm it.

Chartered Professional Accountants of Canada has more than 210,000 members — and we are all part of a growing global community of some three million professional accountants. Each of us, no matter where in the world we are, play a part in fighting corruption and creating a global culture of good governance.

Others in the business community and government play a critical role in this fight, but we at CPA Canada know that we must continue to play a leadership role.

Corruption eats away at economies and to stop it we need cross-sector collaboration — something that CPAs have excelled at for decades. Among the examples of recent collaboration is CPA Canada's work on various government committees and panels. These include:

- The Advisory Panel on Canada's System of International Taxation
- The minister's Underground Economy Advisory Committee
- The CRA-CPA Canada Framework Agreement
- Finance Canada's Public/Private Sector Advisory Committee on Anti-Money Laundering/Anti-Terrorist Financing

But more than serving on panels and committees, being a CPA means we are committed — in everything we do — to a higher level of integrity. Integrity plays a critical role in combatting corruption and assists in cultivating long-term sustainable growth. It represents the Canadian ideal of good business: the focus on both business and social development to create a stronger economy.

At CPA Canada, we are also committed to equipping our members with the latest skills and knowledge required to stay ahead of fraudsters. As the IFAC study notes, our profession's skills make accountants critically important in the fight against corruption. There is a strong link between the percentage of professional accountants in a country's workforce and more favourable scores (indicating a "cleaner" economy) on Transparency International's annual Corruption Perceptions Index.

And as my colleague Fayez Choudhury, CEO of the IFAC, says in his report, "In the fight against corruption, silence must never be the safer option for any individual. The accountancy profession, acting in the public interest, has supported this fight for decades — and we will continue to do so."

[\(/EN/MEMBERS-AREA/PROFESSION-NEWS/2020/MARCH/CPA-CANADA-CORONAVIRUS-UPDATES\)](#)

*July 20, 2020*

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### **COVID-19 INFORMATION RESOURCES**

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CPA Canada has put together resources to help manage your finances and provide you with the tools you need during this crisis – and beyond.

We here at CPA Canada will stand with our global colleagues in accounting — from Vancouver to Vienna to Volgograd — to continue to fight this important fight.

## KEEP THE CONVERSATION GOING

What are your thoughts on the IFAC report? Post a comment below.

### About the Author

#### **Joy Thomas, MBA, FCPA, FCMA, C. Dir.**

Joy is the president and CEO of CPA Canada, and a member of the National Steering Committee on Financial Literacy. Joy also serves as member of the board of directors of the International Federation of Accountants (IFAC) and is a board member of the Global Accounting Alliance, which she also chairs.

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What Ottawa's corporate reporting overhaul means for CPAs

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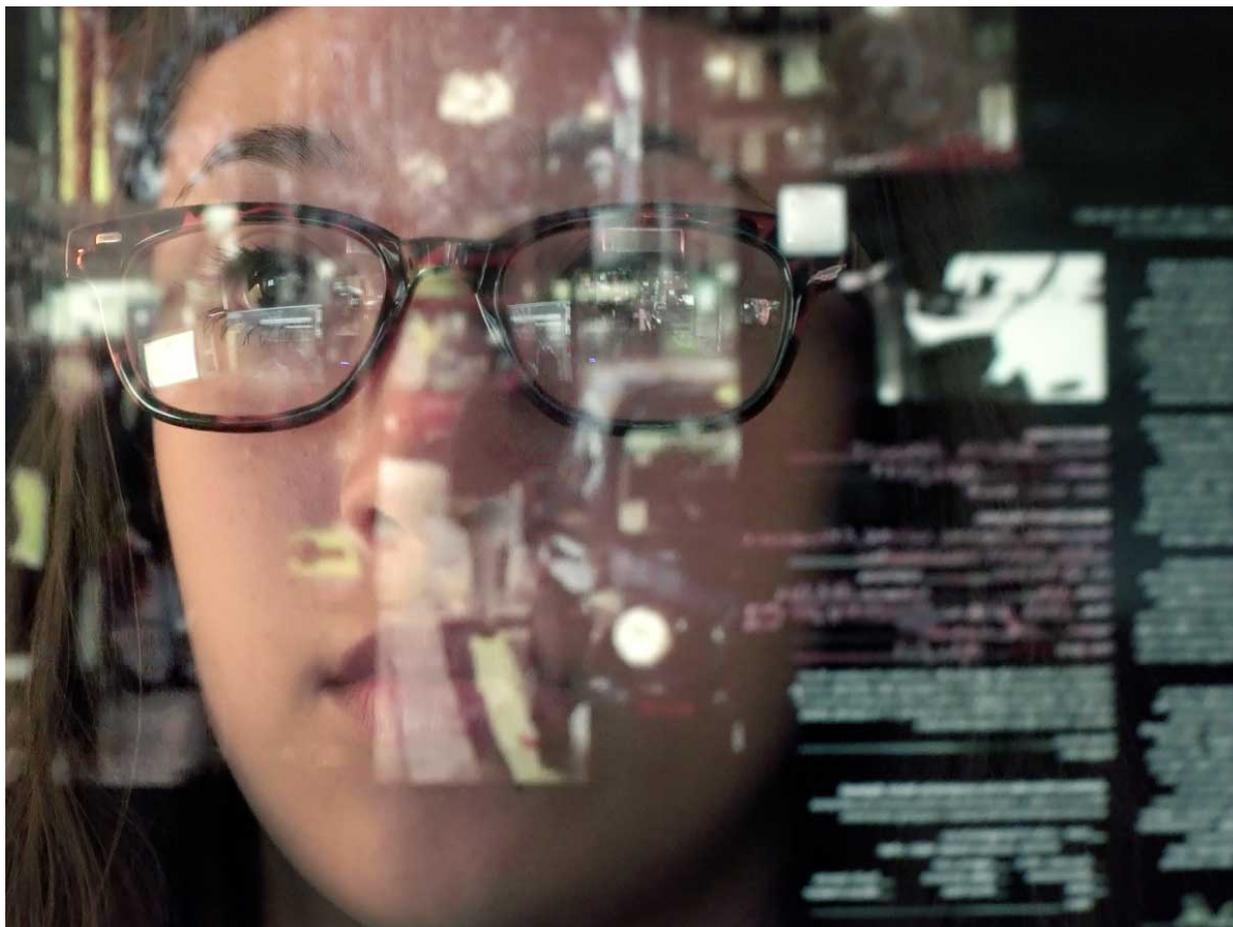
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## What Ottawa's corporate reporting overhaul means for CPAs

1.4.2019 | BRUCE BALL

Big changes are coming to corporate record-keeping requirements, but Ottawa still owes the profession some answers





*With such a dramatic shift in corporate ownership record-keeping requirements in the works, CPAs will have to pay particularly close attention to what's coming down the tracks (Laurence Dutton)*

In the annals of Canadian corporate record-keeping, the changes proposed to take effect July 1 may be among the most far-reaching in years. Strange, then, that the looming overhaul of Canada's corporate ownership record-keeping requirements to recognize "beneficial ownership" of corporations is getting so little attention.

During the past few years, governments around the world, Canada included, have moved to clamp down on money laundering, aggressive tax avoidance or outright evasion, and the financing of terrorist and other criminal activities. The 2016 Panama Papers investigation, which revealed a vast network of hidden and offshore financial activity, prompted many governments to address gaps and other issues. There's a lot of money at stake: estimates of Canada's so-called "tax gap"—the difference between the tax revenue governments expect to bring in, and what they actually receive—vary from \$6 billion to \$47 billion per year.

A federal government discussion paper released in February 2018 on improving Canada's anti-money laundering and terrorist financing regime identified a range of proposals, among them beneficial ownership information that would require recording and maintenance of precisely who has beneficial ownership of private corporations. This followed an agreement among federal and provincial finance ministers in December 2017 to pursue legislative amendments to their corporate statutes to ensure corporations hold accurate and current information on beneficial owners that will be available to law enforcement, tax and other authorities.

According to the paper, beneficial ownership refers to “the identity of the natural person who ultimately controls the corporation or entity, which cannot be another corporation or another entity.” With such a reference, it's all about giving tax and other authorities the tools to see through layers of corporations, or other entities such as trusts, in order to track down those people who ultimately control and benefit from these corporations.

Canadian governments may be missing out on up to \$47 billion in annual tax revenues.

More recently, federal Bill C-86\* was released in November 2018 and it contains changes to the Canadian Business Corporations Act to mandate the collection of beneficial ownership information. The key rule is a corporate requirement to maintain a registry of information on individuals who have interests, rights—or a combination of the two—in respect of a significant number of shares of the corporation. The number is deemed “significant” when an individual's interests or rights amount to 25 per cent or more of the voting rights, or 25 per cent or more of the fair market value of shares, when compared with all of the corporation's outstanding shares. The reference to fair market value may create concerns for many corporations. For example, it is common for private corporations to issue both common and fixed-value preferred shares. If determining the exact relative value of shares owned by each shareholder is required, this process could be both onerous and expensive if it is necessary to value the corporation as a whole to determine these values.

The draft legislation also had significant penalties that could apply if the corporation knowingly fails to maintain the register or if false information is provided or recorded. Shareholders themselves can also be liable if they knowingly fail to provide information or provide false information.

In another significant development in November 2018, the House of Commons Standing Committee on Finance made a number of recommendations, including the creation of a pan-Canadian beneficial ownership registry for all legal persons and entities, including trusts, who

have significant control over corporations. It also recommended that the proposed registry should not be available to the public. If the recommendation is adopted and filings must be made to disclose the beneficial ownership information for collection in a registry, common sense would dictate that corporations should be able to use their tax returns to report this information as opposed to a separate filing, to help minimize the compliance burden.

For some corporations, the exercise will be easy—for example, where a single corporation is owned by a single individual. For other structures, things could get a lot more complicated. An example would be corporations owned by multiple families who have corporate structures of their own. Overall, additional corporate accountability mechanisms are certainly important, but the compliance, as a general principle, shouldn't be too onerous, nor should it be excessively costly for corporations and their owners to satisfy the new rules.

For Canadian CPAs, the reality is that big changes aren't very far away.

As of late fall, practical guidance as to how to carry through with these requirements, as well as details on the extent of the reporting, was still outstanding, although the government did recognize last February that providing “clear, standardized direction” to corporations and their advisors will be crucial. What does seem clear is that a good deal of the responsibility for sorting out these matters will fall to the corporation's accounting and tax advisors.

One question you may be asking is how trusts fit into all of this. In addition to this initiative, similar requirements were introduced for trusts in the 2018 federal budget. Under this change, additional information such as the identity of beneficiaries, trustees and settlors will have to be reported for trusts beginning with the 2021 taxation year. As many trusts hold shares of private corporations, it will be crucial to ensure that the new set of reporting rules are coordinated so that compliance work is not duplicated.

Bruce Ball is vice-president, Taxation, at CPA Canada, leading a team of tax professionals that works to influence the development of an equitable, effective and efficient tax system in Canada, and to provide practical information and perspectives to members and the broader public. Prior to joining CPA Canada, he was national tax partner of BDO Canada LLP, an international trendsetter for Canadian CPAs, the reality is that the July 1, 2019, proposed implementation date isn't very far away, and there's still a great deal that needs to be done: clarifying the precise rules, issuing guidance from the government's perspective and developing processes to unearth all the beneficial ownership information that may be locked away in a complex, layered corporate structure for CPAs.

### About the Author

#### Bruce Ball

To stay up to date, check out CPA Canada's website regularly for news on changes as they become available. With such a dramatic overhaul of reporting and keeping requirements in the works, CPAs will have to get their feet back on the tracks.

*\*The federal budget will include significant changes to the Income Tax Act. The amendments will be effective for the 2019 tax year.*



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## **The most outlandish recent scams (</en/news/pivot-magazine/2020-09-28-latest-scams>)**

9.28.2020 | LUC RINALDI

A catalog of recent cons, including a U.S. college admission bribery scandal and fraudulent dog adoption shipping fees

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## **Pivot recommends: what to read and watch right now (</en/news/pivot-magazine/2020-09-25-pivot-recommends>)**

9.25.2020 | LARA ZARUM

A book about white collar crime, the story of a con man and Netflix shares its business philosophies

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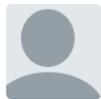


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9.30.2020 | LARA ZARUM

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How CPAs fight the flow of dirty money

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## How CPAs fight the flow of dirty money

1.7.2019 | JOY THOMAS

The more professional accountants in a country, the less corrupt it will be



*“CPA Canada is actively engaged with the federal government on potential changes to regulations and legislation aimed at strengthening Canada’s anti-money laundering efforts,” says Joy Thomas, president and CEO of CPA Canada. (Shutterstock/Canadadude3D)*

In the decade since the 2008 financial crisis, global fraud, money laundering and tax evasion have become top-of-mind concerns for governments, investors and regulators alike. And accountants make a huge difference in the fight against the torrent of dirty money, now estimated to be worth between two and five per cent of global GDP. According to a corruption study published in 2017 by the International Federation of Accountants (IFAC), the more professional accountants there are working in a country, the better it scores on Transparency International’s global integrity index.

The proportion of professional accountants in the economy—those who have subscribed to robust ethical, educational and oversight requirements—is three times more strongly linked with more favourable scores on international measures of corruption, than for individuals identifying as accountants but who may not have professional qualifications,” the study found.

The report’s key findings are worth noting, too: that corruption and money laundering are less likely to flourish in countries with a strong governance architecture that includes oversight from a range of entities, among them a robust accounting profession bound by ethical and regulatory standards.

CPA Canada is actively engaged with the federal government on potential changes to regulations and legislation aimed at strengthening Canada’s anti-money laundering (AML) efforts. Under federal AML legislation, accountants and accounting firms are reporting entities with specific regulatory requirements when they engage in certain activities.



*Joy Thomas (Photo by Matt Barnes)*

Canada is not immune when it comes to corruption and money laundering, critical issues that are drawing increasing focus both from Canadian authorities and international forums, such as the G20 and the B20. After all, corruption, fraud, tax evasion and money laundering are international activities that also generate knock-on effects in other countries, including Canada.

[Carol Bellringer \(/en/news/pivot-magazine/2019-01-02-carol-bellringer-interview\)](/en/news/pivot-magazine/2019-01-02-carol-bellringer-interview), British Columbia's auditor general and a former member of IFAC's board, knows this well. In this issue, she discusses the so-called "Vancouver Model" of laundering drug profits through casinos, real estate and other investment vehicles, as well as the measures that have been taken in recent years in B.C. to combat this problem.

"I'm a big believer in transparency," Bellringer told *Pivot*.

What's clear is that in order to confront these kinds of problems, we need a highly collaborative approach grounded in an overall strategy that includes improved corporate ownership transparency, creates a framework for whistle-blowing and ultimately protects Canada's

reputation and the integrity of our financial system.

## **WORLD CONGRESS OF ACCOUNTANTS (WCOA)**

CPA Canada was well represented at the [2018 World Congress of Accountants](#) ([/en/news/world/2018-11-14-wcoa2018-roundup](#)), which took place in Sydney, Australia, in the fall. After four years of planning, WCOA brought together more than 5,000 accountants from around the world to discuss a wide range of economic and practice issues, ranging from the financial instability posed by Brexit to global questions, among them sustainability and rapid developments in technology, such as the use of artificial intelligence in accounting.

Gordon Beal, CPA Canada's vice-president of research, guidance and support, addressed a packed room of professional accountants eager to contribute and outlined how they can utilize their existing skills to help organizations become more sustainable, strategic and adaptable in the face of mounting climate risk.

Later in the conference, I facilitated a panel discussion about innovation-led finance—a hot topic, given that a survey conducted during the Congress showed that building an innovation culture is a major concern for many delegates. This issue certainly resonates in Canada. As CPAs, we must be future-focused, recognizing that change will continue to disrupt business models and alter the way we work. Yet we must also remember that innovation is creating new opportunities for our clients.

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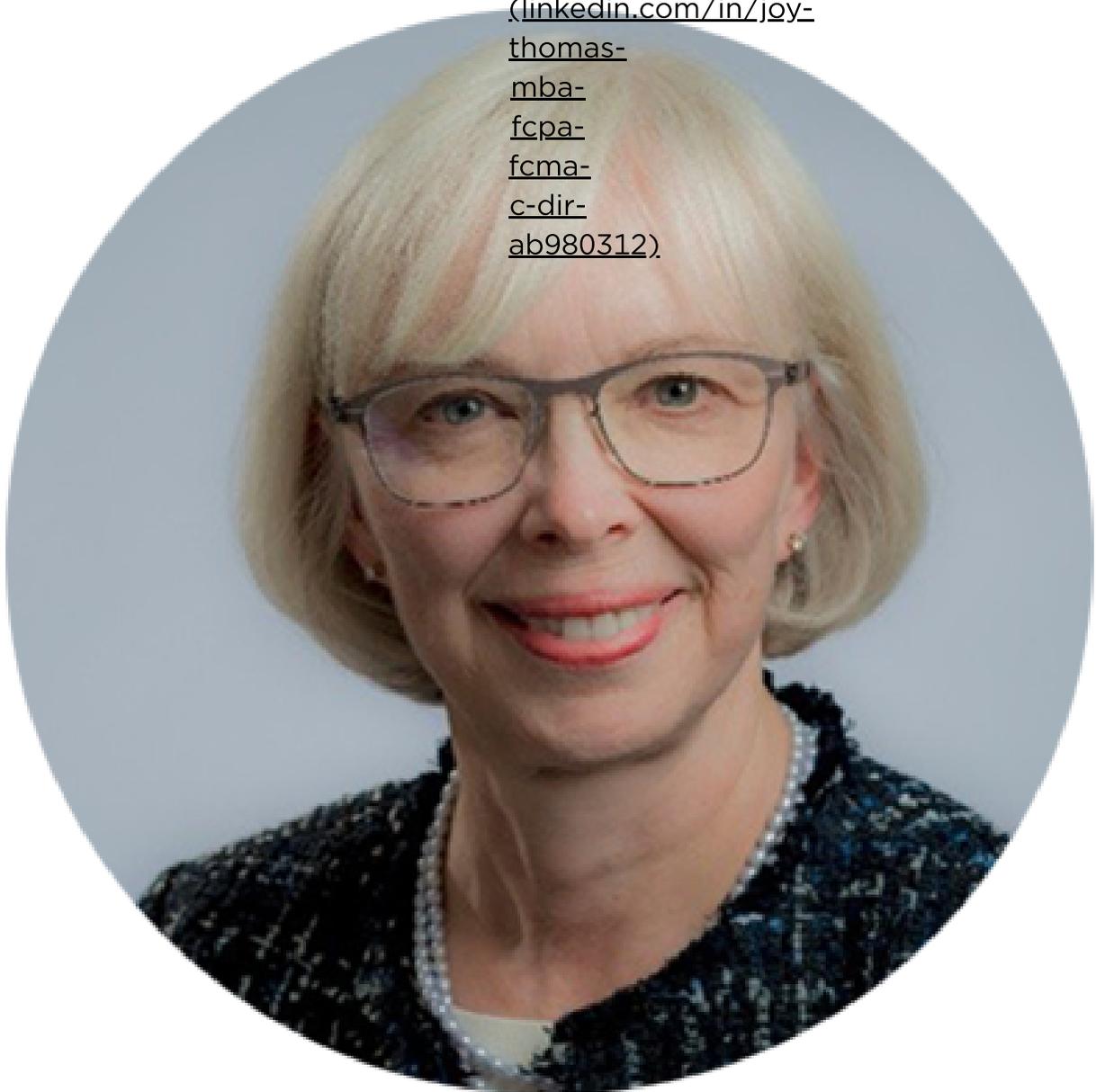
### **About the Author**

## Joy Thomas

Joy is the president and CEO of CPA Canada, and a member of the National Steering Committee on Financial Literacy. Joy also serves as member of the board of directors of the International Federation of Accountants (IFAC) and is a board member of the Global Accounting Alliance, which she also chairs.



([linkedin.com/in/joy-thomas-mba-fcpa-fcma-c-dir-ab980312](https://www.linkedin.com/in/joy-thomas-mba-fcpa-fcma-c-dir-ab980312)).



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# Budget offers broad sweep of measures to help Canadians but not a much-needed tax review

*March 19, 2019*

While today's federal budget offers a broad range of initiatives for a stronger country, key opportunities to accomplish more were missed, according to Chartered Professional Accountants of Canada (CPA Canada).



**OTTAWA, March 19, 2019** – While today's federal budget offers a broad range of initiatives for a stronger country, key opportunities to accomplish more were missed, according to Chartered Professional Accountants of Canada (CPA Canada).

The federal government's fiscal blueprint is aimed at improving housing affordability, supporting seniors, helping Canadians strengthen their job skills, broadband investments for rural Canada and addressing the costs associated with prescription drugs.

CPA Canada also believes tax policy is an essential lever to achieve key economic and social objectives in this country. That is why the organization is disappointed the government did not announce a comprehensive review of Canada's tax system - something that has not occurred since the 1960s.

"This was a squandered opportunity," says Joy Thomas, president and CEO, CPA Canada. "There is a groundswell of support for a full-scale tax review in Canada, and a much-needed assessment would pave the way for an improved system that best positions the country for economic and social growth. We hope the platforms of the government and other political parties signal their respective support for a full-scale tax review in the upcoming federal election campaign."

Tax items of note in the federal budget include:

- Introducing the Canada Training Credit - a refundable personal tax credit of \$250 per year that can be accumulated to provide financial support to help cover up to half of eligible tuition and fees associated with training
- Changes to the Home Buyers' Plan (HBP), such as increasing the HBP withdrawal limit to \$35,000 from \$25,000
- Limiting the use of the current employee stock option tax regime to start-ups and growth companies and for other companies, to the first \$200,000 of underlying share value annually for options granted to an employee
- Unreduced access to the enhanced refundable scientific research and experimental development (SR&ED) credit for small and medium sized businesses with taxable capital of up to \$10 million, regardless of their taxable income

In addition, the budget contains further investments to combat tax evasion and includes measures aimed at cracking down on money laundering. CPA Canada welcomes efforts to fight both tax evasion and money laundering.

The government stresses that it is making investments to grow the economy for the long term while it brings the books back toward balance, but the budget does not include a date for a return to balanced budgets.

“Canada needs a plan for fiscal stability, one that establishes a target date for a return to balanced budgets over the medium term,” says Thomas. “The government must demonstrate that it has a plan to eventually rein in spending and address persistent deficits, especially with the economic uncertainty facing the global economy today. This would greatly assist in creating business confidence and minimizing the burden on future generations.”

Additional budget information is available at [cpacanada.ca/budget2019 \(/en/the-cpa-profession/about-cpa-canada/key-activities/public-policy-government-relations/federal-budget\).](http://cpacanada.ca/budget2019 (/en/the-cpa-profession/about-cpa-canada/key-activities/public-policy-government-relations/federal-budget).)

## ABOUT CPA CANADA

Chartered Professional Accountants of Canada (CPA Canada) is one of the largest national accounting organizations in the world, representing more than 210,000 members. Domestically, CPA Canada works cooperatively with the provincial and territorial CPA bodies who are charged with regulating the profession. Globally, it works together with the International Federation of Accountants and the Global Accounting Alliance to build a stronger accounting profession worldwide. CPA Canada, created through the unification of three legacy accounting designations, is a respected voice in the business, government, education and non-profit sectors and champions sustainable economic growth and social development. The unified organization is celebrating five years of serving the profession, advocating for the public interest and supporting the setting of accounting, auditing and assurance standards. CPA Canada develops leading edge thought-leadership, research, guidance and educational programs to ensure its members are equipped to drive success and shape the future. [cpacanada.ca](http://www.cpacanada.ca) (<http://www.cpacanada.ca>).

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### **For more information, contact:**

Perry Jensen

Media Relations Manager

Chartered Professional Accountants of Canada

Tel: 416-204-3941

Cell: 647-807-4798

Email: [pjensen@cpacanada.ca](mailto:pjensen@cpacanada.ca) (<mailto:pjensen@cpacanada.ca>)

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## HIGHLIGHTS

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CPA Canada has put together resources to help manage your finances and provide you with the tools you need during this crisis - and beyond.

[CPA Canada \(/en\)](#).

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Policy advocacy priorities remain the same with new minority government

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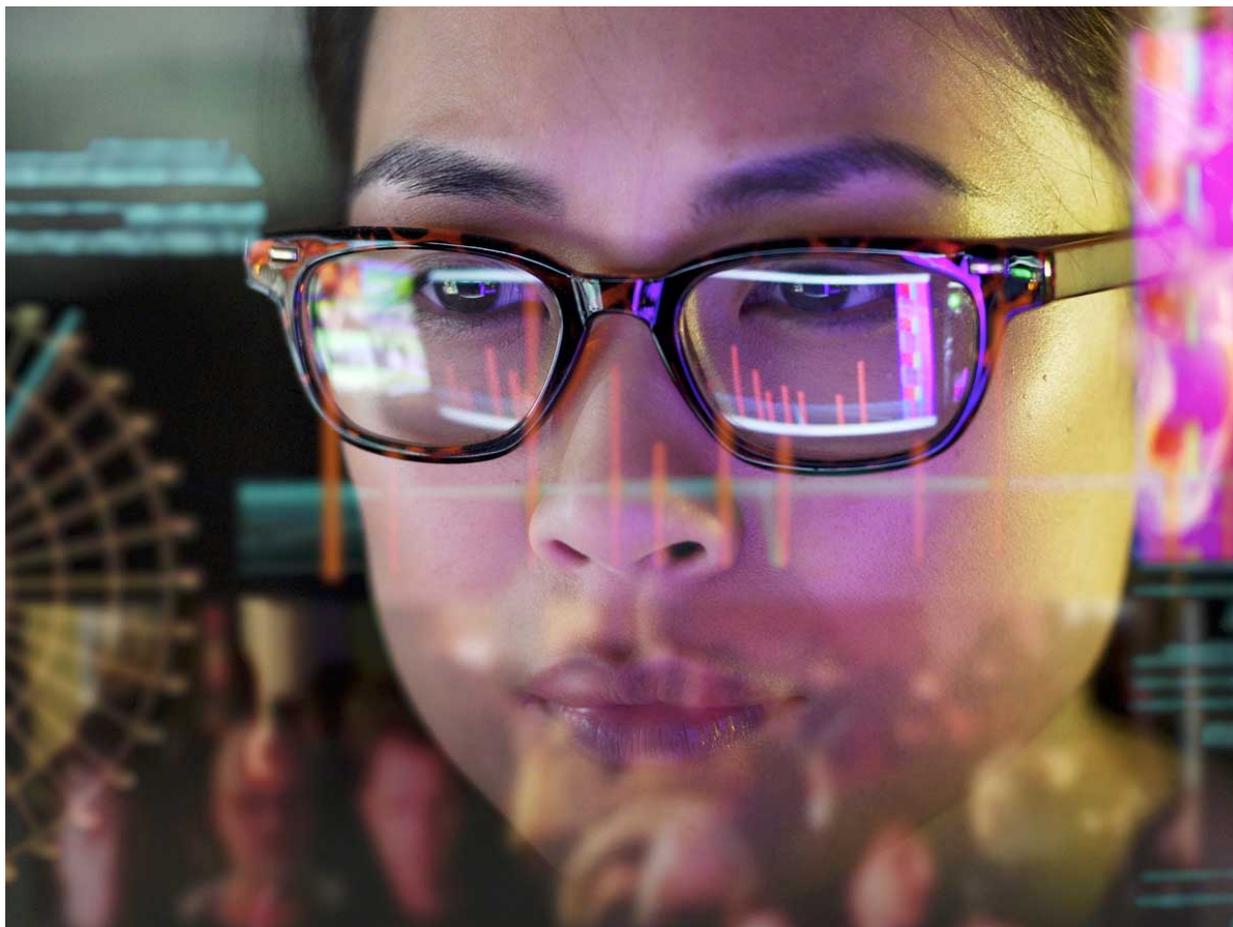
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## Policy advocacy priorities remain the same with new minority government

11.13.2019 | SOPHIE NICHOLLS JONES

Tax review, anti-money laundering and a low-carbon economy remain at the heart of CPA Canada's endeavours as post-election dust settles





*Data governance is expected to remain a key element of the federal government's Digital Charter, which includes a review and modernization of privacy legislation (Getty Images/Laurence Dutton)*

As Canadians stand by awaiting how a new minority government will impact their lives and pocketbooks, CPA Canada continues to advocate in the public interest including calling for an independent [review of Canada's tax system \(/en/the-cpa-profession/about-cpa-canada/key-activities/public-policy-government-relations/policy-advocacy/cpa-canada-tax-review-initiative/why-canada-needs-a-tax-review\)](#) and financial reforms that would speed the transition to a [sustainable economy. \(/en/members-area/profession-news/2017/august/climate-change-and-business-strategy\)](#).

“CPA Canada has played a valuable role in bringing important issues to the forefront of public awareness and we aim to keep them front and centre,” says Sarah Anson-Cartwright, director of public affairs, CPA Canada. “We have made good headway, particularly in the case for a tax review.”

Though some priorities—namely [tax review](/en/news/canada/2019-01-31-tax-system-review), [anti-money laundering](/en/news/world/2019-04-10-dirty-money), and climate action—were included in party platforms during the election campaign, it is too early to determine what will actually stand up under minority rule, and what new policies will be brought to the table or take precedent.

“A minority government definitely changes the dynamics on Parliament Hill,” explains Catherine Parker, principal, government relations, CPA Canada. “Nonetheless, CPA Canada will engage with the government and work with all parties as a respected, trusted and knowledgeable non-partisan voice.”

Here’s a look at four of the organization’s focal points:

## 1) TAX REVIEW AND POLICY

CPA Canada will continue to advocate for [a complete review of the country’s tax system](/en/the-cpa-profession/about-cpa-canada/media-centre/2019/february/comprehensive-review-will-pave-the-way-for-better-tax-system-cpa-canada-reportmedia-release), by an independent expert panel. Work on the tax policy front also includes overcoming challenges around the taxation of the [digital economy](/en/news/canada/2018-09-13-tax-on-digital-services), adhering to the OECD’s global framework, and shifting GST rules so that non-resident vendors collect intangible tax on property and services.

“While the current federal government has not committed to a tax review it has expressed interest in reviewing tax expenditures,” Parker says. “We are going to have to leverage that. We will take our opportunities and keep making the case for a comprehensive review.”

## 2) ANTI-MONEY LAUNDERING

CPA Canada recognizes the headway made at the federal and provincial level strengthening [Canada’s anti-money laundering regime](/en/news/pivot-magazine/2019-07-03-jose-hernandez-money-laundering) through [beneficial ownership](/en/news/canada/2019-10-29-beneficial-ownership) legislation. It’s hoped that the current government will stay committed, as stated in its election platform, to enhancing whistleblowing programs.

“This is the first election where money laundering was on every party platform, which gives a sense it has come into the public domain,” says Anson-Cartwright. “This is one area where we had a very good advisory role with government and constructive discussions on how to improve the regime.”

### 3) SUSTAINABILITY AND CLIMATE CHANGE

When it comes to [business and climate change \(/en/news/world/2018-12-07-climate-change-and-business\)](/en/news/world/2018-12-07-climate-change-and-business), CPA Canada is looking for continuity from the government in its commitment to a low-carbon, climate-resilient economy. This includes Canadian businesses adhering to sustainable finance requirements and [climate-related financial disclosure. \(/en/business-and-accounting-resources/financial-and-non-financial-reporting/sustainability-environmental-and-social-reporting/publications/climate-related-disclosure-study\)](/en/business-and-accounting-resources/financial-and-non-financial-reporting/sustainability-environmental-and-social-reporting/publications/climate-related-disclosure-study).

“There is a real opportunity to pick up and push that forward because [the report of the Expert Panel on Sustainable Finance \(/en/news/canada/2019-08-13-sustainable-finance-final-report\)](/en/news/canada/2019-08-13-sustainable-finance-final-report) is something we broadly support,” says Anson-Cartwright. “Its recommendations effectively map out the steps necessary to support the government’s climate targets and to transition to a low carbon economy.”

### 4) DATA, INNOVATION AND BUSINESS GROWTH

Data governance plays a prominent role in CPA Canada’s [Foresight: Reimagining the Profession \(/en/foresight-initiative\)](/en/foresight-initiative) initiative, an ambitious consultation effort to help define the future of the accounting profession. It also is expected to remain a key element of the federal government’s Digital Charter, which includes a review and modernization of privacy legislation.

When it comes to data governance, though addressing the same questions, CPA Canada, says Anson-Cartwright, looks at the issue through a public interest lens, as well as, thinking about how it will re-shape the profession and impact corporate governance, while the government is focused on the broader societal perspective.

“Harnessing and realizing the full potential of data is both a pivotal opportunity and an evolving policy challenge for the government and many stakeholders,” says Anson-Cartwright. “CPA Canada’s work on data governance is very much in step with the government’s agenda. Both of us are exploring the same questions of how to ensure the quality and reliability of data, how to ensure businesses can capitalize on the opportunities presented by leveraging data, and how to protect Canadians’ privacy and security.”

### WAY FORWARD

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CPA Canada, like Canadians overall, awaits to see what a minority government will bring at a unique time, when the country, though wide-ranging in political sentiment, is in a position to move forward on the top concerns for policy makers, advocates and citizens alike.

**About the Author**  
Sophie Nicholls Jones

7.29.2020 | SOPHIE NICHOLLS JONES

Purchasing property during COVID-19 requires some extra long-term planning, including preparing for the unknowns, say experts

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## **Look to compromise when returning staff to the office (/en/news/canada/2020-07-09-returning-staff-covid-19)**

7.9.2020 | SOPHIE NICHOLLS JONES

Reopening during COVID-19 means allowances will have to be made for employees who wish to work off-site, experts say

“It’s very early days...but we plan to engage... government will engage and take action,” says Anson-Cartwright. “We... will act. But there is clearly strong alignment for act...

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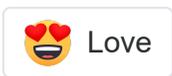
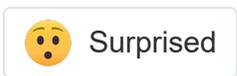
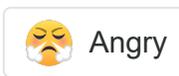
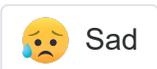
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Sophie Nicholls Jones is a Toronto-based digital producer for CPA Canada. With more than a decade of journalism experience, Sophie is a seasoned reporter, writer and editor, with a focus on the business and financial sectors.

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**Wayne Saastad** • 10 months ago

Pollution/Political corruption should be the priority not a "low carbon economy". Try stopping the large cities and towns from dumping their raw sewage into the waterways, polluting the air with sulphur dioxide, and offshore tax scams where the super rich and political heads hide their money and pay no tax. The politicians (Trudeau, etc.) give large amounts of Canadian Taxpayer money to countries as "foreign aid" that allows them to keep their tax rates low so Canadian politicians like Trudeau, Morneau, Jean Chretien, Paul Martin and Brian Mulroney, can hide their trust funds there paying little or no Canadian Tax on the income (all done "semi-legally" but with a smell the same as the raw sewage being dumped in Montreal and Ottawa). CPA Canada should be ensuring that there are no CPA's involved in these tax avoidance schemes.

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**Larry Kazdan** • 10 months ago

I hope CPA Canada adds advocacy towards real, full employment and the reduction of inequality.

Letter to Editor:

Re: Economy lost 71,200 jobs in November, unemployment rate climbs to 5.9 per cent, Craig Wong, The Canadian Press

<https://www.nationalnewswat...>

The unemployment rate during the Great Depression peaked at 30%, but by 1944 had declined to 1%, a result of greatly increased government war spending. Clearly the unemployment rate is largely determined by the federal government's fiscal and monetary settings.

That we currently have over one million Canadians actively seeking work, and that elevated levels of joblessness have existed for the last forty years is no accident.

Business and financial elites benefit with some slack in the economy so that

Business and financial elites benefit with some slack in the economy, so that workers will be fearful of losing their jobs, reluctant to strike, and more likely to borrow when wages are suppressed.

[see more](#)

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8.28.2020 | SOPHIE NICHOLLS JONES

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## Anti-money laundering policy

Money laundering is a global issue which is illegal, unethical and harmful. In Canada, it poses threats to our national reputation, economy, and society. CPA Canada recognizes these threats and contributes to federal policy development.



As part of CPA Canada's commitment to serve the public interest, the organization has consistently taken a strong stand against money laundering.

Accountants and accounting firms are reporting entities under Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, with specific regulatory requirements when they engage in certain activities.

## STRATEGIC FRAMEWORK FOR AML

In the fight against money laundering, Canada needs a strategic framework of cooperation to combat and prosecute the crimes and to minimize the collateral damage from money laundering and terrorist financing.

Elements of such a strategic framework, in our view, include:

### **Corporate transparency**

- increased corporate ownership transparency via improved access to beneficial ownership information, while maintaining the ease of doing business in Canada

### **Whistleblowing framework**

- a national framework for the reporting by and protection of whistleblowers, instead of the current patchwork quilt of provisions at the federal and provincial government levels

### **Organizational compliance programs**

- development of new, national standards outlining expectations for organizational integrity and compliance programs

### **Enforcement**

- development of enhanced, transparent, and streamlined processes for law enforcement, prosecutors, and other parties to address allegations of misconduct

## **CPA CANADA'S ROLE IN AML POLICY**

On behalf of the profession and in the public interest, we engage with the federal government in efforts to strengthen Canada's anti-money laundering regime.

CPA Canada is represented and actively participates on Finance Canada's public-private sector [Advisory Committee on Money Laundering and Terrorist Financing](https://www.canada.ca/en/department-finance/programs/committees/advisory-committee-money-laundering-terrorist-financing.html) (<https://www.canada.ca/en/department-finance/programs/committees/advisory-committee-money-laundering-terrorist-financing.html>) (ACMLTF) and on two of its public-private subcommittees.

Our organization and the International Federation of Accountants (IFAC), which includes CPA Canada among its members, also work with international organizations such as the Financial Action Task Force (FATF), the Organisation for Economic Co-operation and Development (OECD), Business at the OECD, and the B20.

In February 2018, Finance Canada released a [discussion paper](https://www.canada.ca/content/dam/fin/migration/activty/consult/amlatfr-rpcf-eng.pdf) (<https://www.canada.ca/content/dam/fin/migration/activty/consult/amlatfr-rpcf-eng.pdf>) seeking stakeholders' views on how to improve the Canadian AML/ATF regime. Among other subjects, the paper sought views on corporate ownership transparency and mechanisms to improve timely access to beneficial ownership information by authorities while maintaining the ease of doing business in Canada. CPA Canada submitted a [response](https://www.cpacanada.ca/media/site/operational/sc-strategic-communications/docs/01895-sc-aml-atfdiscussionpaperresponsemay2018-en.pdf?la=en&hash=5F1E9900F54660052A561DCFC835CFBFBBDFAABB) ([-/media/site/operational/sc-strategic-communications/docs/01895-sc-aml-atfdiscussionpaperresponsemay2018-en.pdf?la=en&hash=5F1E9900F54660052A561DCFC835CFBFBBDFAABB](https://www.cpacanada.ca/media/site/operational/sc-strategic-communications/docs/01895-sc-aml-atfdiscussionpaperresponsemay2018-en.pdf?la=en&hash=5F1E9900F54660052A561DCFC835CFBFBBDFAABB)) to the discussion paper providing input on several legislative and regulatory subjects.

In November 2018, the House of Commons Standing Committee on Finance completed its [review](http://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742/e.pdf) (<http://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742/e.pdf>) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Among its recommendations, the committee recommended that the federal government work with the provinces and territories to create a pan-Canadian beneficial ownership registry, which would be accessible to certain law enforcement authorities and other public authorities.

The federal government passed legislation in 2018 that amends the *Canada Business Corporations Act* to require any federally-incorporated corporation that meets certain criteria to keep a register of information on beneficial ownership. This requirement came into force in June 2019. CPA Canada and the federal government teamed up to prepare Canadian CPAs for changes to comply with requirements for new beneficial ownership registers.

Provinces and territories have agreed to pass similar legislation applicable to provincially-incorporated companies. Several provinces and territories joined with the federal government in Spring 2020 for public consultations on public registries of beneficial ownership information.

Additionally, as reporting entities with obligations under the AML/ATF regime, accountants and accounting firms have seen [changes to regulations](http://www.gazette.gc.ca/rp-pr/p2/2019/2019-07-10/html/sor-dors240-eng.html) (<http://www.gazette.gc.ca/rp-pr/p2/2019/2019-07-10/html/sor-dors240-eng.html>) in 2019 with some changes regarding identity verification immediately in effect and others which came into effect in June 2020, or in some cases, will be coming into effect in June 2021.

## CONSULTATIONS

- [CPA Canada submission \(/-/media/site/operational/sc-strategic-communications/docs/01895-sc-cpacanada-beneficialownershopsubmission-en.pdf\)](#) in response to *Strengthening Corporate Beneficial Ownership Transparency in Canada*, April 2020
- [CPA Canada submission \(/-/media/site/operational/sc-strategic-communications/docs/01895-sc-aml-atfdiscussionpaperresponsemay2018-en.pdf\)](#) to the Department of Finance Canada discussion paper, *Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime*, May 2018

## BACKGROUND DOCUMENTS AND RESOURCES

[Approaches to Beneficial Ownership Transparency: The Global Framework and Views from the Accountancy Profession \(/en/the-cpa-profession/about-cpa-canada/key-activities/public-policy-government-relations/policy-advocacy/other-policy-topics/beneficial-ownership-transparency-international-approaches\)](#)  
CPA Canada and IFAC | May 2020

[Strengthening Corporate Beneficial Ownership Transparency in Canada \(https://www.ic.gc.ca/eic/site/142.nsf/eng/h\\_00000.html\)](https://www.ic.gc.ca/eic/site/142.nsf/eng/h_00000.html).  
Government of Canada | February 2020

[Individuals with significant control \(https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08216.html\)](https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08216.html)  
(requirement under the *Canada Business Corporations Act* to keep a register of individuals with significant control)  
Corporations Canada

[Reporting Entities: Accountants \(https://www.fintrac-canafe.gc.ca/re-ed/accts-eng\)](https://www.fintrac-canafe.gc.ca/re-ed/accts-eng)  
Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

[Guidance for a Risk-Based Approach for the Accounting Profession \(https://www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-accounting-profession.html\)](https://www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-accounting-profession.html)  
Financial Action Task Force (FATF) | 2019

[Confronting Money Laundering and Terrorist Financing: Moving Canada Forward \(https://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742e.pdf\)](https://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742e.pdf)  
House of Commons Standing Committee on Finance | November 2018

[Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime \(https://www.canada.ca/en/department-finance/programs/consultations/2018/canadas-anti-money-laundering-anti-terrorist-financing-regime.html\)](https://www.canada.ca/en/department-finance/programs/consultations/2018/canadas-anti-money-laundering-anti-terrorist-financing-regime.html)

Department of Finance Canada | February 2018

## HIGHLIGHTS

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### **CPA CANADA COVID-19 UPDATES**

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*July 20, 2020*

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November 10, 2014

Financial Transactions and  
Reports Analysis Centre of Canada  
Attention: Guillaume Giguère  
234 Laurier Avenue West, 24th Floor  
Ottawa, Ontario, K1P 1H7

Dear Mr. Giguère:

**RE: CPA Canada's Comments on FINTRAC Consultation on Money Laundering and Terrorist Financing Risk-Based Approach Guidance**

Chartered Professional Accountants of Canada appreciates the opportunity to participate in your consultation on the draft Money Laundering and Terrorist Financing Risk-Based Approach (RBA) Guidance for Accountants (the "Draft"). We understand that the Draft is designed as a supplement to FINTRAC's existing Guideline 4.

Canada's accounting profession is uniting under a new single designation, Chartered Professional Accountant (CPA). The profession's national body, Chartered Professional Accountants of Canada (CPA Canada), represents and supports more than 190,000 members across the country. CPAs are valued for their financial and tax expertise, strategic thinking, business insight, management skills and leadership. CPA Canada has consolidated the operations of three national accounting bodies: The Canadian Institute of Chartered Accountants, The Certified General Accountants of Canada and The Society of Management Accountants of Canada. CPA Canada conducts research into current and emerging business issues and supports the setting of accounting, auditing and assurance standards for business, not-for-profit organizations and government. It also issues guidance on control and governance, publishes professional literature and develops certification and continuing education programs.

This response was developed by CPA Canada's standing Anti-Money Laundering (AML) Committee. One of the recent activities of the Committee was to publish a Guide to Comply with Canada's AML Legislation<sup>1</sup> for accountants and accounting firms, which we invite you to reference. We have developed our response in two parts: one which explains our goals for RBA Guidance, and the second which provides recommendations for revisions to the Draft.

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<sup>1</sup> <http://www.cica.ca/focus-on-practice-areas/forensic-accounting/money-laundering-resource-centre/item80512.pdf>



## Our Goals for RBA Guidance

We considered the Draft in light of our goals for RBA Guidance as listed and explained below.

- A. *Fidelity to the Legislation*: The Draft should address all elements and obligations of the existing legislation<sup>2</sup> in respect of the RBA, but not introduce any new or different obligations.
- B. *Applicability to the Profession*: The Draft should be tailored to the specific requirements and situation of accountants and accounting firms because the range of possible transactions to which accountants and accounting firms are subjected is so particularly defined, and the risks to which the profession is subjected have been largely settled by international publications. Additionally, it is our expectation that the Draft could be applied by the majority of accountants as well as small and medium-sized accounting firms, in a manner which meets the requirements of the legislation and FINTRAC's expectations.
- C. *Rigour*: The Draft should rigorously and completely incorporate accepted risk management theories, as well as authoritative publications related to the money laundering and terrorist financing risks faced by accountants and accounting firms.
- D. *Ease of use*: The Draft should describe processes and use words and definitions which would facilitate the simple and efficient completion of an RBA document by an accountant or accounting firm without specialized money laundering or terrorist financing knowledge – and without the need to hire specialized resources or refer to guidance not issued by FINTRAC.
- E. *Resources*: The process described by the Draft to document or update an RBA document should entail a level of cost and time which was reasonable and sustainable for the accountant or accounting firm, and that those resources are proportionate to the expected outcomes (see Effectiveness below). We have similar expectations for the level of resources engendered in the mitigation measures the eventual RBA program would describe. The resources required of clients to comply with mitigation measures should also be rationalized through the process described by the Draft document.

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<sup>2</sup> Specifically, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and its regulations.



F. *Effectiveness*: The Draft should lead accountants and accounting firms through a process that leads to an allocation of resources proportionate and responsive to higher risks which demonstrably results in enhanced prevention, detection and deterrence of money laundering and terrorist financing. Accordingly the process described by the RBA document should naturally lead to a mechanism to evaluate that effectiveness with the frequency required by the Legislation.

### Recommendations for Revisions to the Draft

Our recommendations for revisions to the Draft are organized in a table below. The six rightmost columns are labelled A-F to correspond to the numbering of the ideals expressed in the preceding section, and are marked to indicate the ideal/s to which the adjacent recommendation relates.

In short, this document did not meet our expectations in terms of its advancement of RBA guidance, and we do not think that it would be useful to our members in its current form. Significantly, we found that the examples of risk provided were not applicable, relevant, or instructive.

Recommendation	A	B	C	D	E	F
1. The application of the document be more particularly defined to include any accountants that perform triggering activities, and all small to mid-sized accounting firms that perform triggering activities, rather than relating to a “small business” concept.	⊖	⊖				
2. That the document should explicitly state that examiners will be evaluating programs against the expectation established by this guidance, if this is the case.	⊖					
3. That the document explicitly state in all relevant places that the RBA assessments and measures apply only to triggering activities. <b>Ideally, all the analysis and workbooks would be designed around the concept of triggering activities.</b>	⊖			⊖		
4. That the document explain the concepts of threats and vulnerabilities, and provide listings from authoritative sources about the natures of those threats and vulnerabilities as they relate to accountants and accounting firms. Perhaps this could be accomplished through the inclusion of an appendix that references appropriate AML/ATF authorities.		⊖	⊖			

<b>Recommendation</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
5. That the document define a rational method for determining risk, ideally characteristics or scoring that would lead to low or high risk decision, rather than inviting a binary response based on examples.			⊖	⊖		
6. That the tables be provided in Excel format with drop down fields to facilitate population and update.				⊖		
7. That risks be categorized beyond just “High” or “Low” so that risk mitigation measures can be determined based on the aspect of risk for which control is required (e.g. anonymity risk could be addressed by additional measures to verify identity, but not by supervisor override).			⊖	⊖	⊖	⊖
8. That the workbook address the allocation of compliance resources, rather than just eliciting mitigation responses.			⊖	⊖	⊖	⊖
9. That all risk examples be relatable and relevant to a triggering activity (e.g. the creation of legal arrangements is not covered by the legislation).		⊖	⊖			
10. That the document provide sample completed workbooks for an accountant or accounting firm.				⊖		
11. That the relationship between the first and second stages of the 2-stage approach be explained.	⊖		⊖	⊖		
12. That services should be distinguished from access channels and specifically related to the activities of accountants and accounting firms in the context of triggering activities.		⊖	⊖	⊖		
13. Transaction risk is not specifically referenced in the legislation. While we appreciate the concept, since it integrates well with the legislative requirements for accountants (which is activity based), it should be introduced fully and related to legislative obligations if it is to remain in the guidance.	⊖	⊖				
14. That the concept of geographic risk is aligned with the legislation. Particularly, geographic risk in the legislation relates to location of activities, not the place of origin or destination of funds.	⊖					
15. That the explanation and examples of geographic risk reduce the focus on the location of the accountant as well as the relative location of the client to the accountant’s office, since there is only spurious risk information in those two factors.	⊖	⊖	⊖			



<b>Recommendation</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
16. That references in “Other Factors” to non-covered products be removed.	⊖	⊖				
17. That references to factors which are not related to accountants or accounting firms (e.g. branches) be removed.		⊖				
18. That the workbook address the timing and documentation related to relationship based assessment when they are not group-based.			⊖	⊖		
19. That the document address the concept of terrorist financing risk and controls in a more meaningful way.			⊖			
20. That any references to open source information are expanded to explain what FINTRAC’s expectation is for open source information monitoring.	⊖					
21. That references to control measures which assume sophisticated organizational structures (such as management sign off and escalations), are removed so that the document better aligns with its target audience.		⊖				
22. That the processes address the concepts of effectiveness and provide a means for evaluation and revision over time.					⊖	⊖

Again, we appreciate the opportunity to contribute to the development of the Draft, and look forward to collaboration towards its finalization. To that end, we would be grateful for information about the process from here, and hope that we could be involved in reviewing subsequent drafts.

CPA Canada remains committed to the fight against money laundering and terrorist financing together with FINTRAC.

Yours sincerely,

**CPA Canada**

**CPA Canada - AML Committee**

Kevin Dancey,  
FCPA, FCA  
President & CEO

Matthew McGuire,  
CPA, CA, MAcc, CFF, CAMS, AMLP  
AML Committee Chair



August 28, 2015

Ms. Lisa Pezzack  
Director  
Financial Systems Division  
Financial Sector Policy Branch  
Department of Finance  
90 Elgin Street  
Ottawa, ON K1A 0G5

(Email: [fsc-scf@fin.gc.ca](mailto:fsc-scf@fin.gc.ca))

Dear Ms. Pezzack:

**RE: Proposed Regulations Amending Certain Regulations Made under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2015 – *Canada Gazette*, Part 1 (Notice - July 4, 2015)**

As the national organization representing accountants and accounting firms in Canada with responsibilities under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, CPA Canada presents this submission in respect of the referenced regulatory amendments (the “Amendments”).

Chartered Professional Accountants of Canada (CPA Canada), is the national body for the Chartered Professional Accounting (CPA) profession and is one of the largest accounting bodies in the world with more than 190,000 members, both at home and abroad. The Canadian CPA was created with the unification of three legacy accounting designations (CA, CGA and CMA). CPAs are valued for their financial and tax expertise, strategic thinking, business insight, management skills and leadership. CPA Canada conducts research into current and emerging business issues and supports the setting of accounting, auditing and assurance standards for business, not-for-profit organizations and government. CPA Canada also issues guidance and thought leadership on a variety of technical matters, publishes professional literature and develops education and professional certification programs. This submission was developed by CPA Canada’s standing Anti-Money Laundering and Anti-Terrorist Financing (“AML”) Committee.



CPA Canada strongly supports the Department of Finance initiatives which align Canada's AML standards with international expectations, and which directly and effectively respond to empirically demonstrated money laundering and terrorist financing risks.

Three aspects of the Amendments should be revised to achieve those objectives and reduce regulatory burdens that do not serve them. Particularly, those relating to Suspicious Transaction Reporting, Client Identification, and the Coming-into-Force dates.

### Suspicious Transaction Reporting

The proposed amendment to section 9(2) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations (PCMLTFSTR) would delete "that constitutes reasonable grounds to suspect" and substitute it with "could reasonably be expected to raise reasonable grounds to suspect" so that the requirement would read:

The report shall be sent to the Centre within 30 days after the person or entity or any of its employees or officers first detects a fact respecting a financial transaction or an attempted financial transaction that could reasonably be expected to raise reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering offence or a terrorist activity financing offence.

We note that there are no proposed amendments to section 7 of the PC(ML)TFA proposed, nor to section 9(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR).

The same language is proposed in the new subsection 54.2(3) of the PCMLTFR triggering when financial entities must take reasonable measures to determine whether an existing account holder is a politically exposed foreign person etc.

Although the purpose of the STR amendment may be to assist regulated entities in understanding when the 30-day clock starts to run, arguably the effect is to require reporting in situations when entities would have concluded there are no reasonable grounds to suspect a transaction is related to a ML or TF offence.

"Reasonable grounds to suspect" ("RGS") is a standard borrowed from our criminal law. It is commonly used to identify the circumstances in which a police officer may employ investigative techniques that intrude on an individual's privacy but in a limited manner and therefore do not engage the requirement to obtain a search warrant. However, the police



officer must be in possession of objectively discernible facts supporting her/his conclusion that there are RGS, permitting a judge to subsequently review the circumstances of the intrusion and determine whether it was reasonable and therefore lawful.

RGS is a very low threshold in that it is concerned with possibilities as opposed to probabilities. It is certainly more than a mere suspicion in the sense that its positive determination must be objectively defensible to a third party. But it is less than the more frequently applied “reasonable and probable grounds to believe” standard engaging the reasonable probability that something is true.

Noteworthy is that, on the totality of the circumstances, RGS need not be the only inference that can be drawn from a particular fact or combination of facts. There may be an innocent explanation for a suspicious fact or facts. Our courts have held that this is acceptable in the criminal context because the RGS standard addresses the possibility of uncovering wrongdoing, and not the probability of doing so.

The difference between the use of RGS in AML regulation and the criminal law is that in the former it is the threshold at which action is required i.e. the filing of an STR. In the latter, it justifies police action. There is no substantive difference, however, in definition.

In its present form, subsection 9(2), in combination with section 7 of the PC(ML)TFA and subsection 9(1), permits an interpretation that a regulated entity may conclude that the circumstances surrounding a transaction do not support RGS that a transaction is related to a ML or TF offence and therefore need not be reported. On the existing case law interpreting RGS, it should be irrelevant that, on the objectively discernible facts, FINTRAC subsequently concludes otherwise, so long as the non-reporting is reasonable – the entity has considered all the circumstances, followed its satisfactory procedures and acted in good faith. That is because RGS need not be the only inference that can be drawn from a particular fact or combination of facts.

If amended as proposed, subsection 9(2) will close the door on reasonable decisions not to report. If a fact is one that could reasonably be expected to raise RGS, it is irrelevant that the entity concluded otherwise. If a third party (i.e. FINTRAC or a Federal Court Judge) could conclude there are RGS, the transaction is reportable.

Some might argue that the amendment to subsection 9(2) does not change the status quo and is consistent with the law as it presently stands. This would seem to be FINTRAC’s interpretation as disclosed in the position it frequently takes while conducting audits. But the



fact is there are no decisions of the Federal Court supporting this interpretation and suggesting this analysis is incorrect.

If one accepts the foregoing, we submit that the Governor in Council is without jurisdiction under paragraphs 73(1)(e.1) and/or (e.2) of the PCMLTFA to amend subsection 9(2) as proposed. These provisions authorize regulations going to the content, form and manner of reporting. The proposed amendment is outside of these parameters in that its effect is to narrow the common understanding of reasonable grounds to suspect (described above) to a standard based entirely on constructive knowledge (i.e. ought to have to suspected and therefore reported).

#### Client Identification

We support the rationalization of customer identification standards in Canada, particularly with respect to non-face-to-face (NF2F) scenarios. In the proposed method of NF2F identification, the Reporting Entity is permitted judgment and the application of risk based principles. We support this move away from prescriptive measures.

The wording of the proposed dual method may unduly constrain its use in electronic environments, however, and at worst manufacture an industry for the abuse of its standards. The first part of proposed subsection 64(1.3) would restrict documentary sources for identification to those which are original and current, effectively eliminating the potential for NF2F identification possibilities. The second part of subsection 64(1.3) constrains the use of information (presumably non-documentary sources) of identification information to that which is valid, current, but precludes the use of an electronic image of a document. Widely used and reliable identification methods for other uses (e.g. fraud management) rely on camera-captures of identification with the comparison of camera-captures of an individual's likeness. Those methods and many others would apparently not be acceptable under the Amendments – and so few NF2F options would actually remain.

It is easy to conceive of an industry of intermediaries involved in the conversion of electronic images to electronic information to satisfy proposed new standard. That artificial market would not advance AML efforts in Canada.

Perhaps the amendments should provide for the use of electronic images of documents only in scenarios where the reporting entity is able to verify its origin/authenticity.



### Coming-Into-Force

Notwithstanding the regulatory impact analysis statement, the regulatory burden related to AML for reporting entities will increase significantly. These changes, paired with expected new draft regulations, will require significant structural amendments to compliance regimes. Consider also that for just the risk based approach documentation, every reporting entity will require rework and training to address all of these recent developments:

- a) The first “Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada” published by the Department of Finance;
- b) The new Risk Based Guidance from FINTRAC which introduces the concepts of risk tolerance and residual risk, and creates a new examination standard;
- c) The Amendments related to the risk of affiliates;
- d) The Amendments related to the risk of new products and services; and,
- e) The Amendments brought about by the recent guidance on Ministerial Directives.

All of these will require changes to program documentation, systems, and processes, which need substantial resource investments and time to implement and test. Accordingly, we submit that the Amendments should not become effective on final publication, but instead provide for six months to a year of preparation time following the issuance of related FINTRAC guidance.

### Closing

We appreciate the opportunity to contribute to the evolution of Canada’s legislation, and look forward to collaboration towards its finalization. CPA Canada’s members remain committed to the fight against money laundering and terrorist financing.

Yours sincerely,

**CPA Canada**

A handwritten signature in black ink, appearing to read "Gordon Beal".

Gordon Beal,  
CPA, CA, M.Ed.  
Vice-President, Research, Guidance & Support

**CPA Canada - AML Committee**

A handwritten signature in black ink, appearing to read "Matthew McGuire".

Matthew McGuire,  
CPA, CA, MAcc, CFF, CAMS, AMLP  
AML Committee Chair

March 31, 2017

PRIVATE AND CONFIDENTIAL

Ms. Leah Anderson  
Assistant Deputy Minister  
Financial Sector Policy Branch  
Department of Finance Canada  
90 Elgin Street  
Ottawa, Ontario K1A 0G5

Dear Ms. Anderson:

**RE: Request for input on efforts to combat money laundering and terrorist financing in Canada**

As a professional body with representation on Canada's Advisory Committee on Money Laundering and Terrorist Financing (ACMLTF), CPA Canada welcomes your recent request, dated March 6, 2017, for input on issues related to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and Canada's Anti-Money Laundering and Anti-Terrorist Financing regime.

**About CPA Canada**

CPA Canada is the national body of Canada's accounting profession, with more than 200,000 members both at home and abroad. The Canadian CPA designation was created with the unification of three legacy accounting designations (CA, CGA, and CMA). CPA Canada conducts research into current and emerging business issues and supports the setting of accounting, auditing, and assurance standards for business, not-for-profit organizations, and government. CPA Canada also issues guidance and thought leadership on a variety of technical matters, publishes professional literature, and develops education and professional certification programs.

The CPA profession's Public Trust Committee (PTC) oversees the ethical standards and self-regulatory processes of the profession, serving to protect its integrity while maintaining public confidence and trust. The PTC serves the public interest by, namely, recommending policies and strategies to uphold the public's confidence and trust in the profession, as well as developing and supporting improved harmonization of the provincial and territorial CPA bodies' self-regulatory policies and practices. On behalf of the CPA profession the PTC also monitors and responds to international developments in rules of ethics and standards.



## **Response to your Request**

Canada enjoys a very strong national and international brand that is closely connected to our global reputation for transparency and responsible business practices. However, in recent years, Canada has also faced increased scrutiny on illegal activities that improperly benefit certain individuals and corporations such as corruption, tax evasion, and money laundering. Commentators have noted that the Canadian financial system has been slow to respond to the challenges presented by these forms of abuse and misconduct compared to other jurisdictions. These comments resonate in the Financial Action Task Force (FATF) assessment of Canada's regime published in September 2016.

CPA Canada recognizes the real threat posed by money laundering, terrorist financing, and other forms of illegal and unethical conduct such as corruption to Canada's national reputation, economy, and society.

As part of our commitment to taking a leadership role in the fight against these activities and protecting Canada's brand and reputation, we would suggest that Canada consider developing a strategic blueprint that addresses the most pressing challenges and opportunities, including: (1) enhancing transparency of ownership of Canadian assets as a basis to improve due diligence efforts; (2) extending responsibility for AML/CTF compliance to public-interest organizations; (3) encouraging individuals (and organizations) to speak up and report misconduct by providing adequate protection against retaliation; (4) streamlining and improving law enforcement efforts; and (5) benchmarking Canada's efforts against those countries that are most active in the prosecution of money laundering and terrorist financing-related offences (e.g., Switzerland and the United States).

## **A Strategic Blueprint**

In our view, Canada should consider initiating a cooperative and consultative process with key stakeholders, including regulators, in the private and public sector to develop a strategic blueprint to protect Canada's brand and the integrity of our financial system. Such a strategic blueprint would revisit the roles and responsibilities of all key stakeholders and outline efforts to improve the effectiveness of Canada's efforts in the AML/CTF area. Within this blueprint, potential efforts to consider could include:

1. Development of a legal framework, similar to those existing in other countries such as the United States, that would incentivize organizations in the public interest to self-report, cooperate with law enforcement, and remediate instances of misconduct. Such a legal framework would reward organizations with lower fines and penalties in cases of misconduct where an organization can demonstrate the adoption and implementation of an effective integrity and compliance program.
2. Development of new, national standards outlining expectations for organizational integrity and compliance programs.
3. Establishment of a framework around whistleblowing, including secure channels for whistleblowers to report potential misconduct without fear of reprisal or discrimination.



4. Development of enhanced, transparent, and streamlined processes for law enforcement, prosecutors, and other parties to address allegations of misconduct.
5. Creation of public registries of legal persons that enable Canadian organizations to know their customers better and gain insight into the ultimate beneficiaries of Canadian assets.

### **International Ethics Development**

In providing this input, we also wish to note an international ethics development that Canada's CPA profession is currently reviewing. In July 2016, the International Ethics Standards Board for Accountants (IESBA) announced changes to their Code of Ethics for Professional Accountants (IESBA Code) concerning *Responding to Non-Compliance with Laws and Regulations* (NOCLAR). The revised IESBA Code sets out a framework for the response of professional accountants to known or suspected NOCLAR, including whether the known or suspected NOCLAR should be disclosed to an appropriate authority.

In Canada, the provincial rules of professional conduct must be as stringent as the IESBA Code unless there is a legal, regulatory, or public interest reason to differ. The CPA profession's Public Trust Committee is currently considering the NOCLAR changes to the IESBA Code in relation to the CPA profession's existing ethical standards and within the context of Canadian laws, regulations, and the public interest.

### **Closing Comments**

On behalf of CPA Canada, we reiterate our ongoing commitment to engaging with these important issues that affect all Canadians. We would welcome the opportunity to discuss in greater detail the role that CPA Canada can play in developing and promoting Canada's efforts to combat money laundering, terrorist financing, and other criminal activities with you in the near future.

Sincerely,

Joy Thomas, MBA, FCPA, FCMA, C.Dir  
President and Chief Executive Officer  
CPA Canada

Phone: (416) 204-3220  
Email: [JThomas@cpacanada.ca](mailto:JThomas@cpacanada.ca)

José R. Hernandez, CPA, CA, Ph.D.  
Member, ACMLTF  
CEO, Ortus Strategies AG

Phone: (647) 271-3303  
Email: [Hernandez@OrtusStrategies.com](mailto:Hernandez@OrtusStrategies.com)



**Priorities for the 2018 federal budget**

**A Submission on the Pre-budget consultations of the House of  
Commons Standing Committee on Finance**

**Chartered Professional Accountants of Canada**

**August 2017**

[Chartered Professional Accountants of Canada \(CPA Canada\)](#) is pleased to present its policy priorities and recommendations for the 2018 federal budget to the House of Commons Standing Committee on Finance. We appreciate the committee's continued focus on economic growth, and how measures aimed at increasing Canada's productivity and competitiveness will enhance growth and prosperity.

CPA Canada is one of the largest and most respected national accounting organizations in the world, representing more than 210,000 Canadian chartered professional accountants (CPAs) at home and abroad. Collectively, CPA Canada and the profession enable, champion and safeguard the Canadian ideal of good business that values inclusion, sustainable growth and social development in cultivating a healthy and thriving economy.

Just as Canada is vast geographically, so too is the reach of our members who work in all sectors of the economy, many serving a chief executive officers, chief financial officers and in other senior leadership roles. CPA Canada engages in public policy discourse and economic research to contribute to Canada's economic and social development.<sup>1</sup>

To foster a more productive, competitive and prosperous Canada, we recommend that the federal government take action in these key areas:

1. Responsible fiscal management
2. Tax reform
3. Human capital development
4. Innovative business environment
5. National adaptation plan

### **1. Responsible fiscal management**

CPA Canada recognizes the government's commitment to inclusive growth which involves significant investments in Canadians, communities and the economy. We encourage the government to establish a **clear fiscal plan that includes a target date for a return to balanced budgets to support its economic vision.**

Budget 2017 projects five consecutive deficits from 2017-18 to 2021-22, adds \$124 billion to the federal debt, but does not outline when the country will again see balanced budgets. Finance Canada's *Update of Long-Term Economic and Fiscal Projections* estimates that Canada's deficit situation will persist until the 2050s. In a recent [survey](#) among leading professional accountants, CPA Canada found that 83 per cent of respondents are either very or somewhat concerned with the level of debt taken on by the current government. In addition, according to an April 2017 national [survey](#), "four in five Canadians say

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<sup>1</sup> See CPA Canada's recent research report, [Income Inequality in Canada: The Urban Gap](#). Learn more about how Canada's accounting profession serves the best interests of the public: [cpacanada.ca/PublicInterest](http://cpacanada.ca/PublicInterest).

*it is important or somewhat important for the federal government to have a plan in place to eliminate the deficit.”*

Canada faces several challenges – characterized by slowing labour force growth due to an aging population; ambiguity around U.S. economic, fiscal and trade policies; weak productivity growth; and high household indebtedness, all of which lead to uncertainty in long-term economic forecasting. In addition, the Bank of Canada recently began raising interest rates, having increased its overnight rate target by 0.25% in July, as the Canadian economy has been showing some encouraging signs of growth. Higher interest rates could put further pressure on the deficit due to increased debt servicing costs and impact the government’s capacity to stimulate the economy in the event of a future downturn.

Given wide uncertainty around the economic outlook, Canada needs a plan for fiscal stability – **a plan that demonstrates leadership and includes a return to budget balance over the medium term.** Establishing a target date to reach budget balance will guide the government’s fiscal and economic planning, instill greater confidence in consumers and investors, create opportunities for growth and enhance Canada’s competitiveness.

The 2017 Fall Economic Statement is an opportune time to update Canadians on the state of the nation’s finances.

## **2. Tax reform**

CPA Canada commends the government for several key actions to improve and strengthen Canada’s tax system – including lowering the middle income tax bracket, eliminating and modifying some inefficient tax expenditures, and investing close to \$1 billion in the last two budgets to combat tax evasion and improve tax compliance so that everyone pays their fair share. We also support the government’s commitment to collaborate with the provinces and territories to develop a national strategy to improve the availability of beneficial ownership information to crack down on money laundering, terrorist financing and other illegal practices.

Canada’s tax system is an essential tool to improve our competitive position, to attract and retain the best and brightest minds, and to support inclusive economic growth. We submit that there are policies in place that pose a threat to these important objectives. The combined personal tax rate is above 50% in five provinces, there is a cumulative burden from multiple federal and provincial taxes and regulations, and many unintended consequences from excessively complex tax legislation. Each has a detrimental effect on the cost of doing business in Canada. In discussions with members, leading professional accountants are observing an increasing number of businesses and entrepreneurs who are reluctant to make new investments, exiting the Canadian market or selling their enterprises to foreign investors.<sup>2</sup>

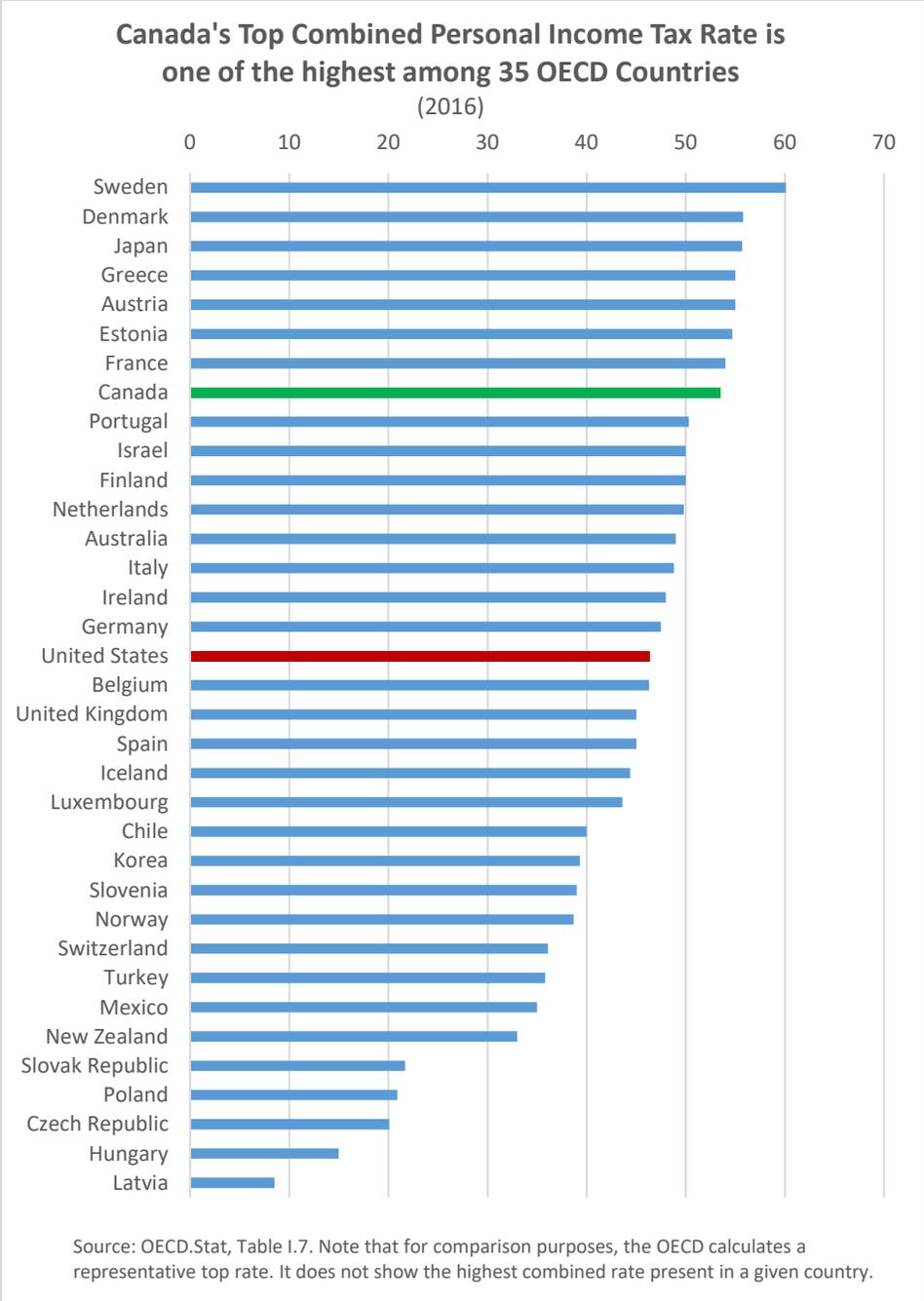
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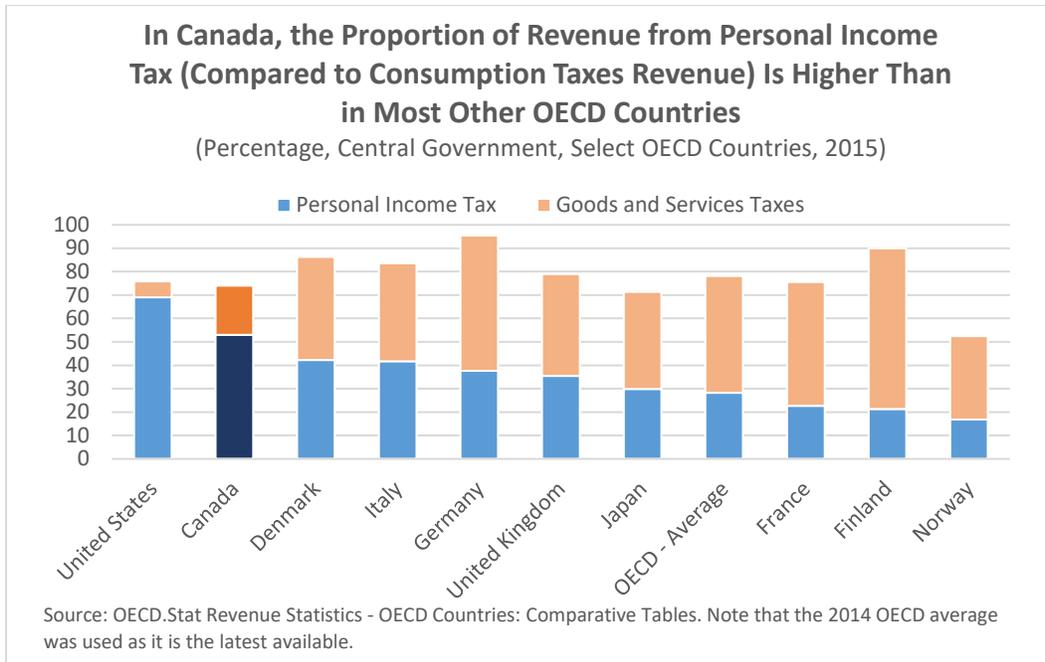
<sup>2</sup> CPA Canada Tax Advisory Board meeting, June 2017

In addition to the competitive pressures within Canada, the U.S. administration's plan to lower personal and corporate income taxes and simplify the tax system poses a serious risk to the tax advantage that Canada currently holds. Granted, it is uncertain when tax reform in the U.S. will materialize – but our southern neighbour's focus on economic nationalism, combined with our own domestic tax policies that can inadvertently hurt our competitiveness, should serve notice that it is time for a **comprehensive review of Canada's tax system**.

Canada needs an internationally competitive, efficient, simple and fair tax system that provides a climate where businesses grow and Canadians prosper. The government should undertake the following measures:

- A. Lower personal income tax rates and broaden the bases** to attract and retain the highly talented and nurture the next generation of Canadian leaders.
- B. Continue to eliminate inefficient or poorly targeted tax preferences** to increase fairness for Canadians, and reduce complexities and inefficiencies.
- C. Keep corporate tax rates low** to maintain a competitive edge internationally, entice new investments and create a climate where businesses can thrive and create jobs.
- D. Consider changing the income tax/consumption tax mix** to bring it closer to OECD averages to improve Canada's tax competitiveness.





CPA Canada recognizes that implementing the necessary structural reforms to the tax system to increase Canada’s competitiveness is a complex task requiring a great deal of political will. However, ad hoc incremental changes do not constitute a long-term solution. They can create further complexities, inefficiencies and unintended consequences. **We encourage the House of Commons Standing Committee on Finance to launch its planned study on a [Comprehensive Review of Canada’s Tax System](#).** This should include input from a broad spectrum of taxpayers to help determine what key measures must be taken to ensure Canada has a world-class tax system that takes global competitiveness to the next level and builds on the government’s inclusive economic growth strategy.

### 3. Human capital development

Canada’s productivity and competitiveness depends on the creativity, resourcefulness and energy of its people. There has never been a greater need for educated, highly-skilled workers, and for ambitious, innovative entrepreneurs. CPA Canada encourages the government to maintain its focus on skills and talent. We need to properly prepare our young people so they have the skills to be resilient in times of rapid change, ensure there are more opportunities for under-represented groups in the workforce, and attract and retain high-potential new Canadians.

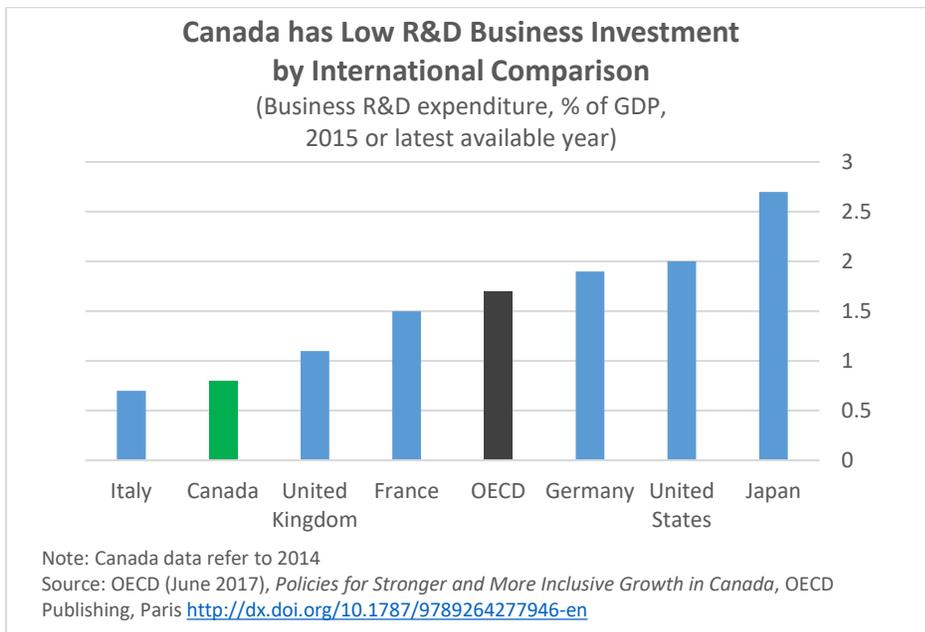
While our immigration selection system is well designed to attract the skills needed by Canadian employers, Statistics Canada data show that newcomers today are not integrating into the labour market as successfully as in the past. According to a [report](#) for Immigration, Refugees and Citizenship Canada, “*language constitutes the most serious barrier newcomers face to furthering their education or training and is among the most serious barriers to finding employment.*” CPA Canada’s experience bears

this out. Further, even when language proficiency is adequate, insufficient communication skills and understanding of Canadian workplace culture can create additional challenges.

**A new investment in occupation-specific language benchmarking and training, and Canadian workplace culture supports is needed.** Proposals for such training are eligible for settlement grants, but the need is such that a dedicated envelope of funding should be considered for this purpose. CPA Canada’s interactive online course in accounting business culture is geared to new immigrants or those seeking to work in Canada. It was developed with federal funding assistance and is a good example of a tool to help meet this need.

#### 4. Innovative business environment

For Canada to improve its productivity and competitiveness, Canadian businesses must do the same. Canada’s Innovation and Skills Plan does much to create an environment for business innovation, but as the [Council of Canadian Academies](#) noted, Canada’s low business spending on research and development (R&D) is a symptom rather than a cause of weak business innovation.



Budget 2017 introduced new demand-side innovation programs and we encourage this emphasis on demand-side solutions. Specifically, **CPA Canada recommends the adoption of an innovation box** to incent R&D in Canada and encourage Canadian businesses to develop, commercialize and retain patents in Canada. An innovation box, also known as a patent box, provides a preferential tax rate for income derived from intellectual property. Many of Canada’s peers and competitors have already introduced innovation boxes, so it is a matter of remaining competitive.

Well-designed regulatory frameworks can actually incent innovation, yet the opposite is too often the case. Regulatory processes that are time-consuming, overlapping, and lacking certainty hamper innovation, slow productivity and harm competitiveness.

Regulatory processes should be as streamlined as possible to make it easier for businesses to comply, which is especially important for new businesses and small businesses that lack internal resources. Regulations across different jurisdictions need to be more compatible. In particular, we encourage Canada to continue to pursue the work of the Regulatory Cooperation Council with the United States, and to encourage all Canadian governments to make full use of the Regulatory Notification, Reconciliation, and Cooperation chapter in the new Canadian Free Trade Agreement. Work on regulatory cohesion must happen within the federal level as well, as regulations of different federal departments can sometimes work at cross-purposes. **Efficient regulation should be a priority for this government and clear direction should be provided to the Regulatory Affairs Secretariat within Treasury Board** to ensure seamless regulatory cohesion between departments and across jurisdictions.

In these times of rapid change and disruptive technologies, regulation must become more nimble and responsive where it is required. Fast-emerging new sectors, including fintech, do not have time to wait for regulation to evolve and catch up. Finally, to be effective, regulatory processes must result in certainty so that businesses can make investment decisions.

## **5. National adaptation plan**

In addition to economic challenges, Canada's competitiveness will also be tested by the impacts of climate change. We need to both mitigate and adapt to the impacts of climate change. We congratulate the government for its achievements under the Pan-Canadian Framework on Clean Growth and Climate Change and the climate change adaptation measures in Budget 2017.

However, **there remains a missing piece: a national adaptation plan (NAP)**. A NAP would help to coordinate the climate change adaptation activities of all actors in both the public and private sectors and ensure that adaptation is a consideration in all government policy development. It also would contribute to fiscal accountability by ensuring that all government spending decisions, including the investments of the new Canada Infrastructure Bank, consider the need for adaptation measures.

The United Nations Framework Convention on Climate Change has adopted a process for countries to develop NAPs and demonstrated the value that NAPs bring to coordinating adaptation measures. One important lesson learned from countries that have developed NAPs is that it needs to be a collaborative approach involving the public and private sectors. To achieve that, the business community needs to be involved from the beginning and throughout the process.

CPA Canada appreciates this opportunity to provide the accounting profession's views and recommendations on improving Canada's productivity and competitiveness.

May 17, 2018

Ms. Lisa Pezzack  
Director General  
Financial Systems Division  
Financial Sector Policy Branch  
Department of Finance Canada  
James Michael Flaherty Building  
90 Elgin Street  
Ottawa, Ontario K1A 0G5  
Email: [fin.fc-cf.fin@canada.ca](mailto:fin.fc-cf.fin@canada.ca)

Dear Ms. Pezzack:

## **RE: Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime**

CPA Canada is pleased to respond to the February 7, 2018 Discussion Paper *Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (the Discussion Paper). As a professional body with representation on Canada's Advisory Committee on Money Laundering and Terrorist Financing (ACMLTF), CPA Canada welcomes the opportunity to provide input on issues raised in the Discussion Paper related to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and Canada's Anti-Money Laundering and Anti-Terrorist Financing regime (the Regime).

CPA Canada recognizes the real threat posed by money laundering, terrorist financing and other forms of illegal and unethical conduct such as corruption to Canada's national reputation, economy and society. The accounting profession plays a variety of important roles in regards to the integrity of the financial system and markets. CPA Canada reiterates our ongoing commitment to engaging in these important issues that affect all Canadians.

We are aware of the various matters highlighted in the 2016 Financial Action Task Force (FATF) Mutual Evaluation Report concerning Canadian measures in place to combat money laundering and the financing of terrorism as well as areas identified for further strengthening. We commend the Department of Finance for seeking consultation with stakeholders and the public regarding the broad array of potential policy measures



and issues for consideration in the Discussion Paper. We look forward to participating in the continuing review and development of the Regime.

### ***About Canada's CPA Profession***

Chartered Professional Accountants of Canada (CPA Canada) is one of the largest national accounting organizations in the world, representing more than 210,000 members. Domestically, CPA Canada works cooperatively with the provincial and territorial CPA bodies who are charged with regulating the profession. Globally, it works together with the International Federation of Accountants and the Global Accounting Alliance to build a stronger accounting profession worldwide. CPA Canada, created through the unification of three legacy accounting designations, is a respected voice in the business, government, education and non-profit sectors and champions sustainable economic growth and social development. The unified organization is celebrating five years of serving the profession, advocating for the public interest and supporting the setting of accounting, auditing and assurance standards. CPA Canada develops leading-edge thought leadership, research, guidance and educational programs to ensure its members are equipped to drive success and shape the future.

Canada's CPA profession is regulated by the provincial and territorial CPA bodies whose authority and responsibilities are statutorily defined under provincial and territorial legislation. All members of our highly diversified profession are regulated by provincial/territorial requirements with approximately eighty percent of our more than 210,000 members working outside of audit and assurance services in areas such as industry, non-profits, government and academia.

The CPA profession's Public Trust Committee (PTC) oversees the ethical standards and self-regulatory processes of the profession, serving to protect its integrity while maintaining public confidence and trust. The PTC serves the public interest by, namely, recommending policies and strategies to uphold the public's confidence and trust in the profession, as well as developing and supporting improved harmonization of the provincial and territorial CPA bodies' self-regulatory policies and practices. On behalf of the CPA profession, the PTC also monitors and responds to international developments in rules of ethics and standards.

### **Overall Response Recommendations**

We are aware that the Department of Finance and other stakeholders such as the House of Commons Standing Committee on Finance (FINA) are evaluating and deliberating on approaches and efforts to improve the Regime to prevent money laundering and combat terrorist financing. We understand that there are domestic and



international pressures and expectations for Canada to enhance its Regime. As the Discussion Paper notes in the introduction to Chapter 1, there is a need to “design a framework... to be aligned with the risk.” As of today, the elements and effectiveness of such a framework are not clear to us nor is there clarity on the tools, measures, and expectations that will make the Regime a leader in the world for the future. CPA Canada would support the development of such a framework so as to balance the burden on business with the necessity to improve the effectiveness of the Regime for the next decade, considering developments in technology, threats, and speed of business.

The Discussion Paper refers to the collaboration between the federal and provincial governments on the development of “a national strategy to strengthen the transparency of legal persons and legal arrangements and improve availability of beneficial ownership information.” We believe that such a national strategy forms an integral part of helping Canadians to do business in a more transparent manner. Additionally, as the Discussion Paper points out, such information allows law enforcement’s efforts to be more effective. We would, however, discourage the creation of new requirements and expectations to strengthen the Regime that may be duplicative or confusing, if significant elements of key information may already be available to other parts of government such as through the tax system.

CPA Canada believes that a strong and effective response is needed to prevent improper activities within our financial system. We would, however, be concerned if the imposition of burdensome requirements and expectations on Canadian business bring only incremental benefits to the Regime, while leaving other possible areas of greater risk unaddressed. A well-developed, risk-focused Regime framework and national strategy are therefore critical requirements to meet Canada’s needs for today and tomorrow.

In developing such a Regime framework and national strategy, important choices will need to be put forward to business, legislators and Canadians. These choices should be adequately framed and developed, communicated and applied in a practical manner with reasonable regulatory burden. In some circumstances, it may be a matter of using existing rules and developing partnerships between stakeholders to achieve important public interest objectives (e.g., Project Protect). In other instances, such as beneficial ownership matters, the overall Regime approach needs fundamental consideration as part of the Regime framework and national strategy that will serve Canadians into the next decade.



## Detailed Response Introduction

Globally, the accounting profession recognizes that it is on the front lines of systemic business innovation and technological change. A 2017 study by the International Federation of Accountants (IFAC) *The Accountancy Profession – Playing a Positive Role in Tackling Corruption* (<https://www.ifac.org/publications-resources/accountancy-profession-playing-positive-role-tackling-corruption>) notes a strong link between the percentage of professional accountants in the workforce and more favorable scores on the main global measures of corruption. The CPA profession is engaged and would welcome new tools being considered to assist in complying with AMLTF legislation and regulations in a complex and rapidly evolving national and international environment.

We found the Discussion Paper contained a broad array of potential policy measures and issues for consideration. In our response, we have included comments on those matters where our insights might provide the greatest value, recognizing that other stakeholders will offer feedback on matters that we have not specifically addressed.

Overall, we found the Discussion Paper to be interesting and thought-provoking when considering the Regime today and in the future. We support foundational concepts identified in the Discussion Paper including:

- Maintaining the balance between deterring and detecting money laundering and terrorist financing and improving corporate transparency while respecting the constitutional and privacy rights of Canadians;
- Minimizing the regulatory and compliance burden of measures to detect and deter money laundering and terrorist financing activities;
- Utilization of risk-based approaches to maximize the effectiveness of the regime;
- Internationally contributing to a strong global financial system through an effective Regime.

We believe these foundational concepts, along with data and details, would be useful to further evaluate proposed policy measures and to educate Canadians if changes are pursued. With the recognition that the regime needs to improve and develop in the future, we believe it is important to demonstrate how tactical and incremental changes are evaluated and how they fit into a larger picture of the Regime that effectively and efficiently addresses Canada's risks and contributes to global financial system security.

Beyond incremental and tactical changes, we believe there should be a cooperative and consultative process with key stakeholders, including regulators, in the private and public sector to develop a framework to protect Canada's reputation and the integrity of our financial system in an evolutionary period of sustained change. Such a framework should revisit the roles and responsibilities of all key stakeholders and outline efforts to



define the future effectiveness of the Regime, improve upon it with an integrated larger picture approach and garner the support of Canadians.

## ***Legislative and Regulatory Gaps***

### **Corporate Transparency**

Generally, we agree that corporate transparency is important to the Regime and to international partners in the pursuit of global financial system security. We are aware that FATF international standards exist in regards to transparency and beneficial ownership and that Canada, through the G20, has agreed to strengthen implementation of the standards. In an increasingly globalized financial system and markets, we agree that international support and implementation is critically important to Canada's financial system security and that of other countries.

### **Beneficial Ownership**

From the Discussion Paper, we understand that a phased approach is being proposed that will begin with the commitments made by Canada's Finance Ministers in December 2017. While we understand the need to demonstrate progress on this front, we note that these proposed changes expected to affect federal, provincial and territorial corporate statutes or other relevant legislation are to be part of a national strategy not yet developed. We note that Canada's Finance Ministers have agreed to develop a joint outreach and consultation plan with the business community and other stakeholders, which is very positive. We anticipate that there will be a desire to understand how the immediate changes will fit into the national strategy and we expect there will be interest in details as to how the national strategy will be developed to be both suitable and beneficial for Canada and Canadians. With our many jurisdictions in Canada, we understand that consultation and support building can take time and we have some concerns that legislative changes to be in force by July 1, 2019 may be too ambitious.

At a high level, the most immediate changes to be made regarding corporate information reporting requirements may be reasonable to improve upon transparency and consistency across jurisdictions although we will need to formally consider the details of the planned approach. In contemplating the legislative amendments, we believe it would be helpful to present these changes with an analysis of the risk basis to proceed and the expected costs and regulatory burden to be incurred. Further, we would recommend that government consider if the beneficial ownership information required could be leveraged from existing



information streams already required by governments such as through the tax system. In addition, we suggest the government consider how the changes created today will satisfy the requirements of a national strategy that is to be determined. We believe it will be important to avoid any form of regulatory duplication or to enact changes that will not be fit for purpose longer term.

As noted in the Discussion Paper, further work will determine where beneficial ownership information should be located and how it might be accessed including, for example, by the public. Considering systems in other countries would be helpful to understand their relative strengths and weaknesses in addition to learning from other countries' experiences in this regard. Ultimately we believe it is critical that the government set out the regulatory burden, privacy implications as well as the risks, such as money laundering, to be avoided or mitigated by such increased transparency. This information will help Canadians and corporate Canada to understand and assess such recommendations for possible support.

With respect to the Canadian Finance Ministers' agreement in principle to eliminate the use of bearer shares, we believe this should be a reasonable approach given the international assessment of their risks for money laundering. However, we are aware that there may be legitimate planning uses for bearer shares in a Canadian context and would therefore need to more broadly consult to respond to specific amendments.

### **Expanding Requirements for Designated Non-Financial Businesses and Professions (DNFBPs) in relation to Politically Exposed Persons (PEPs), Head of International Organizations (HIOs) and Beneficial Ownership**

We understand that FATF recommends all countries have PEP and HIO obligations in place for all reporting entities and that some Reporting Entities in Canada currently have such requirements as well as obligations to collect beneficial ownership information from corporations or other complex legal entities. If such requirements were to be applied to accountants and accounting firms engaged in triggering activities, we would need to consult with members on detailed proposals to provide feedback of any concerns or issues. As an overall observation, beneficial ownership information could be straight-forward, easy to obtain and static; however, it could also be very complex, subject to change and the costs to determine it could exceed that of the fees associated with the service to be provided to the client.

With detailed proposals, we could consult with members to determine the potential impact and inform government with respect to the potential regulatory requirements and compliance burden to be incurred. This would allow for an informed analysis of the risk basis on which to evaluate the proposals versus their cost.



## **Designated Non-Financial Businesses and Professions (DNFBPs) Non-Transactional Based Activities**

We would need to consult members with detailed proposals in order to comment and provide feedback on the impact of any potential regulatory requirements and compliance burden. This would allow for an informed analysis of the risk basis on which to evaluate any proposals versus their cost.

## **Prohibiting the Structuring of Transactions to Avoid Reporting**

We understand the issues identified in the Discussion Paper associated with the structuring of transactions to avoid reporting and at this early stage, we would highlight the need to avoid application to an otherwise inadvertent situation that could impose a criminal penalty.

## ***Modernizing the Framework and its Supervision***

### **Whistleblowing**

We believe that Canada would benefit from a national framework for reporting and protection of whistleblowers. Currently, there is a patchwork quilt of provisions that appear in specific pieces of legislation at the federal, provincial and territorial levels. This impedes familiarity with what exists, when it applies and how it works. Canada needs to foster a culture and comprehensive whistleblowing architecture that enables doing what is best for the public interest while protecting those who take on the risks.

In providing this input, we wish to note an international ethics development that Canada's CPA profession is currently reviewing. In July 2017, the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants (IESBA Code) was amended concerning *Responding to Non-Compliance with Laws and Regulations* (NOCLAR). The revised IESBA Code sets out a framework for the response of professional accountants to known or suspected NOCLAR, including whether the known or suspected NOCLAR should be disclosed to an appropriate authority.

In Canada, the provincial rules of professional conduct must be as stringent as the IESBA Code unless there is a legal, regulatory, or public interest reason to differ. The CPA profession's Public Trust Committee is currently considering the NOCLAR changes to the IESBA Code in relation to the CPA profession's existing ethical standards and within the context of Canadian laws, regulations, and the public interest.



## ***Closing Comments***

On behalf of CPA Canada, we reiterate our ongoing commitment to engaging in these important issues that affect all Canadians. We would welcome any questions concerning our response and look forward to participating in the continuing review and development of the Regime.

Sincerely,

Joy Thomas, MBA, FCPA, FCMA, C.Dir  
President and Chief Executive Officer  
CPA Canada

Phone: (416) 204-3220  
Email: [JThomas@cpacanada.ca](mailto:JThomas@cpacanada.ca)

José R. Hernandez, CPA, CA, Ph.D.  
Member, ACMLTF  
CEO, Ortus Strategies AG

Phone: (647) 271-3303  
Email: [Hernandez@OrtusStrategies.com](mailto:Hernandez@OrtusStrategies.com)

September 12, 2018

Ms. Lisa Pezzack  
Director General  
Financial Systems Division  
Financial Sector Policy Branch  
Department of Finance Canada  
James Michael Flaherty Building  
90 Elgin Street  
Ottawa, Ontario K1A 0G5  
Email: [fin.fc-cf.fin@canada.ca](mailto:fin.fc-cf.fin@canada.ca)

Dear Ms. Pezzack:

**RE: Canada Gazette, Part 1, Volume 152, Number 23: Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2018 – Notice dated June 9, 2018**

CPA Canada is pleased to provide comments regarding the *Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2018* (the proposed Regulations). As a professional body with representation on Canada's Advisory Committee on Money Laundering and Terrorist Financing (ACMLTF), CPA Canada welcomes the opportunity to provide input on the proposed Regulations related to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and Canada's Anti-Money Laundering and Anti-Terrorist Financing regime (the Regime). In particular, we will address matters of relevance to accountants and accounting firms.

Of particular note, we raise concerns about the proposed Section 47 where it seems a new and material change has been made, and the proposed change to Subsection 9(2) regarding the timing of required suspicious transaction reporting. Our detailed responses on these sections appear on pages 3 and 4, respectively.

We recognize the real threat posed by money laundering, terrorist financing and other forms of illegal and unethical conduct such as corruption to Canada's national reputation, economy and society. The accounting profession plays a variety of important roles in regards to the integrity of the financial system and markets. CPA Canada reiterates our ongoing commitment to engaging in these important issues that affect all Canadians.



We are aware of the various matters highlighted in the 2016 Financial Action Task Force (FATF) Mutual Evaluation Report concerning Canadian measures in place to combat money laundering and the financing of terrorism as well as areas identified for further strengthening of the PCMLTFA (the Act) and the Regime. We commend the Department of Finance and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) for reaching out to stakeholders to provide context and additional insights into the proposed Regulations.

### **General Comments**

As stated in the Regulatory Impact Analysis Statement, the proposed amendments are intended to strengthen the Regime with some of the changes dating back to a consultation process that started in December 2011 while others have been identified since including through the 2016 FATF Mutual Evaluation Report. There have also been significant changes presented in the proposed Regulations primarily due to drafting conventions which, including the amendments, total over 180 pages of text. Overall, we found the 90-day period and timing for the consideration of the Regulations challenging.

We also noted in the Regulatory Impact Analysis Statement the reference that FINTRAC would “undertake **possible** outreach activities to ensure reporting entities are aware of the new obligations”. We believe outreach activities are very important and should be confirmed, without any doubt, as part of the implementation plan. Through our recent discussions with Department of Finance and FINTRAC representatives, we have gained helpful insights and believe that outreach activities will be critical to the successful implementation and compliance with the proposed Regulations once finalized.

At this time, pending resolution of some of the issues raised below, we are unable to comment on whether a transition period of twelve months from the date of registration of the Regulations will be sufficient. In regards to changes that may have system impacts, the changes need to be finalized before accountants and accounting firms can assess their impact in respect of their particular systems.

In considering the Regulations as a whole and the total resource requirements for the Regime, we noted the need to have a comprehensive framework that is aligned with assessed risks that will position Canada well for the future. CPA Canada would support the development of such a framework to balance the burden on business with the necessity to improve the effectiveness of the Regime for the next decade, considering developments in technology, threats and speed of business.



## **Specific Comments: Proposed Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations**

### **Section 1 Interpretation**

We have reviewed the amended definition of “accountant” and request the following change:

*accountant* means a chartered accountant, a certified general accountant, a certified management accountant ~~or, if applicable,~~ and a chartered professional accountant.

Further, the designation granted today is the chartered professional accountant and we therefore believe it would be preferable to begin the list with this designation rather than to end with it.

### **Part 1 Requirements to Report Transactions and to Keep Records**

#### **Section 47 Accountants and Accounting Firms**

We have reviewed the current Section 34 in comparison to the proposed Section 47 and believe that a material change has been made beyond the changes expected in respect of drafting conventions. Our understanding of the current Section 34, specifically under Subsections (1) and (2), is that Part 1 of the Act does not apply in respect of an accountant when they engage in any of the triggering activities on behalf of their employer.

In the proposed Section 47, the reference in Subsection (1) to paragraph 5(j) instead of Part 1 as it exists in the current Section 34 appears to newly expose accountants who engage in any of the triggering activities on behalf of their employer to requirements under section 7 of the Act to report on attempted and completed suspicious transactions. We understand that changes to the Regulations will be considered before they are finalized and we believe a discussion and further information about this proposed amendment is necessary. At present, we are concerned with the proposed amendment.

We understand that the receipt of professional fees by accountants or accounting firms, whether received in cash or virtual currency, does not trigger associated obligations under the PCMLTFA. We recommend that this exemption for professional fees should be stated for greater certainty in Section 47 of the Regulations. This would assist with an ease of understanding of the Regulations, without the need for interpretation or guidance, in terms of the requirements to report and record upon receipts of cash or virtual currency.

### **Part 3 Measures for Verifying Identity**

In regards to Subsection 105 (5), we note the change to “authentic” in respect of documentation that is used to verify identity and we understand that this will be a more flexible requirement than the current



“original” requirement. We found FINTRAC’s draft Preliminary Guidance for consultation helpful in understanding the intended meaning of “authentic” and how to determine the authenticity of a photo identification document or record.

In considering the concept and the draft guidance, we are mindful of the diversity of all those who must comply with the Act and the Regulations from a sole practitioner accountant, for example, to a chartered bank or life insurer. We anticipate that the breadth and depth of resources and experience available in considering authenticity may be very different. We therefore would encourage additional information in the guidance as to how characteristics, security features and/or markers may be determined as authentic. We understand from our discussions during the consultation sessions that creating awareness of available resources in this regard may support effective compliance with the requirement of authentic documentation in verifying identity.

## **Part 5 General Provisions**

In regards to Sections 126 and 129, we are concerned that new aggregation of reportable transactions under the 24-hour rule is too burdensome. Specifically, the interpretation that was discussed during the consultation of what the person or entity “knows” as being any information gathered in their system is deemed to be what they “know” seems fraught with difficulties. For example, we can envision where information in one geographic location or practice area of an entity may not be connected to information in another location or practice area of that same entity. In trying to determine, for example, whether beneficiaries are receiving transaction amounts on behalf of the same third party based on “known” information could be beyond the person or entity’s capacity to screen for such within a system and at minimum, pose a resource and financial cost that would be unreasonable.

While we understand the potential information to be gained from aggregating transactions, we would suggest that further consideration of these proposed requirements should be conducted both in respect to the extent of the extension and the expectation of the reporting entities in terms of what they “know” in this regard.

## **Specific Comments: Proposed Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations**

In reviewing the proposed change to Subsection 9(2), we believe that the proposed three calendar days (i.e., following when measures taken have enabled the establishing of reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering or a terrorist activity financing offence) may be too narrow a timeframe for the required reporting to FINTRAC. We appreciate both the need to align with FATF standards and the desire to maintain the richness of reporting in Canada regarding suspicious transactions. However, in particular, our concerns arise through the use of calendar days versus business days and also the need to interpret, beyond the proposed Regulations, what the phrase “measures taken” includes.



As possible solutions, we believe changing three days to five or seven calendar days would afford more reasonable flexibility and specifying in the regulations that “measures taken” includes sign-off on the reasonable grounds and draft report by those authorized to do so would be a more achievable requirement. In our view, these changes would greatly assist in the potential issues faced when multiple reports are in process simultaneously, weekend and traditional holiday timeframes (i.e., beyond or in between statutory holidays) are involved or when the sole proprietor is unavailable as his/her staff reach reasonable grounds conclusions subject to the proprietor’s review and approval.

We are aware that changes are being considered with respect to this proposed amendment and would encourage that the diversity of all those who must comply with the Act and the proposed Regulations from a sole practitioner accountant, for example, to a chartered bank or life insurer be considered in any revision. Further, based on our discussions that countries differ in respect of the information they collect, we suggest that a reason to differ from FATF standards on timelines for submission should be acceptable to the extent that the richness of the suspicious transaction reporting in Canada can be differentiated and demonstrated to enhance the Regime in the public interest.

### **About Canada’s CPA Profession**

Chartered Professional Accountants of Canada (CPA Canada) is one of the largest national accounting organizations in the world, representing more than 210,000 members. Domestically, CPA Canada works cooperatively with the provincial and territorial CPA bodies who are charged with regulating the profession. Globally, it works together with the International Federation of Accountants (IFAC) and the Global Accounting Alliance to build a stronger accounting profession worldwide. On July 18, 2018, IFAC and the International Bar Association (IBA) announced their shared commitment to continue their work combating corruption in all its forms: <https://www.ifac.org/news-events/2018-07/international-accountancy-and-law-professions-further-anti-corruption-mandate>.

CPA Canada, created through the unification of three legacy accounting designations, is a respected voice in the business, government, education and non-profit sectors and champions sustainable economic growth and social development. The unified organization is celebrating five years of serving the profession, advocating for the public interest and supporting the setting of accounting, auditing and assurance standards. CPA Canada develops leading-edge thought leadership, research, guidance and educational programs to ensure its members are equipped to drive success and shape the future.

Canada’s CPA profession is regulated by the provincial and territorial CPA bodies whose authority and responsibilities are statutorily defined under provincial and territorial legislation. All members of our highly diversified profession are regulated by provincial/territorial requirements with approximately eighty percent of our more than 210,000 members working outside of audit and assurance services in areas such as industry, non-profits, government and academia.



## Closing Comments

We believe that 2018 has thus far been a busy and productive year with regards to the Regime in many ways and we have been pleased to be engaged. Looking forward to the results of the Parliamentary Review, expected changes to beneficial ownership requirements through corporate registries and implementation of the proposed Regulations, it will be very helpful for stakeholders to have insight as early as possible with respect to the timing of changes, any future consultations on reforms that may be considered and the timing of the approval of any final amendments to the proposed Regulations. Increased lead time would allow for communication efforts and engagement in our multi-jurisdictional profession.

On behalf of CPA Canada, we reiterate our ongoing commitment to engaging in these important issues that affect all Canadians. We would welcome any questions concerning our submission and look forward to participating further towards the finalization of the proposed Regulations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joy Thomas".

Joy Thomas, MBA, FCPA, FCMA, C.Dir  
President and Chief Executive Officer  
CPA Canada

Phone: (416) 204-3220

Email: [JThomas@cpacanada.ca](mailto:JThomas@cpacanada.ca)

A handwritten signature in red ink, appearing to read "José R. Hernandez".

José R. Hernandez, CPA, CA, Ph.D.  
Member, ACMLTF  
CEO, Ortus Strategies AG

Phone: (647) 271-3303

Email: [Hernandez@OrtusStrategies.com](mailto:Hernandez@OrtusStrategies.com)

February 13, 2019

PRIVATE AND CONFIDENTIAL

Ms. Annette Ryan  
Associate Assistant Deputy Minister  
Financial Sector Policy Branch  
Department of Finance Canada  
James Michael Flaherty Building  
90 Elgin Street  
Ottawa, Ontario K1A 0G5  
Email: [annette.ryan@canada.ca](mailto:annette.ryan@canada.ca)

Dear Annette:

**RE: Whistleblowing - Request for Additional Information**

Further to our discussions following the most recent ACMLTF meeting, we are pleased to provide additional information requested regarding whistleblowing, specifically drawing on our work regarding international developments and our interest in a dialogue on how Canada's frameworks for reporting and whistleblower protections can be made more consistent and effective.

As mentioned, CPA Canada has formally commented on this matter most recently in our response to the February 7, 2018 Discussion Paper *Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (the Discussion Paper) wherein we stated the following:

**Modernizing the Framework and its Supervision**

**Whistleblowing**

We believe that Canada would benefit from a national framework for reporting and protection of whistleblowers. Currently, there is a patchwork quilt of provisions that appear in specific pieces of legislation at the federal, provincial and territorial levels. This impedes familiarity with what exists, when it applies and how it works. Canada needs to foster a culture and comprehensive whistleblowing architecture that enables doing what is best for the public interest while protecting those who take on the risks.

In providing this input, we wish to note an international ethics development that Canada's CPA profession is currently reviewing. In July 2017, the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants (IESBA Code) was amended concerning Responding to Non-Compliance with Laws and Regulations (NOCLAR). The revised IESBA Code sets



out a framework for the response of professional accountants to known or suspected NOCLAR, including whether the known or suspected NOCLAR should be disclosed to an appropriate authority.

In Canada, the provincial rules of professional conduct must be as stringent as the IESBA Code unless there is a legal, regulatory, or public interest reason to differ. The CPA profession's Public Trust Committee is currently considering the NOCLAR changes to the IESBA Code in relation to the CPA profession's existing ethical standards and within the context of Canadian laws, regulations, and the public interest.

Our comments above are relevant to Canada's anti-money laundering and terrorist financing regime but are not limited to it. Overall, we believe that Canada would benefit from a "speak-up" culture where known or suspected wrongdoing can be reported and followed-up. One of the principle concerns we shared is that Canada's patchwork quilt of provisions in federal, provincial and territorial legislation continues to evolve without a national approach or framework for reporting and protecting whistleblowers.

It is well recognized that those who take on the risk of reporting in the public interest tend not to fare well through the overall experience. If this risk is combined with a lack of clarity about how to report, where to report and a lack of or unclear protections, the initiative to report may well be set aside. With the variety of provisions that exist today, we believe it is difficult for Canadians to be familiar with what reporting frameworks and protections may be relevant and what their potential exposure may be should they report in the public interest. We found matters raised in the February 2018 University of Ottawa report, [\*Whistleblowing in Canada – A Knowledge Synthesis Report\*](#), to be consistent with our observations. Within the scope of the report, it "highlights the gaps in the Canadian legal system, that is confusing at best, in regard to whistleblower protection."

Most recently, we have noted new legislation in Quebec (i.e., Bill 141) with provisions related to whistleblowing to report wrongdoings to the Autorité des marchés financiers and the new whistleblower program introduced by the Alberta Securities Commission. We believe these are additional unique developments in Canada which add to the complexity of understanding our country's reporting frameworks and protections.

Internationally, the International Federation of Accountants (IFAC), whose board members include CPA Canada's CEO Joy Thomas and Sheila Fraser, is an anti-corruption partner in the B20, the private sector's voice of the G20 community. Three IFAC leaders are currently serving on B20 taskforces including Carol Bellringer, British Columbia's Auditor General, who serves on the B20 taskforce on integrity and compliance.

In considering the aspirations of the G20 to implement comprehensive and effective provisions for whistleblowers in the public and private sectors, we are unclear as to how Canada can advance or improve without a national framework.



As a professional body with representation on Canada's ACMLTF and in considering the international ethics development for professional accountants noted above in the excerpt from our Discussion Paper submission, we have reviewed developments in some other countries to look for similarities and differences in the reporting frameworks and protections afforded to those who consider or report in the public interest. We noted, as examples, that:

- arguably the most developed securities law violation whistleblower program is the one administered in the U.S. at the Securities and Exchange Commission, which embeds protections and awards for legitimate whistleblowers to both incentivize and compensate them for the risks and retaliations they may face
- the Public Interest Disclosure Act in the U.K. has a breadth of protection application to most workers in the public, private and voluntary sectors with an easily obtained list of prescribed persons and bodies that disclosures can be made to
- in France, the Sapin II legislation has established a whistleblower program and a general definition of whistleblowers has been established across sectors and industries for broader protection
- Australia has recently studied whistleblower regimes at home and abroad and amended legislation recognizing that variations between its own regimes were confusing for whistleblowers with differences and gaps existing in the protections available. Particular reference was made there to the "Summary of Best Practice Criteria for Whistleblowing Legislation" included in the 2015 report "*Breaking the Silence – Strengths & Weaknesses In G20 Whistleblower Protection laws*".

As we have noted previously in meeting with Finance Canada, the key pieces needed for an effective whistleblowing system include: a confidential line; protections against retaliations; follow-up by regulators or law enforcement; interactions with organizations to have them address allegations; reporting back; resolution; and awards for the whistleblowers.

The federal government could demonstrate leadership and strengthen Canada's AML regime by establishing a national approach or framework for reporting and protecting whistleblowers across jurisdictions.

CPA Canada recognizes the real threat posed by money laundering, terrorist financing and other forms of illegal and unethical conduct such as corruption to Canada's national reputation, economy and society. With today's fast paced environment and issues that exceed borders, we believe that improvements are needed regarding the existing fragmented system within Canada and it could begin with the establishment of a national framework for reporting and protection of those who take on the risk of reporting in the public interest.



## Closing Comments

On behalf of CPA Canada, we appreciate the opportunity to share some additional thoughts on this topic and we reiterate our ongoing commitment to engaging in these important issues that affect all Canadians. We would welcome any questions or requests for follow-up consultation.

Sincerely,

A handwritten signature in blue ink that reads "Michele A. Wood-Tweel".

Michele A. Wood-Tweel, FCPA, FCA  
Vice-President, Regulatory Affairs  
CPA Canada

Phone: (902) 401-0693  
Email: [mwood-tweel@cpacanada.ca](mailto:mwood-tweel@cpacanada.ca)

A handwritten signature in red ink that reads "José R. Hernandez".

José R. Hernandez, CPA, CA, Ph.D.  
Member, ACMLTF  
CEO, Ortus Strategies AG

Phone: (647) 271-3303  
Email: [Hernandez@OrtusStrategies.com](mailto:Hernandez@OrtusStrategies.com)

# 2019 Federal Budget Analysis

The federal budget, tabled on March 19, 2019, includes several commitments in non-tax areas of interest to CPA Canada. Among them are:

- A new skills training incentive, the Canada Training Benefit, to help Canadian workers cover the cost of training and take EI-funded leaves from work to attend training.
- Funding and proposed legislative changes to strengthen Canada’s anti-money laundering regime.
- A package of measures to encourage the adoption of zero-emission vehicles.

Here is how Budget 2019 measures up from CPA Canada’s perspective:

<b>TAXATION: A WORLD-CLASS TAX SYSTEM</b>	
<b>CPA CANADA RECOMMENDATIONS</b>	<b>2019 FEDERAL BUDGET</b>
<ul style="list-style-type: none"> <li>➤ Commit to a comprehensive review of Canada’s tax system, building on the recommendations advanced by the Advisory Council on Economic Growth.</li> </ul>	<ul style="list-style-type: none"> <li>• No tax review was announced.</li> </ul> <p>Key proposed tax measures in the Budget 2019 include:</p> <ul style="list-style-type: none"> <li>• Introducing the Canada Training Credit – a refundable personal tax credit of \$250 per year that can be accumulated to provide financial support to help cover up to half of eligible tuition and fees associated with training (see “<i>Innovative Skills for Work</i>” section below)</li> <li>• Limiting the use of the current employee stock option tax regime to start ups and growth companies and for other companies, to the first \$200,000 of underlying share value annually for options granted to an employee</li> <li>• Changes to the Home Buyers’ Plan (HBP), such as increasing the HBP withdrawal limit to \$35,000 from \$25,000</li> <li>• Unreduced access to the enhanced refundable SR&amp;ED credit for small and medium sized businesses with taxable</li> </ul>

## 2019 Federal Budget Analysis

	<p>capital of up to \$10 million, regardless of their taxable income</p> <p>An additional \$150.8 million over five years was announced to further combat tax evasion and aggressive tax avoidance and \$65.8 million over five years to improve CRA's information technology systems.</p> <p><i>Further details on specific tax measures announced in the budget can be found in <b><u>CPA Canada's 2019 Federal Budget Tax Highlights.</u></b></i></p>
<p>➤ As the government assesses the potential impacts of U.S. tax reforms, consider the following measures so that Canada maintains its competitive tax advantage:</p> <ul style="list-style-type: none"> <li>• Review personal and corporate income tax rates to ensure that Canada is attracting and retaining top talent and business investment, driving job creation and overall economic growth.</li> <li>• Determine if a deduction for capital expenditures or accelerated capital cost allowance deductions would be beneficial for investments in capital property – to offset any negative effects of the new business incentives adopted in the U.S.</li> </ul>	<p>Budget 2019 confirms the government's intention to proceed with the following previously announced tax measures from the <i>Fall Economic Statement</i> (November 21, 2018) – which include:</p> <ul style="list-style-type: none"> <li>• Allowing the full cost of machinery and equipment used in the manufacturing and processing of goods to be written off immediately for tax purposes.</li> <li>• Introducing the Accelerated Investment Incentive to support investment by businesses of all sizes and across all sectors of the economy.</li> <li>• Allowing specified clean energy equipment to be eligible for an immediate write-off of the full cost.</li> </ul>
<p><b>Comments:</b></p> <p>While there were tax measures in the budget, there was little in the form of new measures aimed specifically at helping Canada and Canadian businesses remain competitive.</p> <p>Moreover, no tax review was announced. A comprehensive tax review presents the best opportunity to chart a new path that will create a world-class tax system that generates jobs, attracts talent and investment, and fosters inclusive growth for the benefit of all Canadians.</p>	

# 2019 Federal Budget Analysis

Budget 2019 missed a key opportunity to commit to a tax review to improve Canada’s tax system. CPA Canada urges the government and the other parties to make a full-scale tax system review a key pledge in their campaign platforms for the upcoming federal election.

## INNOVATIVE SKILLS FOR WORK

CPA CANADA RECOMMENDATIONS	2019 FEDERAL BUDGET
<ul style="list-style-type: none"> <li>➤ Revisit, amend and better promote the financial incentives available to Canadians and employers for upskilling and re-skilling.</li> <li>➤ To balance the public cost of the incentives, adopt a co-funding approach as proposed by the <i>Advisory Council on Economic Growth</i>.</li> <li>➤ Improve access to existing supports by revisiting the Canada Jobs Grants in concert with provincial/territorial governments, building on the pilot project offering Canada Student Grants to adult learners and better promoting the incentives for upskilling.</li> </ul>	<p>The major skills training announcement is the creation of a new Canada Training Benefit for working Canadians, investing more than \$1.7 billion over five years and \$586.5 million per year afterward:</p> <ul style="list-style-type: none"> <li>• The Canada Training Benefit has two elements: (1) a refundable Canada Training Credit of \$250 per year, up to a lifetime limit of \$5,000, to cover half the costs of training at eligible training institutions, and only available for workers with annual incomes under \$150,000; and (2) an Employment Insurance (EI) Training Support Benefit to pay 55% of a person’s weekly earnings to provide up to four weeks of income support while on leave, every four years.</li> <li>• To mitigate the impact of higher EI premiums to pay for this new leave benefit, there will be an EI Small Business Premium Rebate.</li> <li>• The government will consult with workers, employers, educational institutions and training providers, as well as provinces and territories, to finalize the design of the EI leave benefit.</li> </ul> <p>Other skills-related measures include:</p> <ul style="list-style-type: none"> <li>• Funding to improve access by Indigenous students to post-secondary education.</li> <li>• More support for digital skills.</li> <li>• The development of a new International Education Strategy received funding.</li> <li>• Work-integrated learning opportunities for post-secondary students received additional funding.</li> </ul>

# 2019 Federal Budget Analysis

- The Global Talent Stream is now a permanent program to help recruit highly skilled professionals from abroad.
- Increased support for apprenticeship promotion and a promise to develop a new Apprenticeship Strategy.

**Comments:**

The Canada Training Credit is a welcome financial incentive to help workers cover the cost of the training they choose. In order to be effective, government needs to ensure quality control of the eligible training and accountability by means of measurable outcomes. Based on the low uptake of certain social or income benefits by low-income individuals, government should take steps to ensure awareness of the new credit to that segment of Canadians.

To be fair to employers, the government should consider a suitable notice period for an employee to inform an employer of a request for leave for training.

Of note in the Budget document, the government has forecast no proposed increases in EI premiums paid by employers or employees between 2020-21 and 2023-24 to address the cost of this new benefit. However, a premium rebate for small business suggests the possibility of higher EI premiums in the future.

## HOUSING AFFORDABILITY

CPA CANADA RECOMMENDATIONS	2019 FEDERAL BUDGET
<ul style="list-style-type: none"> <li>➤ Encourage measures aimed at providing support to home buyers to improve housing affordability. However, we recommend that the federal government focus on measures that address supply constraints in Canada’s major metropolitan centres.</li> <li>➤ Recommend that the federal government avoids measures designed to put further upward pressure on home prices, such as those designed to increase leverage or lower credit quality standards, including extending amortization periods or eliminating the mortgage income stress test.</li> </ul>	<p>There were several major announcements aimed at helping first-time homebuyers:</p> <ul style="list-style-type: none"> <li>• These include a first-time home buyers incentive. Available to those with household incomes below \$120,000, the incentive would see the Canada Mortgage and Housing Corporation offering qualified first-time homebuyers a 10 per cent shared equity mortgage without interest for a newly constructed home or a five per cent shared equity mortgage for an existing home.</li> <li>• The government also announced an expansion of the Home Buyer’s Plan allowing homebuyers to take up to \$35,000 from their RRSP to finance a down payment, up from \$25,000.</li> </ul>

# 2019 Federal Budget Analysis

- Several measures were introduced attempting to address supply concerns, including \$300 million for a new Housing Supply Challenge which essentially crowdsources new, innovative ways of expanding housing supply in markets across Canada and the announcement of a new expert panel on the future of housing supply and affordability – a coordinated measure with the BC government to address housing supply in the province.

**Comments:**

The two measures aimed at addressing housing supply issues are welcome, but also telling about the challenge that addressing supply poses. We would encourage that the expert panel announced in cooperation with the BC government be extended to all provinces in order to get on-the-ground experience on each jurisdiction’s specific issues. The fact that the government dedicated \$300 million to a crowdsourcing effort recognizes the importance of on-the-ground insight.

On the demand side of the equation, the new measures announced raise concerns about whether they will be successful in actually improving access to housing among first-time buyers. In a supply-constrained housing market, particularly in Canada’s major metropolitan centres, providing the ability for a segment of the population to leverage up further simply raises the risk of additional upward pressure on home prices due to those particular segments of the market being already saturated.

## SUSTAINABLE ECONOMIC GROWTH

CPA CANADA RECOMMENDATIONS	2019 FEDERAL BUDGET
<ul style="list-style-type: none"> <li>➤ Remain committed to the strategy outlined in the Pan-Canadian Framework on Clean Growth and Climate Change.</li> <li>➤ Develop a national adaptation plan to coordinate the climate change adaptation efforts of all levels of government and the private sector.</li> <li>➤ Develop a comprehensive Canadian action plan outlining the partnerships, policy, regulation and standards needed for sustainable finance in Canada.</li> </ul>	<ul style="list-style-type: none"> <li>• To promote the adoption of zero-emission vehicles (electric or hybrid):               <ul style="list-style-type: none"> <li>○ Investments to expand the network of zero-emission vehicle charging stations</li> <li>○ Transport Canada to work with automakers to secure voluntary zero-emission vehicle sales targets</li> <li>○ A new federal purchase incentive of up to \$5,000 for the purchase of a zero-emission vehicle</li> <li>○ Funding to attract and support investments in zero-emission vehicle</li> </ul> </li> </ul>

## 2019 Federal Budget Analysis

- Full tax write-off for the purchase of zero-emission vehicles by businesses.
- Investment of \$1.01 billion toward energy efficiency in residential, commercial and multi-unit buildings.
- The Department of Finance to publish details, draft amendments and invitation to comment on refinements to the federal carbon pollution pricing system.
- Funding to establish a web-based Canadian Centre for Energy Information to compile energy data and improve information to Canadians.

### Comments:

Budget 2019 contains interesting new language in support of sustainable finance. It states: “The Government supports the TCFD’s (Task Force on Climate-related Financial Disclosures) voluntary international disclosure standards and a phased approach to adopting them by major Canadian companies, as appropriate. By supporting these standards, the Government aims to raise firms’ awareness of the importance of tracking, managing and disclosing material climate-related risks and opportunities in a consistent and comparable way.”

The Government will also encourage adoption of the TCFD standards by federal Crown corporations, where appropriate – an initiative supported by participants at a CPA Canada roundtable in December. CPA Canada welcomes these statements and looks forward to the release this spring of the recommendations of the Expert Panel on Sustainable Finance.

The budget measures to promote adoption of zero-emission vehicles are well-designed and include investments in infrastructure, incentives to encourage manufacturing, and tax incentives for the transition of business fleets. Subsidies to consumers can be controversial and expensive, but the federal proposal is limited to three years and applies only to vehicles with a manufacturer’s suggested retail price of under \$45,000. More details of the program are to come.

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## INNOVATION AND BUSINESS GROWTH

CPA CANADA RECOMMENDATIONS	2019 FEDERAL BUDGET
<ul style="list-style-type: none"> <li>➤ Commit to further improving Canada’s regulatory competitiveness and efficiency.</li> <li>➤ Consider broadening the scope of the Red Tape Reduction Act to include regulatory requirements.</li> <li>➤ Measures should be considered to improve stakeholder input and the confidence of the business community in the regulatory process.</li> <li>➤ Demonstrate federal leadership in addressing duplicative or overlapping regulatory requirements between different jurisdictions.</li> </ul>	<p><i>The Fall Economic Statement contained several new steps to address regulatory reform, including:</i></p> <ul style="list-style-type: none"> <li>• <i>Making regulatory efficiency and economic growth a permanent part of regulators’ mandates</i></li> <li>• <i>Introducing an Annual Modernization Bill</i></li> <li>• <i>Establishing an External Advisory Committee on regulatory competitiveness.</i></li> </ul> <p>Budget 2019 highlights include:</p> <ul style="list-style-type: none"> <li>• Elimination of the income threshold for accessing the enhanced SR&amp;ED credit (see CPA Canada Tax Highlights for details).</li> <li>• Introduction of the first three “Regulatory Roadmaps” including funding and related legislative and regulatory changes.</li> <li>• Renewed commitment to regulatory cooperation and harmonization between jurisdictions.</li> <li>• Commitment to universal high-speed internet for every Canadian.</li> <li>• Futurpreneur Canada program to receive \$38 million over five years. It should support the work of approximately 1,000 young entrepreneurs each year.</li> <li>• Measures to act on regulatory reform commitments made in Fall Economic Statement.</li> </ul>

**Comments:**

With substantive announcements in the Fall Economic Statement to address the regulatory burden, it was not anticipated that Budget 2019 would have major announcements in this area. However, the theme of regulatory competitiveness continues. Particularly welcome is the renewed commitment to working through a number of regulatory cooperation bodies to harmonize regulations both within Canada and with our major trading partners.

The first three Regulatory Roadmaps will address specific stakeholder issues and irritants in the agri-food and aquaculture, health and bio-sciences, and transportation and infrastructure sectors. They aim to result in a more user-friendly regulatory system with greater freedom for

# 2019 Federal Budget Analysis

innovation and experimentation and greater cooperation across government jurisdictions. Details will be released in the coming weeks and will be worth noting.

## RESPONSIBLE FISCAL MANAGEMENT

CPA CANADA RECOMMENDATIONS	2019 FEDERAL BUDGET
<ul style="list-style-type: none"> <li>➤ Address Canada's persistent deficit situation by establishing a target date for a return to balanced budgets over the medium term.</li> </ul>	<p>Budget 2019 projects deficits until at least 2023-24:</p> <p>2018-19: -\$14.9B</p> <p>2019-20: -\$19.8B</p> <p>2020-21: -\$19.7B</p> <p>2021-22: -\$14.8B</p> <p>2022-23: -\$12.1B</p> <p>2023-24: -\$9.8B</p>

### Comments:

The current federal government promised temporary and modest deficits, but persistent deficits prevail and will continue to exist into the foreseeable future, according to the government's latest budget projections.

While the Canadian economy has been operating at full capacity, there are signs that the pace of economic growth has been slowing down, with significant global risks on the horizon - including US-China trade tensions, Brexit negotiations and continued weakness in global oil prices. If an economic downturn were to occur, the government has little fiscal room to address it, given Canada's current deficit and debt situation.

The government's continued commitment to reduce Canada's debt-to-GDP ratio may be somewhat encouraging, but this target is merely one of many fiscal anchors required for prudent and responsible fiscal management.

Despite an economic windfall that allowed the government to narrow the deficit more than they had anticipated, the government continues to project deficits through its forecast. Canada needs a plan for fiscal stability - one that establishes a target date for a return to balanced budgets over the medium term and will provide the government guidance in its financial planning.

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## ANTI-MONEY LAUNDERING

CPA CANADA RECOMMENDATIONS	2019 FEDERAL BUDGET
<p>➤ Strengthen Canada’s anti-money laundering regime, better promote compliance and optimize enforcement.</p>	<ul style="list-style-type: none"> <li>• Proposed legislative amendments to the <i>Criminal Code</i>, the <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)</i> and the <i>Seized Property Management Act</i>, which are intended to strengthen the legal framework.</li> <li>• The government will further amend the <i>Canada Business Corporations Act</i> to make the beneficial ownership information “more readily available” to tax authorities and law enforcement.</li> <li>• Creation and funding for a pilot project called the Anti-Money Laundering Action Co-ordination and Enforcement Team, bringing together federal agencies, and a new Trade Fraud and Trade-based Money Laundering Centre of Expertise.</li> <li>• Increased funds to the Royal Canadian Mounted Police and to FINTRAC for operational capacity.</li> <li>• Related to its AML efforts, the government is working to deter financial crime in real estate with a focus on British Columbia – including through the newly announced joint working group with the Province of B.C. to address tax fraud and money laundering in the province.</li> </ul>

### Comments:

New plans, projects and funding to strengthen Canada’s anti-money laundering regime are welcome, subject to a detailed understanding of how they will address the current inadequacies in the federal legal framework and enforcement system and the implications for accountants in their key roles in the efforts to counter money laundering.

The announcement of these proposed legislative measures in the Budget document gives the government the authority to introduce such changes, including in a forthcoming budget implementation act.

With respect to further changes to the CBCA regarding beneficial ownership information, the intent is to enable tax authorities and law enforcement to proactively request such information.



## **Pre-budget Consultations in Advance of the 2020 Federal Budget**

**by Chartered Professional Accountants of Canada**

**August 2019**

## Executive Summary

Each year the [House of Commons Standing Committee on Finance](#) invites Canadians to share their input concerning the next federal budget. As the committee notes, the pre-budget consultations process is a vital means by which Canadians can contribute to the development of federal budgetary policies and measures. The recommendations put forward by CPA Canada in the following brief have been developed in response to this year's theme, as proposed by the Committee, which is "**Climate Emergency: The Required Transition to a Low Carbon Economy**".

## Recommendations

*CPA Canada recommendations for accelerating Canada's transition to a low-carbon, climate resilient and globally competitive economy*

That the government:

1. Implement the recommendations of the Expert Panel on Sustainable Finance that are within federal jurisdiction, and encourage and support other jurisdictions and the private sector to do the same. Specifically:
  - A. Map Canada's long-term path to a low-carbon, climate-resilient economy in order to maintain forward momentum and provide policy certainty to Canadian business.
  - B. Establish a Canadian centre for climate information to improve the availability and reliability of climate data to facilitate business decision-making.
2. Remain committed to the priorities identified in the Digital Charter, including the review and modernization of related legislation.
3. Undertake to do the following in response to the tax challenges of the digitalization of the economy:
  - A. Change the GST rules so that non-resident vendors collect the tax on intangible property and services.
  - B. Remain committed to and actively contribute to the OECD process to develop an agreed-upon, principles-based global framework for tax in a digitalized world.
4. Launch a comprehensive review of Canada's tax system, led by an independent expert panel.
5. Work with provinces and territories to strengthen Canada's anti-money laundering regime, including through consistent beneficial ownership requirements and a new national framework around whistleblowing in the private and public sectors.
6. Evaluate the various programs and initiatives to promote skills training to ensure they are achieving results and preparing Canadians with the skills needed for a cleaner, digital and globally integrated economy.

## Introduction

Chartered Professional Accountants of Canada (CPA Canada) is pleased to present its 2020 federal budget recommendations to the House of Commons Standing Committee on Finance, with measures to accelerate Canada's transition to a low-carbon, climate resilient economy, which is consistent with the committee's theme this year. CPA Canada is one of the largest national accounting organizations in the world, representing more than 217,000 members. CPA Canada acts in the public interest by contributing to effective public policy and by focusing on building new business models and accounting best practices that shape the pillars supporting strong economies, capital markets and business practices in an ever-changing global environment.

CPA Canada views climate change as a key business issue and has been addressing it for more than two decades. Canadians are looking to leaders in the public and private sector to confront climate change and the other [drivers of change](#) with solutions that protect their economic prosperity and quality of life. We believe that businesses must balance their economic aspirations with consideration for their environmental and societal impacts. Failure to adequately transition to a low-carbon, climate-resilient economy – by either political or business leaders – will further erode public trust in the institutions that underpin our society. That is why climate change must be addressed by both government and business, in partnership.

## The economy must become cleaner

“The relationship between the economy and the environment is at a vital inflection point. As more climate change impacts materialize and international activity to reduce greenhouse gas emissions mounts, Canada's aspirations for a thriving economy, workforce and environment must become one and the same.”- Expert Panel on Sustainable Finance (“expert panel”)

These words introduce the [final report](#) of the expert panel and capture the challenge issued by the House of Commons Standing Committee on Finance in these pre-budget consultations. Namely, that the environmental impacts of climate change lead to economic opportunities and challenges that, if addressed properly, will result in a healthier environment, society and economy.

The expert panel has delivered a thoughtful and comprehensive report that the federal government and the 43<sup>rd</sup> Parliament should consider deeply. CPA Canada is in broad agreement with the expert panel's recommendations and we propose **that the government move to implement those recommendations that are within its jurisdiction**. As the expert panel frequently notes, collaboration between different levels of government and the private sector are required to advance some of the recommendations and, as such, we suggest that the government encourage and support other jurisdictions and the private sector to take similar actions.

First among the expert panel's recommendations is to map Canada's long-term path to a low-emissions, climate smart economy, noting that a “longer-term horizon (is) needed to mobilize investment.” This is a matter of great concern to CPA Canada. Not only is this long-term path necessary to ensure Canada

remain committed to its climate objectives, but it is needed to instill business confidence. With commitments to the Pan-Canadian Framework on Clean Growth and Climate Change wavering, businesses are unsure about how Canada's climate policy framework will evolve in the coming years. Predictability and certainty are the factors that give business the confidence to make investments. As proposed by the expert panel, **Canada needs to map – and commit to – a long-term path** in order to maintain forward momentum in addressing climate policy objectives and to entrench the policy certainty that business and investors require.

One recommendation of the expert panel that is wholly within federal jurisdiction, and which can be acted upon without delay, is to establish what it terms a Canadian Centre for Climate Information and Analytics.<sup>1</sup> Businesses rely on sound data and reliable information in order to arrive at business and investment decisions. The federal government is best placed to collect and make available scientific climate change data from various sources and to provide tools and analysis that assist businesses and investors to understand the meaning and implications of that data. By facilitating more informed business decisions, **a Canadian centre for climate information and analytics would accelerate private sector transition to a low-carbon, climate-resilient economy.**

## **Cleaner and digital**

Data is at the forefront of another disruptive influence – the increasing digitization of global economies. Technologies such as blockchain, artificial intelligence and data analytics are revolutionizing business, impacting the labour market and raising a variety of ethical and privacy concerns. How we respond to those concerns will impact our economy and Canadians' level of trust in our society and our institutions.

The government has done much to support innovation and encourage growth of the digital economy in recent years, most recently with the release of Canada's Digital Charter. Professional accountants have always gathered, reported on, analyzed and protected data. As the type of data they work with evolves and the amount of data increases exponentially, the profession is transforming to ensure CPAs are comfortable in a digital, data-driven world. We need government to keep pace in shaping the regulatory environment, so CPA Canada encourages the government to **remain committed to the priorities identified in the [Digital Charter](#), including reform of key legislation.**

The digital economy impacts another shared interest of government and the accounting profession – taxation. The value of companies is increasingly in their intangible assets, and the products and services offered are increasingly digital. But the tax system has not kept up and this is leading to leakages in government revenue sources<sup>2</sup>, uneven playing fields for businesses, and concerns about fairness that erode public trust.

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<sup>1</sup> [Final report of the Expert Panel on Sustainable Finance, page 14.](#)

<sup>2</sup> The Auditor General estimates losses of \$169 million in the GST on foreign digital products and services sold in Canada in 2017. See [2019 Spring Reports of the Auditor General of Canada, Report 3, Taxation of E-Commerce.](#)

The fair taxation of digital services is a global challenge and best addressed in a globally-consistent manner. The Organisation for Economic Co-operation and Development (OECD) is leading the work concerning the tax challenges of the digitalization of the economy. Consistent with the OECD's "[destination principle](#)"<sup>3</sup> and the need for fairness, **the federal government should change the GST rules so that non-resident vendors collect the tax on intangible property and services.** Furthermore, **Canada should remain committed to and actively contribute to the OECD process to develop an agreed-upon, principles-based global framework for tax in a digitalized world.**

### **Cleaner, digital and globally integrated**

If Canada's economy is to become cleaner and low-carbon, digital and data-driven, and more globally integrated and competitive, Canada's tax system is not up to the job. These were not the underlying economic trends in the 1960s when Canada's tax system was last reviewed. If Canada is to move to a low-carbon, climate-resilient economy, for example, the tax system should support and encourage that transition. We have allowed our tax system to grow untended to the point that it is inefficient for today's economy, much less tomorrow's.

[A comprehensive review of Canada's tax system](#) is long overdue. The process should be led by an independent expert panel and guided by the principles of fairness, simplicity, efficiency and competitiveness to ensure that Canada's tax system meets the needs of the future economy.

Canadians need to be able to trust that the tax system efficiently provides the benefits they require, that it supports economic growth and job creation, and that it is fair to all Canadians. Notably, 81 per cent of Canadians see a comprehensive tax review as a priority for the federal government, according to a [recent Nanos research poll](#). Of those, 35 per cent say it should be a high priority.

Public trust is also being challenged by another complex issue: money laundering. The laundering of the proceeds of crime in Canada has impacts on the real estate market, on tax revenues, and on the integrity of our financial system and markets. **More action to strengthen Canada's anti-money laundering regime is required** to counter this criminal conduct and to ensure our economy and society is protected for the benefit of all Canadians.

CPA Canada urges the government to **bolster federal-provincial-territorial coordination and action** to ensure corporate statutes or other relevant legislation are amended to support increased corporate transparency through consistent beneficial ownership information requirements. Additionally, we recommend the development of **a national framework around whistleblowing in the private and public sectors** to combat potential corruption including through AML, featuring secure channels for whistleblowers to report potential misconduct without fear of reprisal or recrimination.

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<sup>3</sup> The destination principle ensures that the net tax burden on imports is equal to the net tax burden on the same supplies in the domestic market. See International VAT/GST Guidelines, OECD, p. 22.

One of the reasons people sometimes feel threatened by change is the uncertainty it may create around their own jobs and future prospects. That is why ensuring Canadians have the skills needed for the evolving new economy remains such an important issue, especially as Canada's energy industry transitions to a cleaner future and big data disrupts more occupations and workplaces.

The government has made skills a key focus of its work over the past few years and deserves credit for that. As a next step, we recommend that the government **evaluate the various skills programs in place to ensure they are achieving results and preparing Canadians with the right skills**. Clear, measurable objectives should be in place for each program and evaluations should be conducted on a regular basis. This is particularly important for programs such as the new Canada Training Benefit, which requires the support and participation of employers.

Finally, some Canadians see climate change as a threat for a different reason – they see it as a threat to the financial system. The Bank of Canada has identified climate change as one of five systemic risks to both the economy and the financial system and is conducting research to better understand those risks. Meanwhile, the Expert Panel on Sustainable Finance has estimated that an investment of more than \$2 trillion may be necessary in Canada in the next decade to meet the Paris Agreement commitments.<sup>4</sup> To meet both the size of the investment and the risk to the economy, the government needs to have its fiscal house in order. Once again, **CPA Canada recommends the government balance the budget in the medium term** to provide the fiscal stability needed to address the challenges and opportunities of a changing climate and sustainable future.

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<sup>4</sup> [Interim Report of the Expert Panel on Sustainable Finance](#), page 5.

November 26, 2019

The Right Honourable Justin Trudeau, P.C., M.P.  
Prime Minister of Canada  
Office of the Prime Minister  
80 Wellington Street  
Ottawa, ON K1A 0A2

Dear Prime Minister,

**Re: Upcoming Speech from the Throne**

On behalf of Chartered Professional Accountants of Canada (CPA Canada), congratulations on winning a renewed government mandate and on your personal victory in Papineau. CPA Canada, which represents the accounting profession nationally and more than 217,000 members at home and abroad, believes your government now has the opportunity to address issues that Canadians spoke out about during the election.

CPA Canada advocates for economic and social development in the public interest, and develops leading-edge thought leadership, impartial research on current and emerging issues, guidance and educational programs. Central to our organization's mission is advocating on issues in the public interest which matter to Canadians, businesses and the economy. We strive to positively contribute to the public policy process in ways that align with the Canadian ideal of good business – which values fairness, compassion, inclusiveness and equality in cultivating a healthy society and thriving economy.

Global forces such as climate change, technological disruption and geo-political disorder are impacting the lives of Canadians, leaving many people feeling that they are losing control of their own futures. CPA Canada is actively engaged in the public policy issues resulting from these drivers of change – issues such as climate change mitigation and adaptation, data governance and skills development. During its first mandate, your government also prioritized these issues. Canadians need you to maintain this proactive approach of trying to shape the future so we are positioned to capitalize on opportunities, and are better able to anticipate and prepare for the threats.

As you move forward with setting the government's agenda, CPA Canada would like to offer our support for moving Canada ahead in four priority areas that we believe are critical to the future of Canada and Canadians. These recommendations are drawn from our recent submission to pre-budget consultations by the House of Commons Standing Committee on Finance and more information is available in our brief.



## **Address climate change and transition to a clean economy**

The biggest challenge in addressing climate change may be that it requires action from all of us – governments at all levels, businesses in all sectors, civil society, and each one of us as citizens and consumers. Such ‘collective action’ problems often cause paralysis. However, your government, in partnership with most provinces and territories, achieved a significant milestone by agreeing to the Pan-Canadian Framework on Clean Growth and Climate Change. We encourage all Canadian governments to continue to build on that framework in a way that maintains progress toward addressing climate change, facilitates the transition to a clean economy, and does so while providing the continuity and foresight that businesses and investors require.

For guidance on how to proceed, we strongly suggest a careful read of the report by the Expert Panel on Sustainable Finance. The panel’s report, commissioned by Ministers McKenna and Morneau and published in June, is the result of extensive consultation and thought. It will be particularly instructive in implementing your campaign pledge of achieving net-zero emissions by 2050.

While most attention understandably has been focused on climate change mitigation, we must also adapt to the inevitable effects of a climate that is already changing. There is much good climate change adaptation work already being done in numerous jurisdictions across the country. What is missing is a plan. A national adaptation plan (NAP) would coordinate the responsibilities of all government jurisdictions while also informing and engaging the private sector and civil society in the challenge. The NAPs implemented by several European nations and the process developed under the United Nations Framework Convention on Climate Change provide valuable guidance for action.

## **Prepare for a digital, data-driven world**

Nothing is disrupting the accounting profession more dramatically than the rise of big data and related technologies such as artificial intelligence, blockchain and the Internet of Things. Many others in society are being similarly impacted. Our ability to innovate and create transformational technologies has outpaced our ability to regulate or govern them. That is leading both public sector and private sector leaders from around the world to make data governance a key priority.

These technological developments present both tremendous opportunities and significant challenges for Canada. We need to ensure that Canadian businesses operate on a fair and level playing field, Canadian workers and consumers need the digital skills to prosper in a digital environment, and Canadians’ privacy and national security must be protected.

Canada’s Digital Charter, unveiled by you and Minister Bains in May, outlines several important steps forward. We encourage you to remain committed to those priorities, particularly a review of the Personal Information Protection and Electronic Documents Act (PIPEDA), the Competition Act, and the creation of a data governance roadmap. In doing so, we must be mindful that our international partners are trying to address the same challenges.



### **Modernize the tax system for all Canadians**

The tax system is one of the most powerful policy levers available for addressing these drivers of change – and for ensuring that our business environment remains competitive, that we attract and retain the best and brightest minds, and that we achieve sustained economic growth and prosperity for all Canadians.

All countries need to regularly and comprehensively review their tax systems to make sure they are simple, fair for all, efficient, internationally competitive and built for today’s modern economy. In Canada, more than 50 years have passed since the last thorough review. Given the current complexities and inefficiencies, there have been widespread calls to take a system-wide look at taxation. In addition, 81% of Canadians see a comprehensive tax review as a priority for the federal government, according to a recent poll conducted by Nanos Research on behalf of CPA Canada.

As trusted advisors on fiscal, economic and business issues, CPA Canada looks forward to continuing to work with your government as you strive to deliver on the tax measures outlined in your election platform to help Canadians get ahead, entrepreneurs succeed and move the economy forward. We also strongly encourage you to seize the opportunity to take a more systemic, long-term approach to improving tax policy and administration through a comprehensive review – led by an expert panel – to bring Canada’s tax system into the 21<sup>st</sup> century.

### **Protect public trust and combat money laundering and tax evasion**

Public trust is being challenged by the complex issue of money laundering. The laundering of the proceeds of crime in Canada has impacts on the real estate market, on tax revenues, and on the integrity of our financial system and markets.

CPA Canada has been engaged with the government on ways to strengthen the anti-money laundering regime in Canada. We support your government’s commitment to work with interested provinces, territories and communities to establish a national approach to beneficial ownership requirements. We urge your government to expand its commitment to enhancing existing whistleblowing programs and develop a national framework around whistleblowing in the private and public sectors to combat corruption including money laundering.

\* \* \*

Global forces such as climate change, technological disruption and geo-political disorder are imposing change on Canadians, and change is not an easy or comfortable process. Our profession is seeing that first-hand through Foresight, an initiative CPA Canada launched to completely re-imagine the accounting profession. It is the kind of radical change that many Canadians will face in the coming years. They are looking to government to help lead that change and ensure that it results in a better future.



As always, CPA Canada looks forward to working with you and your government to help build that better future for all Canadians.

Sincerely,

[Original signed by]

Joy Thomas, MBA, FCPA, FCMA, C.Dir.  
President & CEO

Encl.

March 16, 2020

Ms. Lynn Hemmings  
Director General  
Financial Crimes and Security Division  
Financial Sector Policy Branch  
Department of Finance  
90 Elgin Street  
Ottawa, Ontario K1A 0G5  
Email: [fin.fc-cf.fin@canada.ca](mailto:fin.fc-cf.fin@canada.ca)

Dear Ms. Hemmings:

**RE: Canada Gazette, Part 1, Volume 154, Number 7: Regulations Amending the Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2019 – Notice dated February 15, 2020**

CPA Canada is pleased to provide comments regarding the *Regulations Amending the Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2019* (the proposed Regulations). As a professional body with representation on Canada's Advisory Committee on Money Laundering and Terrorist Financing (ACMLTF), CPA Canada welcomes the opportunity to provide input on the proposed Regulations related to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and Canada's Anti-Money Laundering and Anti-Terrorist Financing regime (the Regime). Specifically, we will address matters of relevance to accountants and accounting firms.

Of particular note, we believe that the coming into force of the new beneficial ownership requirements to be applied by designated non-financial businesses and professions (DNFBPs) should be effective on or after January 1, 2022 for the reasons explained below in this letter.

We recognize the real threat posed by money laundering, terrorist financing and other forms of illegal and unethical conduct such as corruption to Canada's national reputation, economy and society. The accounting profession plays a variety of important roles in relation to the integrity of the financial system and markets. CPA Canada reiterates our ongoing commitment to engaging in these important issues that affect all Canadians.

We are aware of the various matters highlighted in the 2016 Financial Action Task Force (FATF) Mutual Evaluation Report concerning Canadian measures in place to combat money laundering and the financing of terrorism as well as areas identified for further strengthening of the PCMLTFA (the Act)



and the Regime. We are also aware of the 2018 recommendations made by the House of Commons Standing Committee on Finance (FINA) from the five-year parliamentary review of the PCMLTFA. We understand that the proposed Regulations are intended to strengthen Canada’s Anti-Money Laundering and Terrorist Financing regime, improve upon compliance with international standards and “level the playing field across reporting entities”.

### **Specific Comments**

We believe that the coming into force of the new beneficial ownership requirements to be applied by designated non-financial businesses and professions (DNFBPs) should be effective on or after January 1, 2022. These new requirements will apply to all sizes of practicing firms and members, and this extension of time would provide a better opportunity for the profession to educate members through its communications, publications and educational efforts.

In addition, it would be in the public interest in reducing the regulatory burden and costs if these new beneficial ownership requirements were effective when all provinces have implemented and made effective the requirement for provincially incorporated private companies to have beneficial ownership registers, and for the new requirements for beneficial ownership reporting by trusts to the Canada Revenue Agency to also be in effect. With this additional information available, it will help to avoid unintended costs and consequences in the choices of engagements and services by accountants and clients respectively.

We note that in the section of the Canada Gazette notice titled *Implementation, compliance and enforcement, and service standards*, that FINTRAC will update its guidance to set out its expectations for how obligations are to be met once the proposed amendments are approved. However, we are also aware of the significant number of guidance documents to be revised by FINTRAC at this time and believe that additional time before these new requirements are effective would benefit the consultation process with the private sector. Timely availability of this guidance information well in advance of new requirements taking effect would be beneficial for the profession to educate members through its communications, publications and educational efforts.

We also noted the reference that FINTRAC would “undertake **possible** outreach activities to ensure reporting entities are aware of the new obligations”. We believe outreach activities are very important and should be confirmed, without any doubt, as part of the implementation plan. Outreach activities will be critical to successfully implement and achieve compliance with the proposed Regulations once finalized, in addition to the recent amendments of 2019.

### **General Comments**

Overall, we found the 30-day period and timing for the consideration of the Regulations challenging, although we appreciated that these new proposed requirements were made public while the consultation



processes were underway by the federal and some provincial governments concerning beneficial ownership registries. Our profession works throughout Canada and is regulated provincially and territorially such that we need adequate time to consult on and consider such changes in depth and in a multi-jurisdictional context.

In considering the Regulations as a whole and the total resource requirements for the Regime, we note the need to have a comprehensive framework that is aligned with assessed risks that will position Canada well for the future. CPA Canada would support the development of such a framework to balance the burden on business with the necessity to improve the effectiveness of the Regime for the next decade, considering developments in technology, threats and speed of business.

### **About Canada's CPA Profession**

CPA Canada represents the Canadian accounting profession, both nationally and internationally. Operating in the highly complex and global accounting eco-system, CPA Canada is a convener, facilitator, contributor and disseminator of information that advances the profession. The organization works closely with the provincial, territorial and Bermudan CPA bodies to champion best practices that benefit business and society. With more than 217,000 members, CPA Canada is one of the largest national accounting bodies in the world. The organization supports the setting of accounting, auditing and assurance standards, advocates for economic and social development in the public interest, and develops leading-edge thought leadership, research, guidance and educational programs.

Canada's CPA profession is regulated by the provincial and territorial CPA bodies whose authority and responsibilities are statutorily defined under provincial and territorial legislation. All members of our highly diversified profession are regulated by provincial/territorial requirements.

### **Closing Comments**

On behalf of CPA Canada, we reiterate our ongoing commitment to engaging in these important issues that affect all Canadians. We would welcome any questions concerning our submission and look forward to participating further toward the finalization of the proposed Regulations.

Sincerely,

A handwritten signature in blue ink that reads "Michele A. Wood-Tweel".

Michele A. Wood-Tweel, FCPA, FCA  
Vice-President Regulatory Affairs  
Phone: (902) 401-0693  
Email: [mwood-tweel@cpacanada.ca](mailto:mwood-tweel@cpacanada.ca)

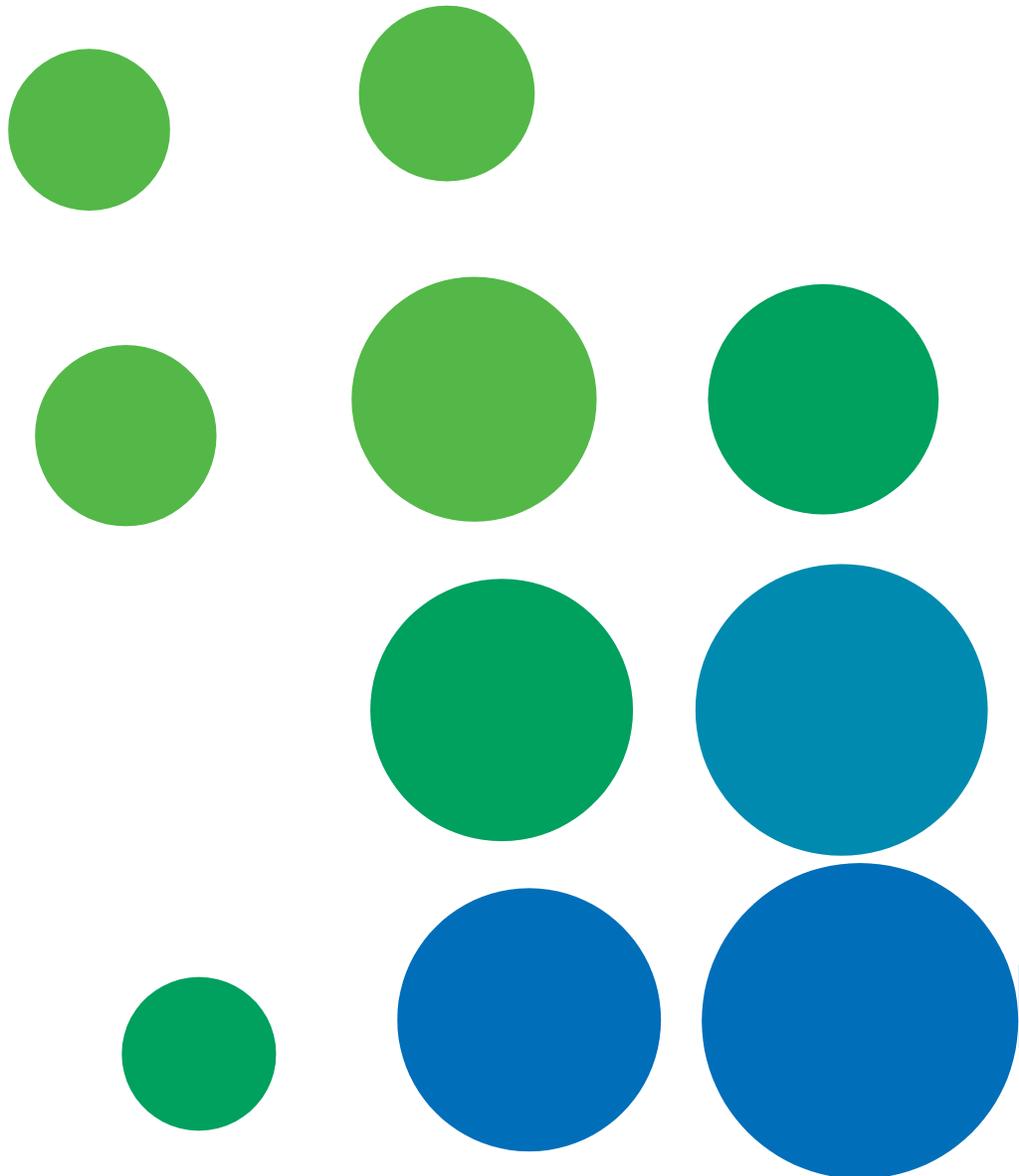


**CPA**

CHARTERED  
PROFESSIONAL  
ACCOUNTANTS  
CANADA

**Submission in response to  
*Strengthening Corporate Beneficial Ownership  
Transparency in Canada***

**Chartered Professional Accountants of Canada  
April 2020**



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## **Executive overview**

Chartered Professional Accountants of Canada (CPA Canada) is pleased to comment in response to the Government of Canada's consultation paper *Strengthening Corporate Beneficial Ownership Transparency in Canada*.<sup>1</sup> (Please note that CPA Canada consents to the disclosure of this submission in whole. English and French versions of this submission will be available soon on our website: [cpacanada.ca](http://cpacanada.ca))

The CPA profession strongly supports increased corporate transparency that assists in the identification of high-risk parties and enhances the traceability of assets and sources of funds to prevent further illicit conduct. With this submission based on considering the information presented in the consultation paper, CPA Canada recommends policy and implementation options for a beneficial ownership registry or registries to serve the public interest.<sup>2</sup>

## **Main points and findings in brief**

Two main points, including findings from our international research, are important to highlight at the outset of this submission. These points cover best practices internationally in beneficial ownership public registries; the fact that additional information is needed to evaluate the options including a possible phased-in approach; and the need for consistency in rules across jurisdictions in Canada, regardless of the registry model.

- Evolving best practices internationally for public registries, such as tiered access and unique identifiers, should be considered along with a possible phased-in approach for Canada

The lessons of other countries' approaches and experiences where public registries are operating are informative in consideration of Canada's approach. Two elements seem most pertinent from the international experience, based on our research and interviews with those experienced with the registries abroad. Those elements are the role of unique identifiers and a tiered-access approach to the registry.

The use of publicly accessible unique identifiers for beneficial owners and companies can enhance a registry's usefulness, provide for greater accuracy and increase users' confidence in distinguishing between individuals and companies with similar or identical names. Assigning a unique identifier to a beneficial owner following the validation of their identity is critical to support the credibility of the beneficial ownership information.

Based on our research, it appears that all countries with a public registry have adopted a tiered access model. At least three countries in Europe, in following EU directives, have taken a phased-in approach to public registries, whereby they centralize the information as a first phase before moving toward a public registry with tiered access.

Tiered access means law enforcement authorities have full access to the information on beneficial owners that was provided whereas the general public usually has access only to data such as first name and surname, month and year of birth, nationality, country of

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<sup>1</sup> Innovation, Science and Economic Development Canada and Finance Canada. [Strengthening Corporate Beneficial Ownership Transparency in Canada](#). February 2020.

<sup>2</sup> Please note that the use of the terms "registry" (and registries) and "register" follows the usage cited in the glossary of the consultation paper.

residence, and the nature and extent of the beneficial interest held or control exercised. Determining what information should be protected by (or shielded behind) the unique identifier will be integral to the design of tiered access.

We note that the consultation paper does not include important information concerning possible timelines, costs and data regarding measurable benefits expected from a public registry while balancing the regulatory burden, privacy concerns and protection of Canada's reputation. We believe this information is necessary for the evaluation of options. In addition, the consultation paper does not appear to identify or address any form of potential evolution or transition toward best practices for registries that are still evolving and in early stages internationally.

- Rules need to be consistent across jurisdictions in Canada, regardless of registry model

Consistency of beneficial ownership information, relevance and accuracy of data across jurisdictions are critical if a centralized registry or registries are to be efficient and useful to competent authorities and for reporting entities in discharging their legal requirements and in addition for some, including CPAs', ethical responsibilities. CPA Canada has expressed its recommendation that governments across jurisdictions strive for consistency of beneficial ownership information.

### CPA Canada and the CPA profession

CPA Canada represents the Canadian accounting profession, both nationally and internationally. Operating in the highly complex and global accounting eco-system, CPA Canada is a convener, facilitator, contributor and disseminator of information that advances the profession. The organization works closely with the provincial, territorial and Bermudan CPA bodies to champion best practices that benefit business and society. With more than 217,000 members, CPA Canada is one of the largest national accounting bodies in the world. The organization supports the setting of accounting, auditing and assurance standards, advocates for economic and social development in the public interest, and develops leading-edge thought leadership, research, guidance and educational programs.

We recognize and encourage the work of federal, provincial and territorial governments to coordinate their actions and to work collaboratively across jurisdictions on corporate transparency.

On behalf of the profession, CPA Canada contributes in the public interest to anti-money laundering (AML) policy and regulatory consultations with the federal government including through CPA Canada's representation on the Advisory Committee on Money Laundering and Terrorist Financing (ACMLTF) and its subcommittees.

The CPA profession agrees with the concepts, cited initially in Finance Canada's discussion paper in 2018, of maintaining the balance between deterring and detecting money laundering and terrorist financing and improving corporate transparency, while respecting the constitutional and privacy rights of Canadians. These concepts were reiterated in the Finance Canada news release and joint statement of June 13 and 14, 2019, respectively. The consultation paper notes the need to consider how to increase corporate transparency "while balancing privacy concerns, and maintaining (Canada's) reputation as an attractive place to invest and do business."

Accountants – specifically those with the CPA designation – and accounting firms providing accounting services to the public and including at least one CPA as a partner, employee or administrator have obligations as reporting entities in federal legislation and regulations governing Canada’s anti-money laundering regime.

The CPA profession is also aware that its members may be required as reporting entities to verify the identity of the beneficial owners where applicable, starting as soon as next year, based on recently proposed amendments to AML regulations. In that respect, our members would benefit from having access as reporting entities to beneficial ownership information if it were available in a registry or registries.

### Registry recommendations

It is worth noting that neither the Financial Action Task Force (FATF) recommendation on beneficial ownership transparency nor the interpretative note on the recommendation call for registries of beneficial ownership information to be publicly accessible. Internationally, the approach to meeting the FATF standard on beneficial ownership transparency varies across jurisdictions. In our response to the consultation questions, we present some of the findings of our research into the different approaches across countries.

In line with the FATF standard, if the primary policy objective is for competent authorities to have timely access to adequate and accurate information, then that goal can be achieved with a central registry or registries. We believe it would be important for the public’s support of the requirements and costs of implementing a public registry if the government were to present evidence of how a public registry helps to combat illegal activity such as money laundering.

As noted in the consultation paper, the House of Commons Standing Committee on Finance recommended in 2018 that a pan-Canadian beneficial ownership registry be accessible specifically to competent authorities and reporting entities with customer due diligence obligations.

If a public registry is required, featuring two or possibly three tiers of access could make information available to competent authorities, reporting entities and the public at large, respectively. The information available at each tier of access would vary, from unrestricted access for competent authorities, to limited, as appropriate, for reporting entities and the public at large, for reasons of personal privacy, personal safety and/or business confidentiality.

CPA Canada recommends an evolving approach to the registry – from an initial two or three-tier approach (as outlined below) before considering moving to a fully publicly accessible approach. This would allow the government to achieve the best result in the public interest. An evolving approach could start by developing a central registry or registries offering two to three tiers of access, then allowing use on a pilot or trial basis to allow financial institutions and other reporting entities to utilize the system before extending it to a fully publicly accessible approach. This phased approach would ensure the government has the ability to evolve to a publicly accessible registry which addresses the policy, implementation and technological issues which are detailed in our responses to various questions (starting on page 6).

As a registry of beneficial ownership has been on the horizon for the government, at least since the Finance Canada consultation paper in 2018, we have raised the current collection of corporate information. In particular, we noted the Corporations Information Act Annual Return for Ontario Corporations which is filed with Canada Revenue Agency with a corporation’s income tax return using Schedule 546. The Schedule includes non-tax information under the

authority of the Ontario Corporations Information Act and it is sent to the Ontario Ministry of Government Services (MGS) for the purposes of recording the information on the public record maintained by the MGS. We posit that this existing methodology of collecting non-tax information could be expanded to include required beneficial ownership information and suggest that consideration be given to expanding it to other jurisdictions to achieve collection, compliance and enforcement all while minimizing some of the regulatory burden on private companies.

### Tiered access and unique identifiers

There are a number of considerations in contemplating a registry that is publicly accessible.

In a publicly accessible registry, unique identifiers can be utilized to protect specific information from being made visible to the public at large and their use can also support the creation of tiered access to a registry. For example, the use of a unique identifier which distinguishes between beneficial owners with certainty can reduce the disclosure of personal identifying information, such as a principal residence address, which may otherwise be called for in the public's use of the registry while such information remains accessible to competent authorities.

When exploring the degree of access, the requirements of the AML regime in Canada are also relevant. Note that in some jurisdictions, the government may need to start with the requirements of existing legislation. In Quebec, for example, information is already publicly accessible via its business registry. British Columbia requires certain personal information be publicly accessible under the Land Owner Transparency Act – elements of personal information that may differ from what may be required by other jurisdictions.

Secondly, tiered access to a central registry allows jurisdictions to meet the FATF standards, making information available to competent authorities, and others, and to manage personal and business privacy concerns in the public interest:

- Tier One – the full suite of information is accessible only to the competent authorities.
- Tier Two – specific information is available to reporting entities in the AML regime, with the unique identifier as a means to shield more sensitive information.
- Tier Three – limited information is available to the public at large, in this tiered access registry with the unique identifier as a means to shield more sensitive information.

Ultimately, we encourage the government to use technology, including emerging technologies such as encryption-based tools, to full advantage in designing a registry or registries to achieve the policy objectives and allow for data analytics that will render the registry more valuable to competent authorities and reporting entities in the AML regime. The technological solution(s) that serves all jurisdictions must allow for the interaction with and contributions by various stakeholders, the building up of information and the security elements to prevent misuse and unintended effects.

## **Responses to the questions in the consultation paper**

### **Should Canada establish a Public Registry (or Public Registries) of Beneficial Ownership?**

1. *Should Canada establish a public registry (or public registries) of beneficial ownership for corporations, and why?*

As a founding member country of FATF, Canada must demonstrate leadership and improve upon its corporate transparency with a national strategy, invest to achieve international AMLTF standards/recommendations and consider the evolving “best practices” globally. Recommendations to improve corporate transparency in Canada have been made by FATF in its 2016 Mutual Evaluation Report of Canada’s regime and by the House of Commons’ Standing Committee on Finance in 2018.

In pursuit of the above, a phased transition (see Question 2 for further details) to a public registry or registries should be undertaken for Canada to obtain the greatest benefit from the collection of beneficial ownership (BO) information by private companies in order to protect Canada’s economy, society and reputation.<sup>3</sup> Pursuant to new requirements under the Canada Business Corporations Act and anticipated through new or expected provincial legislation, private companies are being tasked with responsibilities to obtain and maintain BO information which must be available via a registry or registries to optimize upon the BO information’s intended purpose of combatting money laundering, terrorist financing and other illegal acts.

A public registry or registries should be established to enhance efficiency and effectiveness of the AMLTF regime by:

- enabling law enforcement and competent authorities to have timely access to information necessary for domestic and international investigations,
- enabling Canada to cooperate with other countries, pursuant to its agreements, in the deterrence, identification and prosecution of MLTF, and
- enabling reporting entities within the Canadian AMLTF regime who are charged with the responsibility to verify BO, access to relevant information to establish and/or corroborate customer/client data as required by law.

A public registry of private company BO would also help in creating “daylight” regarding other illegal acts such as tax evasion, thereby potentially improving deterrence, identification and prosecution.

Further, to combat corruption and foster a “speak up culture” for the future that values and protects law abiding corporations and citizens, Canada needs a public registry or registries so that individuals and companies alike can do their own due diligence and be informed about the organizations they do business with.

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<sup>3</sup> Please note that the use of the terms “registry” and “register” follows the usage cited in the glossary of the consultation paper.

In addressing the question posed above, we note that the Consultation Paper does not appear to address any form of potential evolution or transition toward best practices for registries that are still evolving internationally, and no data is presented concerning possible timelines, costs and measurable benefits expected while balancing regulatory burden, privacy concerns and maintaining Canada's reputation. We believe additional information along these lines is necessary and would have allowed us to provide more detailed feedback and robust insights.

2. *If not a public registry (or public registries), should Canada establish a central registry accessible only to competent authorities? What are the advantages and disadvantages of having a central registry over a public registry (or public registries)?*

A central registry (or registries) is supportable as it would be a marked improvement on current BO transparency and would answer the "the primary goal" of ensuring that competent authorities can have timely access to BO information necessary for domestic and international investigations. It would also demonstrate Canada's commitment to enhancing corporate transparency helping to safeguard its reputation as an attractive country to invest and do business in.

Notwithstanding the above, a central registry is considered to have a significant drawback in that it is "closed" and typically does not provide access to reporting entities within the AMLTF regime who are charged with the responsibility of verifying BO. Being "closed", a central registry is also said to lack the "eyes" on its credibility that may come from the public at large, other companies' use of the registry for their own due diligence or the media and journalists.

A central registry could, however, be the first phase of a phased approach toward the still-evolving international "best practices" for corporate registries. For example, a central registry or registries could be set up, and a pilot period could be established during which private companies reporting their BO information, government and competent authorities utilize the system and address issues as they may present before more access is granted. A second pilot period could follow allowing for additional restricted access to the central registry by those AMLTF reporting entities who have requirements to verify BO before ultimately moving on to a publicly accessible registry or registries. Assuming an evolutionary approach would not be prohibited by additional costs, it may provide for useful experience and a more successful public launch ultimately that lessens/mitigates the risks that may come by moving too quickly to a fully publicly accessible registry, as evidenced by international experience (see also our detailed response to Question 17).

Nationally, it has been established that approximately 70% of money laundering takes place using corporations, as noted in the consultation paper.<sup>4</sup> In a Canadian context, money launderers will seek out the weakest links (i.e., provinces which lack legislation requiring beneficial ownership information) and therefore BO data regarding private corporations in Canada, regardless of jurisdiction, must be accessible to competent authorities through registries or a registry regardless of how constructed or linked.

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<sup>4</sup> Financial Action Task Force (2016). *Anti-money laundering and counter-terrorist financing measures – Canada, Fourth Round Mutual Evaluation Report*, pp. 102-103. <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Canada-2016.pdf>

Whether Canada begins with a central registry and evolves or moves immediately to a publicly accessible registry, BO information for the entire country must be available on a timely basis to competent authorities at a minimum.

**If yes, what key features would make a Public Registry (or Public Registries) effective?**

3. *What additional compliance costs might corporations face if required to transmit their beneficial ownership information to a national registry, and how might these costs be reduced?*

In general, the cost of BO register and registry compliance for business will depend on the jurisdictional requirements, business size, complexity of structure and the frequency of change of shareholders, relative shareholdings, values (if required) and/or control in determining and updating BO. Unless legislative consistency is prioritized throughout Canada, a patchwork quilt of requirements and costs will emerge.

The optimal use of technology will be important in the overall functioning and cost of compliance for transmitting information to a registry or registries. While some companies may need an alternative to online functionality, a user-friendly technology solution should allow for reasonable compliance costs in transmitting BO information to a registry or registries. Actual costs to comply with the requirement for a beneficial ownership registry per company will likely vary according to the underlying jurisdictional requirements for required BO information, business size, complexity of structure and the frequency of change of shareholders, relative shareholdings, values (if required) and/or control in determining and updating BO.

4. *Should directors of a corporation be liable for non-compliance with the corporation's beneficial ownership registry obligations?*

The usefulness of a registry or registries is directly correlated with the credibility of the information that it contains. Consistent with the importance of the information and the reasons for creating a registry, the range of sanctions available must serve to deter and penalize where warranted. Sanction provisions should provide a range and flexibility to appropriately respond to the variety of circumstances for non-compliance which can be anticipated such as incapacitation, honest mistakes, lack of understanding or concern, and criminal behavior.

Generally, we agree that directors should be one of the parties potentially held liable for non-compliance with a corporation's beneficial ownership registry obligations. Each jurisdiction's sanctions and applicable liability for the recording and maintenance of company BO information in a register is a potential reference in discerning whether there should be any difference(s) in the sanctions and applicable liability in complying with BO registry obligations.

Unless consistency is prioritized in Canada, a patchwork quilt of liabilities and sanctions will emerge. This will impede awareness, understanding and compliance by individuals and companies alike.

5. *Should the public be charged fees to access all or parts of beneficial ownership and other company information, to help cover the costs of implementation, verification and enforcement?*

Regardless of the degree of public access implemented in a registry or registries, there will be new resources required and costs for government including for verification and enforcement. Consequently, cost recovery may be a potential option. There may be alternatives or combinations to consider in who bears the cost and it could include offsetting penalties collected, cost recovery from the public at large for each use, monthly fees for frequent users or perhaps it becomes part of the cost of corporate registration in each jurisdiction.

If a registry (or registries) is created with a fee, it may encourage appropriate use and provide additional information for ensuring data security and privacy protection.

Free access would eliminate what may otherwise be a barrier and likely would result in the greatest amount of national and international access to the information.

6. *What processes (if any) should be put in place for verifying the beneficial ownership information provided (e.g., proof of identification for directors, beneficial owners and/or officers/agents of a corporation)?*

The usefulness of a registry is directly correlated with the credibility of the information that it contains. Elements that would enhance the credibility of information in the registry include:

- Unique identifiers used for each entity and beneficial owner from the outset
- Proof of identification should be obtained
- Government must both react to information it receives about inaccuracies in the registry and it must also seek them out proactively and efficiently using both risk and data analysis and technology
- Those reporting entities in the regime that must verify beneficial ownership should contribute to its accuracy by reporting discrepancies or inaccuracies.

7. *What means could be used to verify identities (e.g., a driver's license, passport, or bio-identifiers)*

The usefulness of a registry is enhanced if reporting entities can utilize the information because it has been verified in accordance with the requirements of the AMLTF regime. In this regard, FINTRAC's 2019 guidance *Methods to verify the identity of an individual and confirm the existence of a corporation or an entity other than a corporation* should be referenced.

In the future, it is expected that new technologically advanced identification methodologies will emerge or be developed for governments' use. It will be important to equip the registry or registries with the flexibility of adopting such advancements as they become available.

8. *How frequently should corporations be required to update the information provided to the registry?*

The usefulness of the registry is directly correlated with the credibility of the information that it contains. This means the information needs to be both accurate and up to date. Each jurisdiction's timeline requirements for the recording and maintenance of company BO information should be a reference for when the registry information should also be updated.

Unless consistency is prioritized in Canada, a patchwork quilt of requirements and timeliness of information will emerge. This will impede awareness, understanding and compliance by individuals and companies alike.

9. *Under what circumstances, if any, should corporations be exempted from providing beneficial ownership information to a public registry?*

The risks that beneficial owners and/or their families face may be extremely varied and those risks may have nothing to do with a private company but a BO registry can nevertheless become a new public access point to previously undisclosed information. Flexibility for exemptions should be ensured to allow for future requests for the safety and security of individuals based on issues the nature of which it may not be possible to anticipate at the outset of the registry or registries. It is also unclear in a publicly accessible registry how protection can be afforded after information has been publicly displayed and new or different threats to safety or security arise subsequently. This demonstrates the need for diligence and care upfront in determining what personal information is needed, for competent authorities only, or should be made public.

Additionally, there are legitimate business transaction reasons why corporations should be exempted from providing BO information to a public registry. For example, through corporate restructuring and BO reporting, business intelligence or planning for succession, mergers or acquisitions may be inadvertently/implicitly disclosed to competitors, suppliers or other stakeholders. To avoid unnecessary consequences, flexibility for exemptions should be ensured to allow for future requests in respect of shielding valid business planning or transactions.

**Should there be limitations on information disclosed through a Public Registry (or Public Registries)?**

10. *What are the potential risks to beneficial owners of making their information accessible through a public registry (or public registries) (e.g., identify theft, access by hostile foreign governments)?*

There are potential risks in an openly public registry for loss of privacy (personal and business), identity theft, harassment, and threats to safety and security. The risks that beneficial owners and/or their families face may be extremely varied and those risks may have nothing to do with a private company but a BO registry can nevertheless become a new public access point to previously undisclosed information. Utilizing unique identifiers may reduce the unique personal information required for registry use thereby reducing some risk to a beneficial owner. The potential risks demonstrate the need for diligence and care upfront in determining what personal information is needed by competent authorities only or should be made public.

It is a question of degree and typology of the information that needs to be disclosed for public access for the registry to function and meet its objectives. For example, if a unique identifier removes the need for any date of birth details, then this may reduce risks for beneficial owners, the registry can function, and its objectives can be met.

11. *Should certain beneficial ownership information provided to the registry be accessible only to law enforcement, tax and other authorities? Should a tiered access model be adopted based on the entity seeking the information? What information should be withheld and under what conditions?*

The amount and type of information to make public in a publicly accessible registry is likely one of the most controversial aspects of considering a public registry or registries. Making certain types of data available to some parties and not others (i.e., two or three tiers) requires additional effort and creates additional responsibilities for data security.

However, considering the potential risks to beneficial owners mentioned above and the capabilities of technology, tiered access is the preferable and recommended option transitionally and/or permanently. Tiered accessibility allows for decisions on what is needed to be disclosed to whom to achieve the objectives of the registry and the access may evolve over time as experience and familiarity with the registry or registries grows. For example, tiered access could be built in allowing for the greatest amount of information to be available to competent authorities followed by a reduced and restricted access to information by reporting entities under the regime who must verify BO and the least amount of unique information may be available to the public at large.

What is known is that information that is made public will stay public such that the due diligence upfront in assessing elements including unique identifiers and possible tiered information is critical in achieving a balance between Canadians' privacy concerns and the disclosures required publicly for fighting crime.

12. *Should individual beneficial owners be able to seek exemptions from having some or all of their information made public, on grounds of safety, protecting the privacy of legitimate investment decisions, or similar reasons? Under what basis should such requests be granted?*

Exemptions should be possible and there should be flexibility as to the need and nature. We also believe that exemptions will be difficult to legislate and operationalize. The risks that beneficial owners and/or their families face may be extremely varied and those risks may have nothing to do with a private company but a BO registry can nevertheless become a new public access point to previously undisclosed information. Flexibility for exemptions should be ensured to allow for future requests for the safety and security of individuals based on issues the nature of which may not be possible to anticipate at the outset of the registry or registries.

It is also unclear in a publicly accessible registry how protection can be afforded after information has been publicly displayed and new or different threats to safety or security arise subsequently. This demonstrates the need for diligence and care upfront in determining what personal information is needed and should be made public. Utilizing unique identifiers may reduce the unique personal information required for registry use

thereby reducing some risk to a beneficial owner. The potential risks demonstrate the need for diligence and care upfront in determining what personal information may be made public.

13. *Which other organizations (e.g., FINTRAC, private sector entities with anti-money laundering obligations) should have access to the withheld information and under what conditions?*

FINTRAC, private sector entities with BO verification requirements, CRA, CSIS, CBSA may all have (different) needs for non-public information. This should be carefully considered perhaps through tiered access to achieve a balance between Canadians' privacy concerns and the disclosures required publicly for fighting crime.

14. *In other jurisdictions, have public registries demonstrated effectiveness in ensuring accurate information, supporting investigations by law enforcement, tax, and other competent authorities?*

In the absence of upfront validation and ongoing verification processes, public registries cannot be considered as authoritative sources of accurate beneficial ownership information.

As noted in the consultation paper, stakeholders in the U.K. have expressed concerns with the accuracy of the beneficial ownership data in the public registry -- known as the People with Significant Control (PSC) Register -- and the fact it is not definitive data. This is in large part due to the absence of standardized ways to file the data in the U.K.'s public registry and the fact that unique identifiers are not leveraged to validate the information. Furthermore, Companies House, the executive agency that manages the registry, manages it first and foremost as a repository of information and does not currently actively verify the information it receives. This situation benefits the "bad actors" in the system who may either falsify their information or simply not register any information at all.

In 2019, the U.K. Department for Business, Energy & Industrial Strategy published the *Review of the implementation of the PSC [People with Significant Control] Register*. The report found that law enforcement authorities had knowledge of non-compliant behaviour and inaccurate information being filed in the registry. It is therefore not surprising the report points out that many law enforcement authorities believed the registry's ability to provide complete transparent beneficial ownership information was limited given the fact it goes unchecked. Furthermore, "most Law Enforcement Organisations did not think that the PSC register has had any impact on crime prevention. It was felt that individuals' intent on committing crime would find ways around the system."<sup>5</sup>

It is worth noting that countries such as the Netherlands and Ireland have taken steps to ensure the accuracy of the beneficial ownership information available in public registries. (Please see the response to Question 17 for more details). Should the government decide to establish a central registry in Canada, CPA Canada believes it would be worth learning from those countries where they have made efforts to ensure the accuracy of the beneficial ownership information in their registries.

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<sup>5</sup> U.K. Department for Business, Energy and Industrial Strategy. 2019. *Review of the implementation of the PSC Register*.p.37

15. *In other jurisdictions, have public registries reduced the misuse of corporations for criminal or other illicit activities?*

(No response.)

16. *Have public registries had an effect on investment levels?*

(No response.)

17. *Are there international best practices and experiences that Canada can learn from were it to adopt a public registry (or public registries)?*

In collaboration with the International Federation of Accountants (IFAC), CPA Canada is working on an upcoming report on beneficial ownership transparency to be released in the spring of 2020. The report will explore how various jurisdictions around the world are grappling with questions regarding the extent to which, how, and by whom, beneficial ownership information is collected, centralized, reviewed and published. As policy-makers continue to consider these issues at the global and national levels, this upcoming report seeks to ground the discussion with evidence-based and practical perspectives, including those of the accountancy profession.

In advance of the report's release, there are several preliminary findings to share on best practices and experiences in countries where the public registry approach has been adopted or where it is under consideration. The comments are organized under these topics:

- A. Public registries in operation
- B. Who is required to register
- C. Validation and accuracy of information
- D. Access to the registry
- E. Exemptions from public access
- F. Timeframe to update registries
- G. Compliance and liability
- H. Trusts
- I. Role of technology

#### A. Public registries in operation

Several countries around the world have either adopted or entertained the possibility of adopting a public beneficial ownership registry.

In the U.K., in addition to the existing public registry at Companies House, the government has mandated all British Overseas Territories and Crown Dependencies to introduce public registries for companies in the coming years (the exact timeline remains unknown).

In the European Union, the Fifth Anti-Money Laundering Directive requires member countries to make beneficial ownership registries publicly available. To the best of our knowledge, the following member countries have rolled out public registries: Ireland, Germany, Belgium, Sweden, Denmark, Slovenia, Luxembourg and Malta.

In addition to European nations, other countries have in recent years conducted consultations on public beneficial ownership registries and/or committed to implementing them (e.g. Australia, Hong Kong, New Zealand, South Africa).

#### B. Who is required to register

The types of entities that are required to provide beneficial ownership information to a public registry vary significantly from one country to another. For instance, in the U.K. and Ireland, only private companies have to register whereas, in other countries such as the Netherlands, Germany and Belgium, foundations are also required to register.

It should be noted everywhere in the world publicly listed companies are exempted from providing beneficial ownership information to a public registry.

#### C. Validation and accuracy of information

In the absence of upfront validation and ongoing verification processes, public registries cannot be considered as authoritative sources of accurate beneficial ownership information, as noted in the response to Question 14, above. The example and experience with the public registry in the U.K., as explained in Question 14, is particularly relevant to this issue of validation and accuracy of information.

In the Netherlands and Ireland, unique identifiers similar to the Canadian social insurance number for each beneficial owner must be provided to the registrar. This enables the registrar to validate the identity of beneficial owners leveraging government databases. For instance, in the Netherlands, it is intended that an automated check will be performed with respect to the information registered in the Persons Database as compared to what is provided at the time of registration in the beneficial ownership registry of natural persons who are residing in the Netherlands. In the case of Ireland, the personal public service number of beneficial owners is required by the registrar for verification purposes.

In some cases, if law enforcement authorities (such as those in Ireland, for example) and/or “obligated persons” under the law (such as auditors and chartered accountants) (for example, in Germany) identify in the course of their work a discrepancy between the information in a central registry and the beneficial ownership information available to them, they must notify the registrar.

#### D. Access to the registry

Some registries (such as those in Ireland, Germany, the Netherlands and Belgium) require users (either companies that need to file or people that want to search the database) to create a free account to log in. In some jurisdictions (Ireland, the Netherlands and Belgium), members of the general public are required to pay a nominal fee to access the beneficial ownership information of entities (it is usually one fee per entity).

All countries with a public registry have adopted a tiered access model, which means law enforcement authorities have full access to the information on beneficial owners that was provided whereas the general public usually has access only to data such as first name and surname, month and year of birth, nationality, country of residence, and the nature and extent of the beneficial interest held or control exercised.

In some countries (such as Germany and Belgium, for example), individuals that can demonstrate that access to registry information is required in order to conduct their due diligence obligations (such as accountants and lawyers) may be granted access to more beneficial ownership information than the general public.

#### E. Exemptions from publication

In many countries (Ireland, Germany, the Netherlands and Belgium), the beneficial ownership details of minors can be exempted from publication upon request. In some cases (Germany, the Netherlands and Belgium), people with a disability or who are deemed “incapacitated”/“legally incapable” can also seek an exemption.

In many countries (the U.K., Germany, the Netherlands and Belgium), if public access to the information of a beneficial owner can expose this individual to the risk of falling victim to criminal offences (e.g. fraud, kidnapping, hostage taking, blackmail, extortion or robbery-like extortion, coercion, threat, violence or intimidation), then such access can be restricted upon request (supporting documents need to be provided when submitting the exemption request).

It should be noted that in the U.K., Ireland and the Netherlands, the beneficial ownership information that is exempted from public access is still made available to law enforcement agencies.

#### F. Timeframe to update registries

Depending on the jurisdiction, registered entities have between two weeks (the U.K., Ireland) and one month (Belgium) to update beneficial ownership information if there are any changes. Belgium also requires registered entities to confirm that beneficial ownership information is accurate and up-to-date on an annual basis.

#### G. Compliance and liability

In most countries we researched (the U.K., Ireland, Germany, the Netherlands, and Belgium), failure to provide beneficial ownership information to the central registry or willfully providing false information can result in administrative and/or criminal fines. These sanctions or fines for non-compliance can be applied to either the corporate entity, its directors or governing body and/or the beneficial owners themselves.

In order to ensure maximum compliance with reporting requirements, the government agency or department in charge of the public registry typically has some kind of regulatory jurisdiction over the registered entities (for example, the Jersey Financial Services Commission is the registrar and has the power to deny incorporation).

#### H. Trusts

The beneficial ownership reporting requirements that apply to trusts vary considerably from one country to another. In some places, trusts are exempted from these reporting requirements all together. Other jurisdictions have adopted a completely opposite approach

by making public (or planning to, in the case of the Netherlands) the beneficial ownership information of trusts in central registries. For its part, the U.K. settled for a nuanced approach by virtue of which the registry for trusts is not public, but is available to law enforcement bodies and the UK Financial Intelligence Unit.

Determining whether the beneficial ownership information of trusts should be available to the public is a challenging issue. Trusts are extensively used in some jurisdictions (like the U.K.) and can have a legitimate *raison d'être* such as protecting the identity of vulnerable people (such as children, for instance). However, trusts can also be deliberately used to construct murky ownership structures by adding multiple layers of ownership.

## I. Role of technology

Leveraging technology is typically essential to establish a cutting-edge registry and to keep compliance burden to a minimum for all parties, according to our interviews with those knowledgeable with public registries. For instance, Application Programming Interfaces (APIs) can be used to facilitate the uploading (and downloading) of beneficial ownership information by entities into the registry. Artificial intelligence and data linkages can also facilitate the validation of the beneficial ownership information provided by registered entities.

### Recent FATF paper

Related to whether to establish a public registry is the challenge that many jurisdictions face in achieving “a satisfactory level of transparency regarding the beneficial ownership of legal persons,” as noted in a recent paper on beneficial ownership for legal persons by FATF.<sup>6</sup>

The paper provides examples of best practices from delegations in implementing FATF Recommendation 24. It cites several key features of an effective approach, including:

- adequacy, accuracy and timeliness of information in beneficial ownership
- obliged parties to verify or/and monitor the accuracy of the information
- supplementary information platform in addition to company registry
- ongoing reporting at company level / to the reporting entities or company registry
- verification through different means
- highly effective law enforcement authorities with adequate resources
- using technology to facilitate checking and validation
- access by competent authorities
- effective, proportionate and dissuasive sanctions.

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<sup>6</sup> Financial Action Task Force. 2019. *Best Practices on Beneficial Ownership for Legal Persons*.p. 5.

Concluding note

CPA Canada, on behalf of the accounting profession, is committed to contributing to strengthening the AML regime in Canada including through increased corporate transparency.

We appreciate the opportunity to provide comments in response to the government's consultation paper and look forward to continuing the discussion regarding the best approach to beneficial ownership transparency – and AMLTF policy and regulations -- in the public interest.

# APPROACHES TO BENEFICIAL OWNERSHIP TRANSPARENCY:

The Global Framework  
and Views from the  
Accountancy Profession



International  
Federation  
of Accountants



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### **About Chartered Professional Accountants of Canada**

Chartered Professional Accountants of Canada (CPA Canada) represents the Canadian accounting profession, both nationally and internationally. Operating in the highly complex and global accounting ecosystem, CPA Canada is a convener, facilitator, contributor and disseminator of information that advances the profession. The organization works closely with the provincial, territorial and Bermudan CPA bodies to champion best practices that benefit business and society. With more than 217,000 members, CPA Canada is one of the largest national accounting bodies in the world. The organization supports the setting of accounting, auditing and assurance standards, advocates for economic and social development in the public interest, and develops leading-edge thought leadership, research, guidance and educational programs.

More information is available at [cpacanada.ca](http://cpacanada.ca)

### **About IFAC**

IFAC, with its member organizations, serves the public interest by enhancing the relevance, reputation and value of the global accountancy profession. IFAC's purpose is achieved through three strategic objectives:

- contributing to and promoting the development, adoption and implementation of high-quality international standards;
- preparing a future-ready profession; and
- speaking out as the voice for the global profession.

IFAC is comprised of more than 175 members and associations in more than 130 countries and jurisdictions, representing almost three million accountants in public practice, education, government service, industry and commerce.

More information is available at [www.ifac.org](http://www.ifac.org)

# FOREWORD

The scale of financial crimes is enormous, with global estimates ranging from US\$1.4 trillion to US\$3.5 trillion annually.<sup>1</sup> Underlying these trillions of dollars is criminal activity that damages human wellbeing and harms economies and societies throughout the world. The strong connection between financial crimes such as money laundering and activities such as the illegal drug trade, corruption and human trafficking makes the fight against them all the more urgent.

Uncovering and fighting illicit financial flows requires information on who owns, controls or ultimately benefits from any business involved in potentially illegal activities: namely, the beneficial owners.

By concealing and/or disguising the beneficial owners of their assets, lawbreakers hide their activities, their proceeds of crime and their real identities. Whereas anonymity aids and abets money launderers, tax evaders and others, the transparency of beneficial ownership information shines a light on the natural persons in control of legal structures, regardless of their purpose.

Timely access to accurate beneficial ownership information plays a critical role for law enforcement and other authorities in identifying, preventing and prosecuting money laundering, terrorist financing and tax evasion, among other financial crimes. For financial institutions and other professional services providers, such as lawyers and accountants, access to timely and accurate beneficial ownership information provides a valuable resource for conducting initial and ongoing customer due diligence.

International standards for anti-money laundering (AML) establish a framework for transparency of beneficial ownership information. Jurisdictions around the world are examining the extent to which, how, and by whom, beneficial ownership information is collected, centralized, reviewed and published, consistent with the global framework. In recent years, several countries have established centralized beneficial ownership registries, with varying degrees of access by the public.

As policymakers continue to consider these developments at the global and national levels, this report seeks to ground the discussion with evidence-based and practical perspectives, including those of professional accountants who are engaged with beneficial ownership information. This report reviews how existing and new models for registries are meeting international standards and reflecting the evolving landscape. Through this research, we hope to inform the discussions in many jurisdictions as they assess effective approaches to the transparency of beneficial ownership information.

As leaders in the global accounting community, we know that the accountancy profession, with its strong public interest mandate, is a committed partner in the fight against financial crime. We are eager to continue to demonstrate how our profession, working alongside government, law enforcement and other stakeholders, can best work to combat money laundering and other financial crimes.

The fight against financial crime is too important not to get it right.



**JOY THOMAS**

MBA, FCPA, FCMA, C. Dir.  
President & CEO, CPA Canada



**KEVIN DANCEY**

CM, FCPA, FCA  
CEO, IFAC

<sup>1</sup> ACCA and EY. [Economic crime in a digital age](#). January 2020.

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# EXECUTIVE SUMMARY

The fight against money laundering, corruption and tax evasion requires the participation of a number of stakeholders, including accountants, as well as strong legal frameworks and accurate and timely information. Information on beneficial ownership has been identified as a key factor in fighting these financial crimes. A large number of accountants routinely interact with beneficial ownership information as part of their day-to-day activities. This makes the legal framework around beneficial ownership information of direct relevance to the accountancy profession, as it is for all other participants in the ecosystem, including law enforcement, regulators, financial institutions, lawyers and notaries.

At the global level, the **recommendations** of the **Financial Action Task Force (FATF)** are the internationally endorsed standards for fighting money laundering and terrorist financing. Effective implementation of the 40 FATF recommendations by national governments increases transparency and enables countries to successfully take action against illicit use of their financial systems. The recommendations address transparency and beneficial ownership of legal persons (such as corporations and limited liability companies) and arrangements (such as trusts) as part of a comprehensive framework to fight money laundering and terrorist financing.



## Who is a beneficial owner?

The term *beneficial ownership*, along with similar terms such as control persons, has different legal definitions in different jurisdictions. This report relies on the general definitions provided by the FATF.\*

For legal persons, a beneficial owner is a natural person who ultimately has a controlling ownership interest in a legal person (with what constitutes a controlling interest determined by the nature of the legal person), either through an ownership interest in the legal person or by other means.

For legal arrangements, a beneficial owner is a settlor, trustee, beneficiary or any other natural person exercising ultimate effective control over the legal arrangement.

\*FATF INTERPRETIVE NOTE TO RECOMMENDATION 10

Accountants routinely interact with beneficial ownership information as part of their day-to-day activities. This makes the legal framework around beneficial ownership information of direct relevance to the accountancy profession.

The FATF recommendations provide governments and policymakers with principles for beneficial ownership transparency based on an outcomes-focused approach. This acknowledges the varying domestic political, economic and historical circumstances, and accordingly facilitates their implementation.

The FATF recommendations provide governments and policymakers with principles for beneficial ownership transparency based on an outcomes-focused approach. This acknowledges the varying domestic political, economic and historical circumstances, and accordingly facilitates their implementation. However, it also raises questions as to which approach is most effective in achieving the goal of fighting money laundering.

Jurisdictions around the world are grappling with questions regarding the extent to which, how, and by whom, beneficial ownership information is collected, reviewed and made available. Central to this discussion is the concept of beneficial ownership

registers and registries. This report considers several approaches to beneficial ownership transparency and highlights issues for policymakers and other stakeholders. These include company-based beneficial ownership registers, centralized beneficial ownership registries (with varying degrees of access) and “using existing information.”

### Register or Registry?

This report adopts the use of *register* to refer to records of beneficial ownership maintained by the corporate entity, and *registry* to refer to a centralized database of beneficial ownership information. This approach is the same as the one set out in the [consultation issued by the Government of Canada in February 2020](#). When referring to specific registries, however, this report will use the proper name (e.g., the UK’s PSC Register).

For each approach, there are trade-offs that must be made. A key consideration, for example, is the trade-off between cost and accuracy. Without verification, beneficial ownership information is less valuable for law enforcement authorities and other users. This is particularly the case when dealing with sophisticated criminal actors motivated by large sums of money. However, there are costs associated with verification, and depending on the size of the jurisdiction, these are potentially significant. At the same time, advances in technology have the potential to bring major efficiencies to data verification, as well as data submission, which may fundamentally alter the resource requirements around enhanced verification.<sup>2</sup>

Privacy concerns also play a significant role in the discussion, as publicizing ownership information may provide a tool for bad actors to exploit. Limiting the potential risks calls for diligence and care upfront in determining what personal information is needed by competent authorities only and what should be made public.

Policymakers should consider issues such as these closely when choosing the appropriate approach for their jurisdiction. Ultimately, the cost-benefit analysis for any approach to beneficial ownership transparency, such as a public registry, may be different for different jurisdictions.

Similarly, it is important to note that the move to a central registry is a significant change management project. Policymakers may want to consider a phased approach. For example, if a jurisdiction is considering a public registry as the ultimate goal, it may be most effective to prioritize creating an accurate central registry that provides actionable information for law enforcement and other users with regulatory obligations before determining the extent to which the registry should be made public. We have seen this approach in the EU. The Fourth Anti-Money Laundering Directive first required a central registry. The Fifth Anti-Money Laundering Directive (AMLD5) subsequently required that these registries be made public.

Without verification, beneficial ownership information is less valuable for law enforcement authorities and other users. However, there are costs associated with verification, and... these are potentially significant.

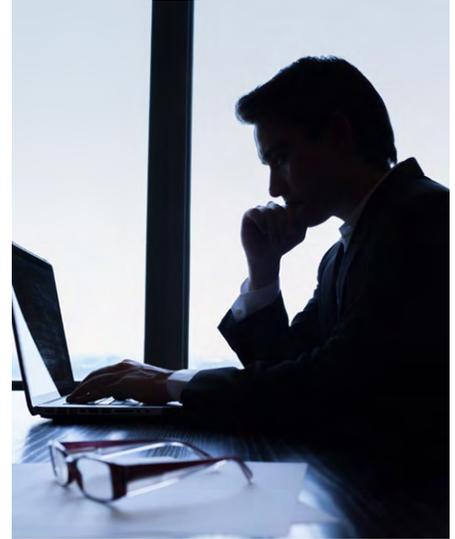
The cost-benefit analysis for any approach to beneficial ownership transparency, such as a public registry, may be different for different jurisdictions.

<sup>2</sup> UK Department for Business, Energy & Industrial Strategy. [Corporate Transparency and Register Reform: Consultation on options to enhance the role of Companies House and increase the transparency of UK corporate entities](#). May 2019. See p. 20, “New technologies can allow the UK to implement identity verification in a low-cost and light-touch way.”

# THE GLOBAL FRAMEWORK

## The FATF standards

The recommendations of the **Financial Action Task Force (FATF)** are the internationally endorsed global standards for fighting money laundering and terrorist financing. Since its foundation in 1989 and the initial publication of the **FATF Recommendations** in 1990, the FATF has expanded from 16 **member countries** to 39 and has broadened the scope of the recommendations to cover additional areas including terrorist financing and financing of the proliferation of weapons of mass destruction. Through the national implementation of the FATF recommendations, as assessed through the mutual evaluations program conducted by the FATF and **FATF-style regional bodies (FSRBs)**, significant progress has been made in the fight against money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction.



### RECOMMENDATION 24. Transparency and beneficial ownership of legal persons

Countries should take measures to prevent the misuse of legal persons for money laundering or terrorist financing. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. In particular, countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not misused for money laundering or terrorist financing. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) undertaking the requirements set out in Recommendations 10 and 22.

### RECOMMENDATION 25. Transparency and beneficial ownership of legal arrangements

Countries should take measures to prevent the misuse of legal arrangements for money laundering or terrorist financing. In particular, countries should ensure that there is adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

Recommendations 24 and 25 address transparency and beneficial ownership of legal persons and arrangements. These recommendations require that countries take measures to prevent the misuse of legal persons and arrangements for money laundering or terrorist financing. Specifically, the recommendations require that countries ensure that adequate, accurate and timely information on the beneficial ownership and control of legal persons (Recommendation 24) and express trusts (Recommendation 25) can be obtained or accessed in a timely fashion by competent authorities.

## Mutual evaluations

The FATF and the nine FSRBs conduct peer reviews of each member on an ongoing basis to assess levels of implementation of the FATF Recommendations, providing an in-depth description and analysis of each country's system for preventing criminal abuse of the financial system. The outcomes of these **mutual evaluations** are published in mutual evaluation reports.

The FATF and FSRBs compile **assessment ratings** for each of the 40 recommendations. Compliance with each recommendation is rated as compliant, largely compliant, partially compliant or non-compliant.

As of March 31, 2020, full compliance with Recommendations 24 and 25 was very low. Of the 100 assessed jurisdictions, only one received a rating of compliant for Recommendation 24, and just six were compliant with Recommendation 25. At these levels, Recommendation 24 is the FATF recommendation with the single lowest number of jurisdictions rated compliant in the fourth-round mutual evaluations. As for Recommendation 25, only three other recommendations have similarly low levels of compliance

The low level of full compliance provides some of the context for the increased focus by policymakers and civil society on the beneficial ownership recommendations.

### Interpreting the FATF Recommendations

The FATF supplements the recommendations with interpretative notes designed to clarify their application. In the interpretive notes for Recommendations 24 and 25, the FATF provides three approaches for legal entity beneficial ownership transparency: company-based beneficial ownership registers, centralized beneficial ownership registries, and the existing information approach. It is important to note that neither the FATF Recommendations themselves nor the interpretive notes call for public beneficial ownership registries.

FATF provides three approaches for legal entity beneficial ownership transparency:

- company-based beneficial ownership registers;
- centralized beneficial ownership registries; and
- the existing information approach.

FATF does not call for public beneficial ownership registries for legal entities or trusts.

COMPLIANCE WITH RECOMMENDATIONS 24 AND 25		
	R.24	R.25
Compliant	1	6
Largely Compliant	44	45
Partially Compliant	45	35
Non-Compliant	10	13
Not Applicable	0	1



The interpretive notes for Recommendation 25 provide that countries should require trustees of any express trust governed under their law to obtain and hold adequate, accurate and current beneficial ownership information regarding the trust.

## Customer due diligence requirements

The FATF framework prioritizes timely access to beneficial ownership information by competent authorities and law enforcement. This access, however, also plays a central role in the customer due diligence requirements that apply to professionals, including

accountants, as set out in Recommendations 10 and 22. Both beneficial ownership recommendations provide that “countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFbps undertaking the requirements set out in Recommendations 10 and 22.”

The recommendations require that financial institutions and DNFbps, a category that includes accountants and lawyers, identify and reasonably verify the beneficial owner, including understanding the ownership and control structure of legal persons, when establishing business relationships and carrying out occasional transactions above a threshold value.

As the recommendations regarding customer due diligence have been adopted in a large number of countries, compliance with these requirements is a routine part of many accountants’ work. The potential value of access to beneficial ownership information, preferably centralized, on the part of accountants in furtherance of their customer due diligence obligations was recognized by the Hong Kong Institute of Certified Public Accountants in a 2017 consultation response:

The FATF framework prioritizes timely access to beneficial ownership information by competent authorities and law enforcement. This access however, also plays a central role in the customer due diligence requirements that apply to professionals, including accountants.

For public interest and professional reasons, access should be available to CPA [Certified Public Accountant] practices and other relevant DNFbps to facilitate them in complying with their CDD [customer due diligence] obligations under AMLO [the local money laundering legislation], as proposed. This would also be consistent with FATF Recommendations 24 and 25, which contain the statement: “Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFbps undertaking the requirements set out in Recommendations 10 and 22” (i.e., those relating to CDD and DNFbps).<sup>3</sup>

## RECOMMENDATION 22. Customer Due Diligence Requirements: DNFbps

Lawyers, notaries, other independent legal professionals and accountants are required to conduct customer due diligence when they prepare for or carry out transactions for a client concerning the following activities:

- buying and selling of real estate;
- managing of client money, securities or other assets;
- management of bank, savings or securities accounts;
- organization of contributions for the creation, operation or management of companies;
- creation, operation or management of legal persons or arrangements; and
- buying and selling of business entities.

Trust and company service providers are likewise required to conduct customer due diligence when they prepare for or carry out transactions for a client concerning the following activities:

- acting as a formation agent of legal persons;
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

<sup>3</sup> Hong Kong Institute of Certified Public Accountants. *Consultation Paper on Enhancing Transparency of Beneficial Ownership of Hong Kong Companies*. March 5, 2017, p. 5.

# APPROACHES TO BENEFICIAL OWNERSHIP INFORMATION

## Company-based beneficial ownership registers

The foundational issue for beneficial ownership information is whether it is required to be maintained solely by the company or whether the information is reported to a centralized registry (in addition to being kept by the company). Hong Kong provides an example of a jurisdiction that requires companies to keep up-to-date information on their beneficial owners but does not require submission of that information to any central register. In 2017, the government of Hong Kong consulted on whether to adopt a public beneficial ownership registry but ultimately chose the company-based register approach.

Hong Kong received a rating of largely compliant in its [fourth-round mutual evaluation](#) in September 2019. Under the Hong Kong [Companies \(Amendment\) Ordinance](#) of March 2018, companies are required to take reasonable efforts to identify significant control persons of the company. Non-compliance with these requirements is a criminal offence and may result in the company and all of its responsible persons being subject to fines and up to two years in prison.

Companies in Hong Kong are required to make their beneficial ownership register accessible to law enforcement upon demand. There is no provision, however, requiring that a company's beneficial ownership register be made available to financial institutions and DNFBPs, such as accountants and lawyers. This makes it less useful as an independent resource for these regulated parties in conducting customer due diligence. They are, however, entitled to request extracts from a company's beneficial ownership register during their initial or ongoing due diligence. Depending on the customer's willingness to comply with this request, or the information contained therein, the financial institution or DNFBP may determine whether to take on or maintain the client.

Accountants in Hong Kong may be actively engaged in this framework. Companies must designate at least one person to assist law enforcement officers in relation to the register. This person must be either (a) a natural person resident in Hong Kong and a member, director or employee of the company or (b) an accounting professional, a legal professional or a Trust or Company Service Provider under the local AMLO law.

The Hong Kong model has the benefit of eliminating the need for a centralized registry and the ongoing expense of operating it. It is an open question as to how timely the access by law enforcement and other authorities to the registers may be, or how accurate the information contained therein may be. Hong Kong's largely compliant rating in the FATF mutual evaluations demonstrates that it is possible for the company-based register model to be effective in the context of a smaller yet commercially active jurisdiction.<sup>4</sup>



<sup>4</sup> Financial Action Task Force. [Mutual Evaluation Report of Hong Kong, China 2019](#). September 4, 2019.

## Centralized beneficial ownership registries

A number of jurisdictions make use of a centralized beneficial ownership registry, to which companies are required to submit their beneficial ownership information (e.g., the UK, the Bailiwick of Jersey, and EU member states pursuant to the Fourth and Fifth Anti-Money Laundering Directives). Key considerations for centralized beneficial ownership registries are the nature and powers of the agency with responsibility for operating a country's beneficial ownership registry, the extent to which submitted information is verified, and who has access to the central registry.

The structuring and empowerment of the registry operator has implications for the cost of operations and the quality of information.

### Who operates the registry?

The operational structure of the registry varies across jurisdictions. Under some models, the registry is operated by a stand-alone agency (e.g., [Companies House](#) in the UK). In others, the registry is operated by, and is part of, a regulatory entity (e.g., the beneficial ownership registry operated by the [Jersey Financial Services Commission](#) [FSC]). In yet another structure, the beneficial ownership registry for entities in France is operated by the National Institute for Industrial Property, which has a wide variety of other non-regulatory responsibilities.

Closely associated with the location of the registry are the powers that the operator has with respect to verifying information, ensuring information remains current, and enforcing non-compliance. Under some models, such as that in the UK and Germany, the registry operator has little liability or power to ensure that information is accurate when submitted or remains so over time. The operator typically assumes no responsibility for incorrect entries or information.<sup>5</sup> This may result in lower information quality, which then negatively impacts the value of the information in preventing and identifying underlying financial crime.

Under models where the registry sits with a regulatory authority (e.g., with the Jersey FSC), the registry operator may have greater ability to verify information and ensure it remains current. Likewise, association with a regulatory authority may provide the operator with more tools to actively enforce the requirements related to the provision and currency of information. Together, these factors should increase the accuracy of the beneficial ownership information held in the registry and make it more reliable and actionable.

The structuring and empowerment of the registry operator has implications for the cost of operations and the quality of information. Assigning responsibility for operating the beneficial ownership registry to an entity with strong powers to verify information may require more resources than a registry that simply publishes information as submitted, but may lead to greater information quality.

### Companies House Disclaimer

*The information available on this site is not intended to be comprehensive, and many details which may be relevant to particular circumstances have been omitted.*

*Accordingly, it should not be regarded as being a complete source of company law and information, and readers are advised to seek independent professional advice before acting on anything contained herein. Companies House cannot take any responsibility for the consequences of errors or omissions.*

### Data accuracy

In the absence of upfront validation and ongoing verification processes, public registries cannot be considered as authoritative sources of accurate beneficial ownership information. The example and experience with the public registry in the UK is particularly relevant to this issue of validation and accuracy of information.

<sup>5</sup> For example, the [General terms of use for Inspecting and the entry of beneficial owners in the Transparency Register](#) in Germany explicitly states that "the registration authority assumes no responsibility for incorrect entries or information."

Stakeholders in the UK have expressed concerns with the accuracy of the beneficial ownership data in the public registry — known as the People with Significant Control (PSC) Register — and the fact it is not definitive data within the registry. This is in large part due to the absence of standardized ways to file the data in the UK’s public registry and the fact that unique identifiers are not leveraged to validate the information. Furthermore, Companies House, the executive agency that manages the registry, manages it first and foremost as a repository of information and currently does not actively verify the information it receives. This situation benefits the “bad actors” in the system who may either falsify their information or simply not register any information at all.

In commenting as part of the 2019 review of the PSC Register’s implementation, the UK government noted:

Most Law Enforcement Organisations felt that the introduction of the PSC register had helped to improve corporate transparency in the UK economy. However, this group of stakeholders cited knowledge of non-compliant behaviour and inaccurate information. As such, many held the opinion that the register was limited in its ability to provide complete transparency if the information submitted continues to go unchecked.<sup>6</sup>

In the Netherlands and Ireland, unique identifiers (similar to the social insurance numbers in the US and Canada) need to be provided for each beneficial owner and filed with the registry operator. This enables the operator to validate the identity of beneficial owners leveraging government databases. In the Netherlands, it is intended that an automated check will be performed on the information registered in the Persons Database against what is provided at the time of registration in the beneficial ownership registry of natural persons who are residing in the Netherlands. In the case of Ireland, the personal public service number of beneficial owners is used by the operator for verification purposes.

In some cases, if law enforcement authorities (such as those in Ireland, for example) and/or “obliged persons” under the law (such as auditors and professional accountants, for example, in the UK and France) identify in the course of their work a discrepancy between the information in a central registry and the beneficial ownership information available to them, they must notify the operator. The obligation to report discrepancies can create a certain level of uncertainty for accountants and auditors in terms of understanding how this requirement impacts or interacts with their existing professional obligations (e.g., professional secrecy in France). A lack of clear and specific guidance by the legislator can further increase uncertainty around when, how and what accountants and auditors actually have the responsibility to report.

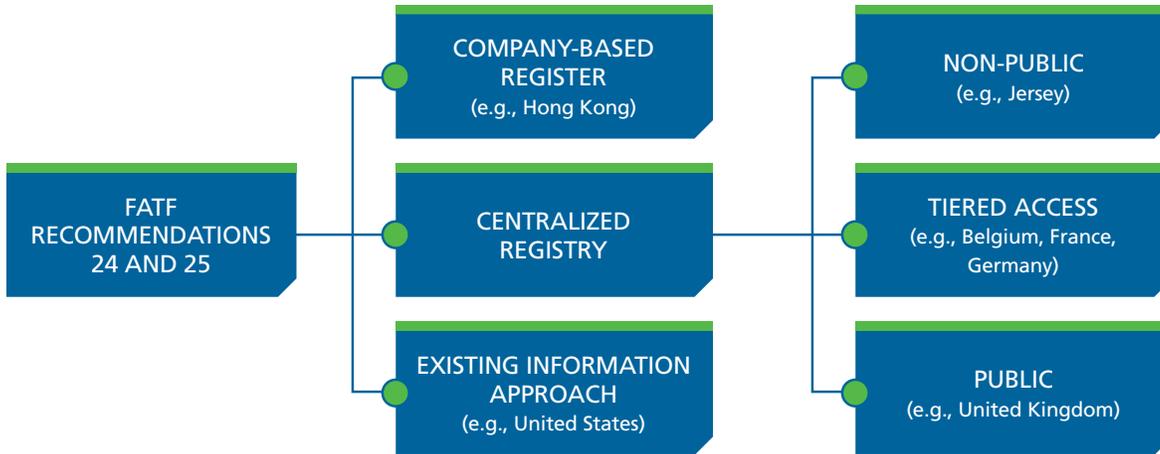
In the UK, Ireland, Germany, France, the Netherlands and Belgium, failure to provide beneficial ownership information to the central registry or wilfully providing false information can result in administrative and/or criminal fines, and potentially imprisonment. These sanctions or fines for non-compliance can be applied to the corporate entity, its directors or governing body and/or the beneficial owners themselves.



<sup>6</sup> U.K. Department of Business, Energy & Industrial Strategy. [Review of the implementation of the PSC Register: BEIS Research Paper Number 2019/005](#). August 2, 2019, p. 37.

## Access

### APPROACHES TO BENEFICIAL OWNERSHIP TRANSPARENCY



A key decision for policymakers is determining who can access the information within a centralized beneficial ownership registry. Generally speaking, the levels of access include:

- non-public access restricted to law enforcement and similar authorities;
- tiered access restricted to law enforcement, similar authorities, and other designated users (potentially including accountants); and
- public access.



#### Non-public access

In a non-public access model, beneficial ownership information is maintained in a central registry but is only accessible to a very limited number of parties. This will likely include law enforcement and other similar authorities in the first instance.

The restricted access model attempts to strike a strong balance between the benefits of centralization for efficient law enforcement access and data privacy concerns.

#### JERSEY

The Beneficial Ownership Register in the Bailiwick of Jersey is operated by the Jersey Financial Services Commission and is not accessible to the public.

The submission of beneficial ownership information to the register is closely linked to company formation, whereby the Jersey FSC must be satisfied with the information provided to grant a company licence.

The Jersey FSC receives approximately 2,500 company formation applications annually, processes 45,000+ beneficial ownership changes, and employs 12 full-time staff (with 3 to 4 working on information verification).

## Public access

Under the public model, some or all of the beneficial ownership information maintained in the central registry is made available to the general public, typically through a publicly accessible and searchable website, either with or without a fee. This has the benefit of providing all directly interested parties—law enforcement, financial institutions and DNFBPs, including accountants—with immediate access to the stored beneficial ownership information. It also provides indirectly interested parties, such as civil society organizations, academics and others, with access to the information. The public access model has the benefit of simplicity—everybody among the public has the same level of access.

This approach comes down squarely on the side of transparency vis-à-vis privacy concerns and is lauded by civil society organizations such as Transparency International.<sup>7</sup> There is an open question, however, as to whether the public model sufficiently enhances outcomes from a law enforcement/AML enforcement and prevention perspective to warrant going beyond a central registry with restricted access and making publicly available otherwise private information.

Even in public access models, certain information such as residence address and day of birth may only be available to law enforcement authorities (and potentially DNFBPs). In this regard, a fully public model for all does not exist in the world at this point.

## Tiered access

A model of public registry has emerged where different stakeholders have varying levels of access to beneficial ownership information in the registry. All EU member states under the AMLD5 have this tiered access model, whereby law enforcement authorities have full access to the information on beneficial owners that was provided whereas the general public usually has access only to data such as first name and surname, month and year of birth, nationality, country of residence, and the nature and extent of the beneficial interest held or control exercised. In some countries (such as France and Belgium, for example), reporting entities such as accountants and lawyers who can demonstrate that access to registry information is required in order to conduct their due diligence obligations may be granted access to more beneficial ownership information than the general public.

This approach actively seeks to balance transparency, privacy and legitimate need. It is also consistent with FATF Recommendations 24 and 25 when they provide that “countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and DNFBPs undertaking [customer due diligence requirements].” However, ensuring correct application of the tiered access has an associated operational cost and requires delineation of which categories of people, and under what circumstances, “interested parties” are eligible for the greater level of access.

## UK

The UK **PSC Register** is a public register operated by the independent government agency Companies House. The PSC Register publishes information submitted by companies without verification.

The PSC Register contains information on more than four million companies. Between October and December 2019, there were 155,950 new incorporations and 121,625 dissolutions in the UK. Companies House has a staff of approximately 960 and an annual operational budget of approximately 71 million GBP.

The PSC Register has received criticism regarding the low quality of information published, as well as data privacy concerns.

In May 2019, the UK government launched a **consultation** to review issues related to accuracy of information held at Companies House, abuse of personal information in the register and misuse of UK registered entities as vehicles for economic and other crime. Consultation feedback is currently under review.

## FRANCE

The beneficial ownership registry in France is operated within the *Registre du Commerce et des Sociétés* (“RCS”), maintained by the registries (“*greffes*”) of the local commercial courts. Obligated entities are bound to provide and update their beneficial ownership information to the *greffes* of local commercial courts.

Under AMLD5, the data of each court’s registry are sent to the National Institute for Industrial Property (INPI), which is an *Établissement public à caractère administratif*.

Among a wide variety of responsibilities, INPI centralizes data on all formalities performed through the local *greffes*, including information on beneficial ownership. Data are centralized in the National Register for Commerce and Companies (“*registre national du commerce et des sociétés, RNCS*”).

INPI is currently in the process of transitioning from a non-public model to a tiered model pursuant to AMLD5, which will provide a certain level of access to the general public.

<sup>7</sup> See Transparency International. *Recommendations on Beneficial Ownership Transparency for Open Government Partnership National Action Plans*. July 17, 2018.

## Exemptions

There are concerns that public registries may provide access and information to “bad actors” with criminal motives, including identity theft and kidnapping. In order to protect personal information, many countries with a public or tiered-access registry do not make public the full dates of birth and residential addresses of beneficial owners.

Many countries also make public disclosure exemptions available to certain categories of people. In Belgium, Germany, Ireland and the Netherlands, the beneficial ownership details of minors can be exempted from publication. In some countries (Germany, the Netherlands and Belgium), people with a disability or who are deemed “incapacitated” or “legally incapable” can also seek an exemption.

Exemptions can also be requested by individuals who are concerned that public access to their beneficial ownership information could expose them to the risk of falling victim to criminal offences (e.g., fraud, robbery, kidnapping, hostage-taking, blackmail, extortion, coercion, threat, violence or intimidation). Supporting documents may need to be provided by these individuals when submitting their exemption requests. It should be noted that while this exemption prevents the public from accessing the full extent of beneficial ownership information, the data is still made available to competent authorities, including law enforcement agencies.

## Using existing information

The third option by which countries may comply with Recommendation 24 does not include any requirements for a company-based register or centralized registry. Rather, it provides that countries may comply by “using existing information, including information obtained by financial institutions or professional service providers and information held by other authorities (e.g. company registries, tax authorities or financial or other regulators).” The US is an example of where this approach is used. A large number of data sources with varying degrees of connectivity are relied on to provide timely information to law enforcement and other authorities on beneficial ownership.

Although the FATF Recommendations suggest that this may be a viable way to make beneficial ownership information available, the US was rated non-compliant in the fourth-round mutual evaluation of December 2016.<sup>8</sup> While there has been legislative activity related to the creation of a central registry in the US, none of these efforts have been ultimately passed into law.<sup>9</sup>



<sup>8</sup> See Financial Action Task Force. *Mutual Evaluation Report of the United States 2016. December, 2016*, p. 224, stating “the absence of any measures to ensure that there was adequate, accurate and timely information on the beneficial ownership and control of legal persons that could be obtained or accessed in a timely fashion by competent authorities.”

<sup>9</sup> See, for example, *H.R.2513 - Corporate Transparency Act of 2019*.

# PERSPECTIVES FROM THE ACCOUNTANCY PROFESSION

This section reflects the views from the accountancy profession as expressed by representatives from Professional Accountancy Organizations (PAOs) in interviews for the purposes of this research and the views, as cited, in formal written submissions. Experts from the following PAOs were interviewed for this report:

ACCA	Association of Chartered Certified Accountants
AICPA	American Institute of Certified Public Accountants
CAANZ	Chartered Accountants Australia and New Zealand
CNCC	Compagnie Nationale des Commissaires aux Comptes
CSOEC	Conseil Supérieur de l'Ordre des Experts-Comptables
HKICPA	Hong Kong Institute of Certified Public Accountants
ICAEW	Institute of Chartered Accountants in England and Wales
IDW	Institut der Wirtschaftsprüfer in Deutschland
SAICA	South African Institute of Chartered Accountants

Representatives from the Jersey Financial Services Commission (FSC) were also interviewed.



The [global accountancy] profession supports initiatives to increase the transparency of beneficial ownership for entities and legal arrangements in a way that enables competent authorities to determine beneficial ownership in a timely manner.

Professional accountants are key gatekeepers in the fight against money laundering. Grounded in a strong ethical code and serving the public interest, professional accountants play a critical role by safeguarding public trust and reporting suspicious activities to those charged with governance responsibilities, as well as regulators. At the same time, they are also at risk of unwittingly enabling money laundering, especially by sophisticated professional money launderers.

The global accountancy profession supports its inclusion within the legal and regulatory AML framework. Accountancy is a public interest profession and accountants understand their important role in fighting money laundering.<sup>10</sup> In many jurisdictions, accountants and accounting firms have obligations as reporting entities under legislation and regulations governing the anti-money laundering regime, in line with FATF standards. Internationally, FATF has also developed guidance for a risk-based approach for the accountancy profession to manage the money laundering and terrorist financing risks that accountants face.<sup>11</sup>

The profession supports initiatives to increase the transparency of beneficial ownership for entities and legal arrangements in a way that enables competent authorities to determine beneficial ownership in a timely manner. Corporate transparency that assists in the identification of high-risk parties and enhances the traceability of assets and sources of funds is valuable in preventing further illicit conduct.

<sup>10</sup> IFAC. *Fighting Corruption and Money Laundering*.

<sup>11</sup> Financial Action Task Force. *Guidance for a Risk-based Approach for the Accounting Profession*. 2019.

It is worth noting, however, that the expansion of new AML requirements to the accountancy profession is a relatively recent development underway in several jurisdictions. PAOs and accountants themselves are determining how new requirements apply to them. The “know your client” or customer due diligence requirements for accountants in onboarding clients in jurisdictions lacking beneficial ownership registries are challenging because accountants may not be able to trace the actual beneficial owners.

Where beneficial ownership registries are in place, they do help the profession conduct their customer due diligence, accountants report. Nonetheless, there is concern that demonstrating customer due diligence “on paper” may not actually identify the real beneficial owners in instances where a registry’s information is either not required to be verified or is incomplete and cannot be fully traced beyond the home jurisdiction.

No one player can combat money laundering alone. Professional accountants are among many stakeholders with AML requirements, along with regulators, banks, insurance companies and securities firms. Cooperation among AML stakeholders in each country and with their international counterparts — including on beneficial ownership transparency — is integral to the efficacy of AML efforts.

## Accountants as information users

Business needs to know who it is doing business with and beneficial ownership information plays a critical role in that regard. Accountants may have customer due diligence responsibilities in onboarding clients, and they may be required as AML reporting entities to verify the identity of the beneficial owners where applicable, depending on national laws and regulations.

Where a registry offers tiered access, accountants see benefits in being granted a higher level of access to information. The HKICPA addressed this in response to Hong Kong’s 2017 consultation: “[We] would suggest that the PSC [persons with significant control] register also be accessible to relevant DNFBPs in relation to their clients or prospective clients. If the PSC register is accessible only to competent authorities, this could undermine the efficacy of the register and, potentially, impede DNFBPs in conducting CDD.”<sup>12</sup>

Accountants in other jurisdictions also cite challenges in demonstrating customer due diligence and verifying beneficial ownership information where the beneficial ownership registries have information that is not verified. A common critique is that the information in the beneficial ownership registry has no value above what the company directly provides to the accountant (i.e., the registry does not serve as an independent source of information).

## Accountants and information accuracy

A publicly accessible registry can be useful to accountants because it enables them to investigate who the beneficial owners of companies are. However, in countries such as the UK, accountants cannot solely rely on the registry since the accuracy of the information is not guaranteed by the operator. Guidance published by the UK’s Consultative Committee of Accountancy Bodies (CCAB), which includes ICAEW and

### Accountants as “obliged entities” in Belgium

Belgium offers an example of how beneficial ownership requirements impact the profession. In Belgium, auditors are subject to the beneficial ownership registration requirements. As “obliged entities,” auditors have to identify and verify the identity of their clients’ beneficial owners and they must ensure the firms, associations or foundations they audit comply with corporate laws requiring the registration of beneficial owners with the registrar.

Source: Instituut van de Bedrijfsrevisoren - Institut des Réviseurs d’Entreprises. [2018-20-Communication-Registre-UBO](#). 2018.

For our members, the actual mechanics of how the new register and the BOR [beneficial ownership registry] will operate is an important issue in terms of the role accountants might play in the future collection and maintenance of data regarded as highly accurate in the eyes of regulators.

– CAANZ, 2017

<sup>12</sup> HKICPA, March 5, 2017, p. 5.

ACCA, advises accountants against solely relying on information contained in the PSC Register, stating: “Companies House registers of persons of significant control may be used but may not be relied upon in the absence of other supporting evidence.”<sup>13</sup> The experience for accountants, among others, is that it is also difficult to have incorrect information removed from the UK register.

Businesses and accountants want the information in the UK’s register to be accurate. In recent consultations, ICAEW wrote:

We agree that Companies House should have additional responsibilities to verify information on the register and extended powers and increased resources to enable it to do so. It is important that relevant information on the register can be relied upon as being accurate.... We believe that verification of the information will serve a useful purpose in deterring use of UK companies for criminal purpose (or at least addressing the perception that gaps in the UK’s regime allow abuse).<sup>14</sup>

The importance of a unique identifier for businesses and individuals to avoid confusion around common names is another key point for consideration during [the consultation and reform process](#) underway in the UK and cited by accountants.

## Accountants on costs versus benefits

In some jurisdictions, accountants are among those responsible for the collection and maintenance of the beneficial ownership information in company registers and/or for public registries. A common concern expressed by accountants is that the compliance burden be kept to a minimum for law-abiding businesses.

PAOs in some countries have recommended that governments consider the additional administrative burden that comes with beneficial ownership information reporting requirements and the risks that come with public disclosure of that information. “The compliance costs for legitimate businesses are potentially substantial if the beneficial ownership concept is implemented without careful consideration of the current risks, existing data sources and the use made of it by Government agencies, the costs and benefits,” stated CAANZ in its submission to the government of New Zealand in 2018.<sup>15</sup>

Likewise, the costs around verification are a significant issue, which accountants have sought to link to the benefits in terms of outcomes. The ICAEW made this link in a 2019 submission to the UK Department for Business, Energy & Industrial Strategy (BEIS): “The objectives of verification should be clearly defined so that increased costs can be assessed against perceived benefits. We agree that the main objectives should be to improve the integrity and reliability of the register and to close the gap in the regulatory regime.”<sup>16</sup>

## Data privacy concerns

Privacy concerns exist for individuals and for corporations as a result of making beneficial ownership information publicly accessible. The potential risks include the loss of privacy (personal and business), identity theft, harassment, and threats to



<sup>13</sup> Consultative Committee of Accountancy Bodies. *Anti-Money Laundering Guidance for the Accountancy Sector*. 2018, p. 38.

<sup>14</sup> ICAEW. *ICAEW Representation 78/19 Corporate Transparency and Register Reform*. August, 2019, pp. 1, 4.

<sup>15</sup> CAANZ. *Increasing the Transparency of the Beneficial Ownership of New Zealand Companies and Limited Partnerships*. August 2, 2018, p. 3.

<sup>16</sup> ICAEW. 2019, p. 2.

safety and security. The risks that beneficial owners and/or their families face may vary greatly, and those risks may have nothing to do with a private company. Nevertheless, a beneficial ownership registry can become a new public access point to previously undisclosed information. The potential risks demonstrate the need for diligence and care upfront in determining what personal information is needed by competent authorities only and what should be made public. As previously mentioned, all registries that make some information available to the public do allow for exemptions to the public disclosure of beneficial ownership information.

The potential risks demonstrate the need for diligence and care upfront in determining what personal information is needed by competent authorities only and what should be made public.

The submission by CAANZ to a 2017 consultation in Australia reflects a common concern expressed by accountants: “We believe that the demands of transparency advocates need to be balanced against individual privacy rights (i.e. the shareholders of private companies), the need for commercial confidentiality, and maintaining Australia’s business friendly reputation.”<sup>17</sup>

In the UK, the ICAEW reflected accountants’ concerns with a publicly accessible registry, in a submission in 2019:

As the consultation paper notes, a registration system of this kind will not be a fool-proof safeguard against filing of false information. Similarly, it will not in itself prevent abuse by criminals of UK companies even where filings are correct. Those running the company may allow it to be used for illegitimate purposes, just as living individuals may allow their identity to be used by criminals. It is also possible that criminals might steal a company’s identity, as they can steal identities of individuals.<sup>18</sup>

## The role of technology

Digitalizing information flows will make a difference in jurisdictions where current legislation regarding beneficial ownership information is predominantly paper-based and needs updating (an example is the UK). The ACCA summed up the opportunity of technology in its 2019 submission to the UK BEIS:

The holding of information in a digital format is the first step towards realising the benefits offered by modern technology, but it is essential that the information itself is trustworthy. The use of tools such as artificial intelligence, robotic process automation, machine learning and data analytics could transform the usefulness of Companies House records, but only if the underlying information is accurate and consistent. Implementing reforms to ensure the quality and consistency of the data which is to be mined by automatic tools is a prerequisite for driving value out of their use.<sup>19</sup>

The ICAEW supported digital verification, but added a caveat too, in its submission in 2019:

We agree that digital verification is to be preferred (assuming that the data is protected and systems access controlled appropriately). This should be quicker, cheaper and more reliable than manual methods....A digital verification process is likely to be most efficient, but it would be necessary to cater for those who do not have access to digital tools or for whom any standard processes may be problematic.<sup>20</sup>

<sup>17</sup> CAANZ. *Increasing Transparency of the Beneficial Ownership of Companies*. March 17, 2017, p. 8.

<sup>18</sup> ICAEW, 2019, p. 5.

<sup>19</sup> ACCA. *Corporate Transparency and Register Reform - response to consultation - Ref: TECH-CDR-1832*. August 2019, p. 2.

<sup>20</sup> ICAEW, 2019, p. 7.

On the issue of businesses having to maintain their own register on top of submitting information to a central registry, such as the Companies House, accountants have noted that if a switch to a digital registry takes place, then the burden will lessen for companies who can file their own registers electronically to the central registry.

Beneficial ownership central registries can use application programming interfaces, which enable companies to export their information to the registries; this is already the case in Jersey with the FSC registry. In late 2020, [Jersey's registry](#) will go fully digital and automated and will likely use an AI algorithm as well to run verification and other checks to support its efficacy.

In some jurisdictions, professional accountants advocate prioritizing the modernization of existing business registers where the information may be poor. Furthermore, the use of government data and technology could help enhance existing business registers to perform the functions of a beneficial ownership register.

## Linking to other data sources

Leveraging existing sources of data required and held by government, particularly the data held by the tax authority, is seen as a valuable attribute for beneficial ownership registries from the perspective of accountants and companies.

In New Zealand, for example, CAANZ has recommended: “Before placing additional information demands on companies, we suggest it would be worthwhile for government to conduct a stocktake of its existing data sources and sharing protocols and consider the potential for better utilisation of the data that already exists.”<sup>21</sup>

In the UK, ACCA has raised the benefits of this approach in its 2019 submission: “There is definitely value to be derived from sharing datasets. Sharing of data with HMRC (the tax authority) should flow both ways. In addition to identifying standalone cases of fraud or other offences facilitated by submission of mismatched documents, there is also value to HMRC in understanding the ownership, management and control of corporate groups.”<sup>22</sup>

In jurisdictions where beneficial ownership registries are contemplated but not yet in place, accountants also suggest linking existing government data systems. In Australia, for example, there is an expectation that linking tax data to beneficial ownership information would help to ensure accuracy and timeliness. Federal-state cooperation could facilitate the registration of Australian businesses by letting them click a box to allow information to flow from one jurisdiction to another.

In Canada, there is an existing process in one province for collecting non-tax information, which is filed with the national tax authority — a process that CPA Canada posits could be expanded to include required beneficial ownership information.<sup>23</sup> This example raises the question of whether it could be expanded to other jurisdictions, provinces or territories to achieve collection, compliance and enforcement, all while minimizing some of the regulatory burden on companies.

In jurisdictions where beneficial ownership registries are contemplated but not yet in place, accountants also suggest linking existing government data systems.

<sup>21</sup> CAANZ, 2018, p. 2.

<sup>22</sup> ACCA, 2019, p. 16.

<sup>23</sup> Chartered Professional Accountants of Canada. [Submission in response to Strengthening Corporate Beneficial Ownership Transparency in Canada](#). April 2020.

## CONCLUSION

Introducing and enhancing transparency regarding the beneficial owners of private companies, trusts and other legal arrangements is critical to bolstering anti-money-laundering regimes and tackling other financial crimes throughout the world. This report reflects the salient features, issues and accountants' views of various approaches to implementing registers or registries to support beneficial ownership transparency. Overall, the verification and validity of information and the appropriate access to the information appear as key factors in a registry's efficacy.<sup>24</sup>

However, experience shows that a decision by a jurisdiction to adopt a public beneficial ownership registry does not immediately ensure that law enforcement and others have access to accurate information in a timely manner. In several jurisdictions, the move to a public registry has been a more advanced step in a journey. The EU, for example, started with non-public registries under the Fourth Anti-Money Laundering Directive and then transitioned to public registries under AMLD5. In the UK, the establishment of a public registry has been followed by greater scrutiny around issues such as accuracy and the actionability of the information. These experiences are useful for policymakers to consider as they assess their domestic situations.

The global accountancy profession, with its public interest mandate, International Code of Ethics for Professional Accountants,<sup>25</sup> and FATF-recognized role in AML, is uniquely qualified to contribute to the consideration of beneficial ownership transparency. With this report, we are pleased to provide our perspectives and experience to the discussion on the best way forward, as we collectively fight financial crime and improve economies and societies.



<sup>24</sup> These findings are in line with several of the key features cited in the FATF report *Best Practices on Beneficial Ownership for Legal Persons*. 2019, see page 5.

<sup>25</sup> See, *The International Code of Ethics for Professional Accountants (including International Independence Standards)*.

## **Acknowledgements**

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Authored by: Scott Hanson (IFAC) and Sarah Anson-Cartwright (CPA Canada). Research by Sébastien Labrecque (CPA Canada). Thanks to Michele Wood-Tweel (CPA Canada).

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@CPAcanada



CPA Canada



@CPA.Canada

International Federation of Accountants  
529 Fifth Avenue  
New York, NY 10017  
USA  
T +1 212 286 9344  
[www.ifac.org](http://www.ifac.org)

Chartered Professional Accountants of Canada  
277 Wellington St. West  
Toronto, ON M5V 3H2  
Canada  
T: 416.977.3222  
TF: 1.800.268.3793  
[www.cpacanada.ca](http://www.cpacanada.ca)



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COVID-19 & Ethics | Staff Alert



# COVID-19 AND EVOLVING RISKS FOR MONEY LAUNDERING, TERRORIST FINANCING AND CYBERCRIME

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December 2020

# COVID-19 and Evolving Risks for Money Laundering, Terrorist Financing and Cybercrime

This Staff publication highlights the heightened risks of money laundering, terrorist financing and cybercrime arising from the disruptive and uncertain COVID-19 environment and the implications for professional accountants in business and public practice, including auditors and accountants in government.

This publication was developed by the Staff of Chartered Professional Accountants of Canada (CPA Canada) under the auspices of a Working Group formed by the International Ethics Standards Board for Accountants (IESBA) and national ethics standard setters (NSS) from Australia, Canada, China, South Africa, the UK and the US.<sup>1</sup> The publication has also benefited from the input of the Staff of the IESBA.



This document complements the IRBA-IESBA-IAASB Joint Staff Publication, *Navigating the Heightened Risks of Fraud and Other Illicit Activities During the COVID-19 Pandemic, Including Considerations for Auditing Financial Statements*.

The Working Group's charge is to develop implementation support resources to assist professional accountants in effectively applying the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the Code) when facing circumstances created by the COVID-19 pandemic.

This publication does not amend or override the Code, the text of which alone is authoritative. Reading this publication is not a substitute for reading the Code. The implementation guidance is not meant to be exhaustive and reference to the Code, as appropriate, should always be made. This publication does not constitute an authoritative or official pronouncement of CPA Canada, the IESBA or the other NSS organizations that form part of the Working Group.

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1. The NSS are the Australian Accounting Professional & Ethical Standards Board, Chartered Professional Accountants of Canada, the Chinese Institute of Certified Public Accountants, the South African Independent Regulatory Board for Auditors, the UK Financial Reporting Council, and the American Institute of Certified Public Accountants.

## Introduction

Professional accountants have experienced the disruptive force of the COVID-19 pandemic first-hand in carrying out activities in serving clients, performing business functions and employment duties. Indeed, the pandemic has changed the routines and behaviors of individuals, businesses, non-profits, and governments the world over. The same can also be said for those with illicit objectives as they navigate the global changes to create new opportunities for money laundering, terrorist financing (MLTF) and cybercrime.

## What Should Professional Accountants Know?



Professional accountants should be aware that the changing risks for society beyond the obvious health and economic challenges of COVID-19 include increased MLTF and cybercrime activities. Times of disruption, such as the current pandemic, bring with them a need for accountants to exercise a heightened alertness to global, jurisdictional and sector risks of MLTF and cybercrime when carrying out professional activities and reference should be made to relevant and local sources for financial intelligence and cyber security information. Many countries, including Australia, Canada, the UK and the USA, have issued advisory warnings of increased cyber risks for healthcare entities involved in national and international COVID-19 responses. In Canada, the Financial Transactions and Reports Analysis Centre (FINTRAC) issued a *Special Bulletin on COVID-19: Trends in Money Laundering and Fraud* citing a variety of observations and scenarios to be aware of. In Australia, the Australian Cyber Security Centre (ACSC) published *Threat update: COVID-19 Malicious Cyber Activity*, which includes incident statistics and case study examples.

MLTF and cybercrime have much in common. They are perpetrated by those with illicit objectives and often involve fraud as the underlying or primary crime committed. The illicit activities can involve other unwitting individuals, including professionals, or organizations in what might be a series of events or transactions designed to conceal the illicit intent. Vulnerabilities, weaknesses and lapses in controls due to COVID-19 disruptions provide the opportunities that are sought by bad actors with varying degrees of sophistication. Globally, society is harmed by MLTF and cybercrime, with those who are most vulnerable often being hurt most. This emphasizes the importance of professional accountants' responsibility to act in the public interest and to comply with relevant laws and regulations, including those regarding money laundering and terrorist financing.

In the current COVID-19 environment, professional accountants should be mindful of the need to remain aware of, and alert to, the many potential types of evolving risks being identified for MLTF and cybercrime for their clients, employing organizations and themselves.

- Fraudulent abuse of COVID-19 government stimulus and support programs have been reported in various jurisdictions and this creates new, illicitly obtained funds for laundering through legitimate organizations and institutions. Those with illicit objectives are likely to be on the lookout for new opportunities to illicitly obtain funds and new ways to launder those funds. For example, severe economic challenges for organizations may create new pressures for the sourcing of financing from illicitly obtained funds.
- Cybercrime, including theft of identity, compromise of email addresses and websites, and distributed denial of service ransomware attacks, is increasingly present. It affects all sectors, large and small entities and individuals. Phishing and data-harvesting malware are facilitating breaches of privacy and confidentiality, which are of particular ethical concern if information has been compromised.



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Whether a professional accountant is evaluating cybersecurity risk during an audit, analyzing the effectiveness of a client's internal controls to prevent or detect MLTF which may have been altered in response to the pandemic, reviewing an employing organization's risk-based approach to comply with an anti-MLTF jurisdictional regime, or considering the adequacy of an employing organization's cybersecurity measures in a "work from home" environment, it is clear that the possible pandemic effects should be top of mind in carrying out professional activities.

## How Should Professional Accountants Respond?

The pressures and challenges of the COVID-19 pandemic do not lessen professional accountants' obligation to comply with applicable professional standards, including the Code or the relevant ethics and independence standards that apply within their jurisdictions. In those jurisdictions where the Code has been adopted, accountants need to be mindful and take into consideration that their jurisdiction might also have provisions that differ from, or go beyond, those set out in the Code. In these jurisdictions, accountants need to be aware of those differences and comply with the more stringent provisions unless prohibited by law or regulation.

Complying with the Code's fundamental principles assists professional accountants with navigating the evolving risks,

including during the dynamic pandemic period. The conceptual framework provides accountants with an approach to identify, evaluate, and address threats to compliance with these principles. To successfully carry out their professional activities, it is important for accountants to adapt to the dynamic and disruptive nature of the COVID-19 pandemic, including how abruptly it has altered individuals' and organizations' plans, work routines, as well as other activities and practices. An understanding of COVID-19-related risks and pressures, including those relating to MLTF and cybercrime, can help accountants comply with their professional obligation to remain alert for new information or sudden changes in facts and circumstances that might affect compliance with the fundamental principles.

## What Resources are Available?



Many organizations, including the IESBA have released helpful resources to help in navigating COVID-19 related challenges.

- The Staff Publication, COVID-19: Ethics and Independence Considerations, includes a discussion of important considerations to bear in mind regarding compliance with the fundamental principles in the COVID-19 environment.
- The evolving COVID-19-related risks and pressures, including MLTF and cyberthreats, may require resources and expertise beyond the professional accountant's capability or competence. In such circumstances, there might be a need

to use the services of a specialist. In this regard, the Joint AICPA-IESBA-IAASB Staff Publication, Using Specialists in the COVID-19 Environment: Including Considerations for Involving Specialists in Audits of Financial Statements includes important considerations.

- The complementary IRBA-IESBA-IAASB Joint Staff Publication provides relevant guidance to assist accountants during this tumultuous period in relation to fraud and other illicit activities.



International standards for anti-money laundering and terrorist financing (AMLF) are established by the Financial Action Task Force (FATF). In reviewing the challenges posed by COVID-19, the FATF has found that a variety of increased risks and threats exist globally and are expected to continue. With new vulnerabilities created through the disruption in addition to the health and economic challenges, those with illicit objectives are seizing upon opportunities

for MLTF and cybercrime. Professional accountants must be alert to this changing landscape, consider the possible risks posed to their clients, employing organizations and themselves, and be aware of their ethical responsibilities and applicable legal and regulatory requirements.



In August 2020, the International Criminal Police Organization (INTERPOL), reported that cyberthreats have increased during COVID-19 and the opportunities for those with illicit objectives have changed. Swift adaptation by bad actors has led to new targets and methods, taking advantage of

the pandemic disruption. Individuals, businesses, non-profits, and the public sector are all seen to be at risk, with continuing harm globally expected to continue through the changes brought about by the pandemic. Professional accountants must be aware of cyberthreats, alert to the possible risks to their clients, employing organizations and themselves, and be aware of their ethical responsibilities and applicable legal and regulatory requirements.

## Relevant resources that professional accountants may find useful include:

### INTERPOL

Report: [Cybercrime COVID-19 Impact](#)

Publication: [COVID-19 Stay Safe](#)

### FATF

Publication: [COVID-19-related Money Laundering and Terrorist Financing Risks and Policy Responses](#)

FATF Webinars: [Money Laundering and Terrorist Financing and COVID-19](#)

### International Federation of Accountants and its Network Partners

IFAC and ICAEW Release First Installment of Six-Part Anti-Money Laundering Educational Series

IFAC and CPA Canada Joint Publication, [As Financial Crimes Grow during the Pandemic, Accounting Groups Address Key Piece of AML Action Fighting Corruption Requires Accountants to Act: Here's How](#)

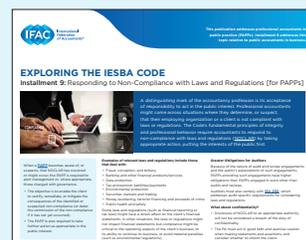
CPA Canada: [COVID-19 fraud alert: Be on the lookout](#)

Click on the images below to learn more by reading the relevant installments of the Exploring the IESBA Code publication series.



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Chartered Professional Accountants of Canada (CPA Canada) is one of the largest national accounting organizations in the world and is a respected voice in the business, government, education and non-profit sectors. CPA Canada is a progressive and forward-thinking organization whose members bring a convergence of shared values, diverse business skills and exceptional talents to the accounting field. Domestically, CPA Canada works cooperatively with the provincial and territorial CPA bodies who are charged with regulating the profession. Globally, it works together with the International Federation of Accountants and the Global Accounting Alliance to build a stronger accounting profession worldwide. As one of the world's largest national accounting bodies, CPA Canada carries a strong influential voice and acts in the public interest.

## About the IESBA

The International Ethics Standards Board for Accountants (IESBA) is an independent global standard-setting board. The IESBA's mission is to serve the public interest by setting ethics standards, including auditor independence requirements, which seek to raise the bar for ethical conduct and practice for all professional accountants through a robust, globally operable *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the Code).

### Key Contacts

**Michele Wood-Tweel**, Vice-President,  
Regulatory Affairs, CPA Canada  
mwood-tweel@cpacanada.ca

**Ken Siong**, Senior Technical Director  
kensiong@ethicsboard.org

**Diane Jules**, Deputy Director  
dianejules@ethicsboard.org

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