



BC Canada Real Estate Working Group



Work Stream 3: Improving Enforcement and Prosecution

2020/12/18

Work Stream 3: Improving Enforcement and Prosecution Update

Background

The Province of British Columbia and the Government of Canada Ad Hoc Working Group on the Real Estate Sector convened in 2018. The mandate of this Working Group is to enhance communication, information sharing and alignment amongst relevant operational and policy partners to explore and better address issues and risks related to fraud, money laundering and tax evasion through real estate in B.C.

The main objectives of the working group are:

- Discuss compliance with tax and anti-money laundering rules in B.C.'s real estate sector, and other related sectors that facilitate real estate transactions.
- Identify the means of money laundering in B.C. with respect to real estate.
- Provide updates between the federal and provincial governments related to the real estate sector (such as, but not limited to, purchases of real estate in B.C.).
- Develop a clearer understanding of the challenges government agencies have in carrying out their mandate in the real estate sector, and other related sectors that facilitate real estate transactions.
- Share information such as data, trends, typologies, and case examples related to real estate ownership and money movement, including flows of foreign funds or proceeds of crime, into B.C. real estate.
- Discuss what information is available to federal and provincial governments in relation to real estate transactions, ownership and financing and possibilities of coordinating that information to combat anti-money laundering.
- Identify gaps in the provincial and federal regulatory and enforcement frameworks that could reduce money laundering (ML) in BCs real estate sector.
- Discuss how existing systems, e.g., land registries or aggregated data collected by the province can be leveraged to improve information gathering and assist authorities such as FINTRAC in the detection of suspected money laundering or the CRA and law enforcement authorities in their respective investigations.
- Discuss and create coordinated mechanisms across agencies, as appropriate, to address compliance and enforcement issues in B.C.'s real estate sector
- Understand and develop linkages to the federal/provincial/territorial working group on beneficial ownership and discuss how transparency can be improved through beneficial ownership information of real estate.
- Discuss ways in which BC and the federal government can work together to address the risks identified in the federal report on the Assessment of Inherent Risks of Money Laundering and Terrorist Financing 2015.

- Develop linkages to the federal/provincial/territorial working group on housing and extend the dialogue to other provinces.





The Working Group proceeded to identify three separate work streams to focus on key issues and initiatives with a Provincial and Federal co-lead for each work stream. Each work stream included participants from key Provincial and Federal stakeholders. The group was broken down into the following three work streams:

1. Data Collection and Sharing
2. Regulatory Gaps, Compliance, Standards and Education
3. Improving Enforcement and Prosecution

The COVID – 19 pandemic has hindered face to face meetings in recent months, however, the work of the three work streams continue. The initial participants on work stream 3 included the following:

Work Stream 3: Improving Enforcement and Prosecution

Organization	Name and Title of Work Stream Participants	Contact Information
<u>Provincial Co-lead:</u> Ministry of Public Safety & Solicitor General	Co-lead: Tom Steenvoorden, Director	Personal Information [Redacted]
Ministry of the Attorney General (AG) Anti-Money Laundering Secretariat	Megan Harris, Executive Director	Personal Information [Redacted]
AG – Prosecutions		
Office of the Superintendent of Real Estate (OSRE)	Raheel Humayun – Managing Director, Investigations	Personal Information [Redacted]
B.C. Ministry of Finance - FICOM		
<u>Federal Co-lead:</u> RCMP	Co-lead: Peter Payne, Superintendent	Personal Information [Redacted]
RCMP	<ul style="list-style-type: none"> • Keith Mehrer, Senior Adviser • Brent Taylor, Superintendent • Tony Farahbakhchian, Inspector • Lav Mangat, Inspector • David Gray, Sergeant 	Personal Information [Redacted] Personal Information [Redacted] Personal Information [Redacted] [Redacted] Personal Information [Redacted] [Redacted] Personal Information [Redacted]
CFSEU-BC	<ul style="list-style-type: none"> • Paul Dadwal, Superintendent 	Personal Information [Redacted]

	<ul style="list-style-type: none"> • Steve Cocks, Inspector • Joel Hussey, Sergeant 	Personal Information 
CRA	<ul style="list-style-type: none"> • Elvis Dutra, Assistant Director 	Personal Information 
Finance Canada	<ul style="list-style-type: none"> • Charlene Davidson, Senior Advisor 	Personal Information 
CMHC	<ul style="list-style-type: none"> • Bert Pereboom, Manager 	Personal Information 

Over time, there was some turn over with some participants and new ones were added, e.g: representation from PPSC (Simon William).

Work Plan for Work Stream 3: Improving enforcement and prosecution

Work stream 3 had initially started work on three high level issues:

- Issue 1: Criminal and regulatory, Intelligence and Investigations
- Issue 2: Coordinated/Collaborative Teams
- Issue 3: Prosecutions

The issues were subsequently broken into sub-issues and the group then created a list of specific policy options or measures to address the sub-issues. The work group then identified and presented several recommendations to advance and/or resolve the key issues.

Issue 1: Criminal and Regulatory, Intelligence and Investigations

This was broken down into two sub-issues: Sharing across the divide and Intelligence to evidence.

The group then created the following list of specific policy options or measures:

Sharing Across the Divide:

1. Creation of linked FIU’s at federal/provincial levels. (criminal with case specific linkages to regulatory bodies)
2. Explore how regulatory organizations can share information at the federal/provincial levels. For example, develop or use existing MOUs to better effect. (regulatory only)
3. Creation of standardized information sharing, Memorandum of Understanding (MOU’s) / Information Sharing Agreements (ISA’s) between agencies
4. Bulk Cash – do we push for new legislation? What are other countries doing? Recklessness??
5. Closing the gap on transition of seized assets from Crim Code to Civil. Apparently, there is a window of opportunity to move the funds/ assets. Research on what other countries do?
6. EPIRATE: lessons learned

Intelligence to Evidence:

1. Embedding of Legal and Subject Matter Expert (SME) from start of investigations.

New Federal/Provincial Initiatives

Since the formation of this working group, the Federal Government announced funding for a new pilot under Public Safety for an “Anti-Money Laundering Action, Coordination and Enforcement” (ACE) team, which commenced in mid-2019. Action Coordination and Enforcement (ACE) initiative.

Specifically, Budget 2019 proposed to “bring together dedicated experts from across intelligence and law enforcement agencies to strengthen inter-agency coordination and cooperation and identify and address significant money laundering and financial crime threats”. The ACE Team engaged with AML operational stakeholders, including law enforcement, prosecution, and regulatory agencies at the federal, provincial, and municipal levels in British Columbia (BC), Ontario (ON), and Quebec (QC), to determine key enforcement challenges they faced and their AML support needs. In addition, the Team conducted a review of existing reports on Canada’s AML enforcement, including those commissioned by the Government of BC, and met with officials from international partners to elucidate best practices and lessons learned in their efforts to combat financial crime. The ACE Team has drafted an operational plan for their model derived from ACE’s rigorous research and review of Canada’s key challenges, best practices, and recommendations identified through this assessment.

The ACE Team is proposing to re-brand itself as a financial crime coordination centre (FC3). The intention is to continue support on ML issues but the name allows scalability to support anti-terrorist financing efforts in future. The proposed operational mandate of the Financial Crimes Coordination Centre (FC3) is to provide coordination and support to AML federal and provincial partners, through three main pillars:

- a. **Policy and Governance:** Ensuring that strategic, policy and legislative initiatives are actively coordinated across operational federal and regional AML partners in response to financial crime threats.
- b. **Coordination and Support:** Ensuring that federal and regional AML partners have the coordinated support and access to AML partners required to effectively undertake financial crime operations.
- c. **Knowledge Hub:** Ensuring that public authorities in Canada have the knowledge to effectively detect, disrupt and prevent financial crime, and the expertise and skills to apply this knowledge.

Currently the ACE design team is in the process of final planning in order to transition to its implementation phase, which is scheduled for April 2021.

Also, since January 2020, there has been great progress in furthering the Counter Illicit Finance Alliance (CIFA) lead by the RCMP.

- Law Enforcement and FINTRAC have been collaborating with the private sector for many years on numerous projects within the existing AML/ATF Regime to combat complex financial crimes requiring a collective response. Some examples

include Project Protect, Project Guardian, and Project Chameleon – projects aimed at developing and disclosing actionable intelligence to identify, investigate, and prosecute criminal entities. These Projects have included key stakeholders, such as FINTRAC and the Money Laundering Bankers Contact Group, which includes participation from all of Canada’s major financial institutions.

- Great progress has been made to date in this space, with a series of public/private projects leading to positive but varying results. RCMP, FINTRAC, Public Safety and Finance are now coming together to build a permanent model that will ensure a systematic structure is in place for public/private efforts, and that these efforts are aligned with shared priorities.
- In 2018, the Combined Forces Special Enforcement Unit of B.C. (CFSEU-BC) engaged with public and private stakeholders to address a money laundering scheme impacting B.C. casinos. The initiative, which was known as Project Athena, produced positive results and was well received by stakeholders.
- In January 2020, E Division and FPCO Financial Crime (FPCO – FC) collaborated to start transitioning Project Athena from a project to a permanent entity. The name of the partnership changed from Project Athena to the Counter Illicit Finance Alliance (CIFA).

It is envisioned that CIFA will be composed of regional bodies, stood up in a phased approach, that share the fundamental principles (vision, mission, and objectives) of the Public-Private Partnership approach to combatting money laundering, while tailored to provincial realities. The initiative will be coordinated with the Federal Anti-Money Laundering regime and bring together:

- all levels of government (municipal, provincial, federal);
- regulators (provincial and federal);
- law enforcement (municipal, provincial and federal)
- all relevant crown corporations and industry
- to lawfully share information, develop innovative solutions and contribute to informed policy, regulatory, and legislative change.

FPCO Financial Crime is working on creating an integrative, comprehensive, and responsive coordination function at NHQ to ensure the Counter Illicit Finance program activity can :

- Facilitate information sharing with the provinces and Federal departments;
- Provide high-level stewardship of national-level PPP issues; and
- Ensure oversight, governance, and conduct analysis on cross-jurisdictional issues.

Progress of CIFA to date:

1. RCMP, Public Safety, FINTRAC, and Department of Finance have been collaborating in weekly working level meetings to develop a CIFA and broader PP Model that:
 - Would be inclusive of the various efforts currently underway at FINTRAC, RCMP, and Public Safety;
 - Is clearly situated within the broader AML/ATF Regime Governance Structure;
 - Responsive to regional efforts to the Federal regime;
 - Representative of AML stakeholders and partners; and
 - Sustainable and legally sound.
2. CIFA-BC will be the first Provincial/Regional model implemented this Fall, 2020, and delivers upon key aspects of British Columbia's AML strategy.
3. CIFA-BC is endorsed by: The Commanding Officer of RCMP "E" Division, Deputy Commissioner Jennifer Strachan; the BC Attorney General, the Honourable David Eby; the BC Minister of Public Safety and Solicitor General, the Honourable Mike Farnworth; and the BC Minister of Finance, the Honourable Carole James.

Next Steps:

- Continued development of the CIFA Secretariat and phased roll out to the regions through the established interdepartmental consultative process.

Both of these new initiatives will work closely together with Federal and Provincial stakeholders. Their collaborative efforts will be instrumental in advancing most of the issues identified in Issue 1 noted above.

Issue 2: Coordinated/Collaborative Teams

This was broken down into two sub-issues: Dedicated units and resource retention and team make-up, required skill sets.

The group then created the following list of specific policy options or measures:

Dedicated units and resource retention:

1. Permanent units (FIU/Fusion Centres) with career path opportunities. ACE Investigative Teams? (As time progressed, these teams were renamed IMLITs – Integrated Money Laundering Investigative Teams).
2. Placement of Units within government / police / regulatory environments.
3. Overcoming wage parity challenges within the units

Team make-up, required skills:

1. Identification of proficiencies required within the Units i.e. police investigators / criminal analysts / financial experts / IT data specialists / project managers / legal / unit support / Regulatory SME

In Budget 2019, the Federal government announced several funding initiatives with direct focus on the Anti-Money Laundering Regime, one of those was the 5 year pilot for ACE as previously noted. The second announcement was for \$68.9M to Federal Policing to combat Money Laundering (ML) and Proceeds of Crime (POC). The Treasury Board submission is going forward this Fall and will add additional ML/POC investigators in the following four Provinces; Quebec, Ontario, Alberta and BC. The focus will be to build new Integrated Money Laundering Investigative Teams (IMLIT) and a substantial amount of the funding will go to build the support units big data analytics to enable more efficient ML/POC investigations.

The goal of these IMLITs is to be truly integrated. The RCMP has had initial consultations with both the Canada Revenue Agency (CRA) and the Canada Border Services Agency (CBSA). Both agencies have expressed strong interest in either being a part of these teams or increasing collaboration in this area. It should be noted that CBSA had received new funding for Trade Based Money Laundering (TBML) in the last Federal budget. It is hopeful that some of our other policing partners (municipal and/or provincial) may eventually join these IMLITs as well.

BC RCMP currently has CRA and CBSA working with them and are in the process of seconding some Vancouver Police Service (VPS) members.

In early 2020, the RCMP changed its Federal Prioritization process for major cases, now making it mandatory for the pursuit of POC/ML on every case. As a result, Federal Policing Criminal Operations, Financial Crime (FPCO-FC) hosted a ML/POC Strategy session with all Criminal Operations Officers (CROPS) from every RCMP Division, in addition to PPSC on Jan. 28 – 30, 2020. The goal of the strategic session was to establish flexible provincial models to address the gaps and investigative challenges of pursuing POC/ML in a resource-constrained era.

The key components raised focussed on a need to enhance collaboration, information sharing, partnerships (holistic approach), education (awareness and training), and an examination of overall capacity and effectiveness. The alignment between the provinces and national strategic components is not complete due to COVID delays, but the work towards a flexible National strategy continues.

Issue 3: Prosecutions

There was only one sub-issue brought forward for this issue: Embedding prosecutions.

The following list of specific policy options or measures were presented by the group for this issue:

Embedding Prosecutions:

1. Dedicated federal / provincial crown
2. Embedded or identified at start of investigation
3. Providing legal advice during investigations
4. Challenges of proving predicate offences in order to get money-laundering convictions.
5. Prosecutor expertise – creating a “prosecution in a box for ML cases”?
6. More emphasis on laying of POC/ML charges? PPSC & RCMP

During the FPCO-FP strategy session in January 2020, there was some discussion on full time “embedding prosecutors” within law enforcement investigative teams. PPSC advised that this was not an option for them but made suggestions regarding this issue. However, there was firm agreement from all in attendance that early engagement with PPSC was paramount in all ML/POC investigations. PPSC advised that they would gauge their commitment and ongoing involvement on a “case by case basis.” The working relationship with PPSC varies across the Divisions and there was a commitment to work more closely together on ML/POC investigations.

In February 2020, the Deputy Commissioner of Federal Policing (DCFP) sent a memo to all CROPS Officers in all RCMP Divisions. The memo was a directive on ML/POC and a clear statement that ML/POC will be included on all future serious and organized crime investigations. The DCFP’s memo also attached a copy of the memo, George Dolhai and David Anthonyshyn (Deputy Directors of PPSC) sent to all his Chief Federal Prosecutors renewing their commitment to combat POC/ML as a priority.

In this context, PPSC H.Q. has set up a pilot project involving regional money laundering prosecutors and representatives from PPSC H.Q. Three conference calls were held between October 2020 and April 2021 to discuss issues related to money laundering faced by prosecutors and to share best practices.

Recommendations:

1. That the work stream continue to collaborate with all key stakeholders in the Public Private Partnership (PPP) Regime, including; Federal partners, Financial Institutions, FC3 and CIFA-BC to advance collective efforts to address continuing and emerging issues.
2. The RCMP will continue consultations with our key Federal and Provincial stakeholders on the make-up and roll out of the IMLITs upon approval of the TB submission.
3. The RCMP will continue to work on evolving the ML/POC strategy and deliver on key initiatives.
4. Continued consultations with PPSC for appropriate engagement on investigations and training opportunities.

*Note: Many of the policy options or measures initially presented by this work stream have since been changed or removed from the list for various reasons, e.g.,: ACE investigative teams to Integrated Money Laundering Investigative Teams – IMLITs.

The ACE initiative has since changed their title to FC3 – Financial Crime Coordination Centre.