

BCLC BRIEFING NOTE

PREPARED FOR: Minister David Eby

PURPOSE: For information

ISSUE:

BCLC – Anti-Money Laundering and Countering Terrorist Financing Program.

SUMMARY:

Under the *Proceeds of Crime Money (Money Laundering) and Terrorist Financing Act* (PCMLTFA), BCLC is the designated reporting entity in BC responsible for implementing AML/CTF measures to meet PCMLTFA requirements protecting BC casinos. Under the PCMLTFA, BCLC is required to have a Compliance Plan that effectively and demonstrably detects and mitigates money laundering and terrorist financing vulnerabilities on a risk based approach.

BACKGROUND:

Criminal law, including anti-money laundering laws, falls within federal jurisdiction.

Canada's response to money laundering and terrorist financing threats is governed by the federal *Proceeds of Crime Money (Money Laundering) and Terrorist Financing Act* (PCMLTFA).

The PCMLTFA creates the federal Financial Transactions and Reports Analysis Centre (FinTRAC), a financial intelligence unit, which is responsible for overall administration of Canada's anti-money laundering and countering terrorist financing regime (AML/CTF).

Under the PCMLTFA, certain sectors of the Canadian economy most vulnerable to money laundering and terrorist financing threats, including casinos, are deemed to be reporting entities making them subject to customer identification and monitoring, record keeping and reporting obligations.

Under the PCMLTFA, BCLC is the designated reporting entity in BC responsible for implementing AML/CTF measures to meet PCMLTFA requirements protecting BC casinos. Under the PCMLTFA, BCLC is required to have a Compliance Plan that effectively and demonstrably detects and mitigates money laundering and terrorist financing vulnerabilities on a risk based approach. The legislation requires that BCLC's plan include: written policies and procedures; documented risk assessment; documented and on-going training program; a designated compliance officer; an independent review of the effectiveness of the program completed every two years.

BCLC's role is to deter, observe and report. BCLC is required to submit to FinTRAC: Large Cash Transaction Reports (money received from customers), Large Casino Disbursement Reports (payments to customers) involving amounts of \$10,000 or more, and Suspicious Transaction Reports (STRs) for transactions or attempted transactions of any dollar amount and in any form that are suspicious. BCLC provides copies of all STRs filed with FinTRAC directly to the Royal Canadian Mounted Police. BCLC and casino workers receive formal training on how to recognize the indicia of suspicious transactions at casinos.

Under the PCMLTFA the threshold for suspicion is met where “there are reasonable grounds to suspect that [a] transaction is related to the commission or attempted commission of a money laundering ... or terrorist financing offence.”

FinTRAC receives and analyzes transaction reports from BCLC as well as all other reporting entities across Canada (casinos, banks, credit unions, realtors and so on). Where FinTRAC sees indicators of money laundering or terrorist financing it will make a disclosure to police. Due to legislated restrictions that allow FinTRAC to share information only with prescribed enforcement agencies, it does not share disclosures made to police or otherwise notify BCLC of the results of its analysis.

The police are responsible for the investigation of money laundering and terrorist financing offences and determining where charges should be laid.

The Gaming Policy and Enforcement Branch (GPEB) is the provincial government branch responsible for gambling regulation in the province and for investigating regulatory offences under the provincial *Gaming Control Act (GCA)*.

DISCUSSION:

Casinos across Canada account for a very small percentage of large cash transactions in comparison to other sectors. Data obtained from FinTRAC indicates between 2010 and 2013 in B.C., 97 per cent of large cash transaction reports were submitted by financial entities; 1.96 per cent were submitted by casinos.

BCLC does not have investigative authority or powers under the GCA or any legislation and relies on police agencies to protect its casino facilities from criminal activity, including money laundering, and to protect its AML/CTF Program from being undermined by organized crime.

BCLC recognizes the important role it plays to deter, detect and report money laundering. Following the 2010 review of AML measures at gaming facilities, the Province launched an Anti-Money Laundering Strategy focused on reducing the reliance on cash, aimed at minimizing the opportunity for money laundering to take place. Significant accomplishments since that time include:

- BCLC develops traceable cash alternatives for gaming facilities in B.C. such as Patron Gaming Fund accounts, debit transactions, and other non-cash instruments. In fiscal year 2016/17, approx. \$1.99 Billion in financial transactions were generated in B.C. gambling facilities through secure and traceable cash alternatives.
- In 2014, BCLC executed an information sharing agreement with the RCMP – a first in Canada. This agreement allows a higher degree of collaboration between BCLC and the RCMP on money laundering matters. Under the agreement BCLC has been able to identify and ban from its facilities more than 270 organized crime members and associates.
- In 2016, BCLC started funding of \$3M per year to a dedicated illegal gambling and anti-money laundering police unit run by the RCMP.
- BCLC has purchased business intelligence software from a leading provider to financial institutions, including three of Canada’s five big banks. BCLC is the first gambling jurisdiction in North America to adopt this technology and, as such, worked with the

vendor to adapt the software to the gaming environment. The software will increase BCLC's ability to monitor and analyze transactions for indicators of money laundering.

BCLC's Compliance Program is subjected to an audit by FinTRAC every two years and is also subjected to an independent audit conducted by a national accounting firm, engaged by BCLC, once every other year, therefore is effectively audited annually. Further, GPEB audits BCLC's Program periodically and monitors its reporting to FinTRAC on an on-going basis. FinTRAC's most recent audit was completed in July 2016 with no deficiencies found in AML procedures or reporting. One deficiency was found in relation to training, which has been subsequently addressed. During the audit exit interview FinTRAC advised that BCLC's Compliance Program was a leader in the sector. The next independent audit will commence in July-August 2017 and will be conducted by Ernst and Young.

In 2010, FinTRAC alleged that BCLC had a number of reporting deficiencies largely arising from the implementation of an automated batch reporting system. No money laundering transactions were alleged or involved. Rather, the allegations were purely procedural in nature. An administrative monetary penalty was assessed against BCLC by FinTRAC. FinTRAC has advised BCLC that it is now prepared to consent to the granting of BCLC's appeal on the terms that:

BCLC acknowledge that some technical deficiencies, attributable to technical matters, existed; notwithstanding, BCLC had been duly diligent in the implementation of its Compliance Plan; and, the technical deficiencies had been quickly remedied at the time.

Lawyers for FinTRAC and BCLC will appear in Federal Court in Toronto during the week of August 4, 2017, to finalize the settlement. The hearing and the court records will be a matter of public record after this date – the court record is currently the subject of a sealing order. The granting of the appeal will quash the AMP.

FINANCIAL IMPLICATIONS:

Annually, BCLC spends more than \$10M per year on anti-money laundering, compliance and security functions. This does not include the \$3M provided to the dedicated police unit.

Prepared by:

Jim Lightbody
President and CEO
BCLC

PERSONAL INFORMATION