SENATE SÉNAT

CANADA

FOLLOW THE MONEY: IS CANADA MAKING PROGRESS IN COMBATTING MONEY LAUNDERING AND TERRORIST FINANCING? NOT REALLY

Report of the
Standing Senate Committee on Banking, Trade and Commerce

The Honourable Irving R. Gerstein,
C.M., O. Ont, Chair
The Honourable Céline Hervieux-Payette,
P.C., Deputy Chair

March 2013

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41st Parliament – 1st Session

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FOREWORD

On behalf of the Standing Senate Committee on Banking, Trade and Commerce it is our pleasure to present the Committee's report on the five year Parliamentary review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. After more than a year of study, hearing from more than forty witnesses from various government departments, agencies, international partners, and stakeholders of Canada's anti-money laundering and anti-terrorism regime (the Regime), the Committee has put forward eighteen recommendations to the government on how the Regime may be improved.

Canadians have come to expect a strong analysis of the issues along with well researched and reasonable suggestions presented in a non-partisan manner from Senate Committees. The Banking, Trade and Commerce Committee has strived to do its best to maintain that high standard of excellence during this legislative review.

Committee members express their thanks for the support and hard work provided by the Committee Clerk and staff from the Senate Committees Directorate, the many witnesses who came before the Committee, as well as the staff of the Library of Parliament whose efforts brought about this report.

Respectfully,

Senator Irving R. Gerstein, C.M., O.Ont, Chair	Senator Céline Hervieux-Payette, P.C., Deputy Chair

Standing Senate Committee on Banking, Trade and Commerce

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of January 31, 2012:

With leave of the Senate,

The Honourable Senator Carignan moved, seconded by the Honourable Senator Rivard:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to undertake a review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17), pursuant to section 72 of the said Act; and

That the committee submit its final report no later than May 31, 2012.

The question being put on the motion, it was adopted.

Extract from the *Journals of the Senate* of Tuesday, December 11, 2012:

The Honourable Senator Gerstein moved, seconded by the Honourable Senator Wallin:

That, notwithstanding the order of the Senate adopted on Tuesday, January 31, 2012, Tuesday, May 15, 2012, Tuesday, June 19, 2012, and Tuesday, June 26, 2012, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c.17) be extended from December 31, 2012 to March 31, 2013.

The question being put on the motion, it was adopted.

Gary W. O'Brien

Clerk of the Senate

EXECUTIVE SUMMARY

According to the United Nations, money laundering is "any act or attempted act to disguise the source of money or assets derived from criminal activity." The annual value of global money laundering is estimated to be between US$800 billion and US$2 trillion, while money laundering in Canada in 2011 was estimated to be between $5 billion and $15 billion.

The Standing Senate Committee on Banking, Trade and Commerce (the Committee) began a five-year statutory review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* in February 2012. In addition to written briefs from those unable to appear in person, the Committee heard from more than 40 witnesses, including representatives from federal, provincial and international departments and agencies, as well as the private sector.

The report summarizes the oral and written evidence received by the Committee during the review, and contains 18 recommendations designed to improve the effectiveness of Canada's anti-money laundering and anti-terrorist financing regime (the Regime).

In undertaking the review, the Committee focused on three areas in the broad context of ensuring that the Regime provides "value for money" to the Canadian taxpayer.

- desired structure and performance;
- the appropriate balance between sharing of information and the protection of personal information; and
- optimal scope and focus.

Desired structure and performance

The Committee believes that Canada's Regime will only be effective, and its performance optimized, if it has the correct structure. The right oversight is required, sources of funds must be identified, specialists must be employed and ongoing review is necessary to ensure that the "results" of everyone's efforts are maximized in light of the time, monetary and other costs committed by governmental departments and agencies, and by reporting entities. To that end, the Committee makes five recommendations regarding supervision, performance review, funding and expertise.

Appropriate balance between the sharing of information and the protection of personal information

The Committee feels that the effectiveness of Canada's Regime is enhanced – that is, the "results" are greater – when appropriate and timely information is shared among relevant parties, including the Financial Transactions and Reports Analysis Centre of Canada, law enforcement agencies, reporting entities, the employees of reporting entities and other individuals. The Committee's eight recommendations in this area are designed to improve case disclosures and the sharing of information, bearing in mind the need to protect personal information, reduce the compliance burden on reporting entities, and

ensure the safety of those who assist in investigations and prosecutions of money laundering and terrorist financing.

Optimal scope and focus

The Committee's opinion is that changes are needed in response to global developments in money laundering and terrorist financing, advancements in technology and the need for public awareness about the Regime. From that perspective, the five recommendations made by the Committee focus on risk-based reporting and an adherence to global standards, and to create public awareness.

The Committee is of the view that implementation of the 18 recommendations would lead to a more effective anti-money laundering and anti-terrorist financing regime in Canada.

Please note that this summary of the recommendations should be read in the context of the reasoning presented in the body of the report. For an indication of the appropriate section of the report, please see the page number at the end of the recommendation.

SUMMARY OF RECOMMENDATIONS:

The Desired Structure and Performance

1. The federal government establish a supervisory body, led by the Department of Finance, with a dual mandate:

    - to develop and share strategies and priorities for combatting money laundering and terrorist financing in Canada; and
    - to ensure that Canada implements any recommendations by the Financial Action Task Force on Money Laundering that are appropriate to Canadian circumstances.

    This supervisory body should be comprised of representatives of federal interdepartmental working groups and other relevant bodies involved in combatting money laundering and terrorist financing. (p. 9)

2. The federal government require the supervisory body recommended earlier to report to Parliament annually, through the Minister of Finance, the following aspects of Canada's anti-money laundering and anti-terrorist financing regime:

    - the number of investigations, prosecutions and convictions;
    - the amount seized in relation to investigations, prosecutions and convictions;
    - the extent to which case disclosures by the Financial Transactions and Reports Analysis Centre of Canada were used in these investigations, prosecutions and convictions; and
    - total expenditures by each federal department and agency in combatting money laundering and terrorist financing. (p. 10-11)

3. The federal government ensure that, every five years, an independent performance review of Canada's anti-money laundering and anti-terrorist financing regime, and its objectives, occurs. The review could be similar to the 10-year external review of the regime conducted in 2010, and could be undertaken by the Office of the Auditor General of Canada. The first independent performance review should occur no later than 2014. (p. 11)

4. The federal government consider the feasibility of establishing a fund, to be managed by the supervisory body recommended earlier, into which forfeited proceeds of money laundering and terrorist financing could be placed. These amounts could supplement resources allocated to investigating and prosecuting money laundering and terrorist financing activities. The government should ensure that implementation of this recommendation does not preclude victims from

collecting damages awarded to them by a court of law in a suit brought under the *Justice for Victims of Terrorism Act*. (p. 12)

5. The federal government ensure that the Financial Transactions and Reports Analysis Centre of Canada and the Royal Canadian Mounted Police employ specialists in financial crimes, and provide them with ongoing training to ensure that their skills evolve as technological advancements occur. (p. 12)

The Appropriate Balance Between the Sharing of Information and the Protection of Personal Information

6. The federal government require the Royal Canadian Mounted Police, the Canadian Security and Intelligence Service, the Canada Border Services Agency and the Canada Revenue Agency to provide quarterly feedback to the Financial Transactions and Reports Analysis Centre of Canada regarding the manner in which they use case disclosures and how those disclosures could be improved. (p.14)

7. The federal government permit the Financial Transactions and Reports Analysis Centre of Canada to provide case disclosures in relation to offences under the *Criminal Code* or other Canadian legislation. (p. 14)

8. The federal government develop a mechanism by which the Royal Canadian Mounted Police, the Canadian Security and Intelligence Service, the Canada Border Services Agency and the Canada Revenue Agency could directly access the Financial Transactions and Reports Analysis Centre of Canada's database. The Privacy Commissioner of Canada should be involved in developing guidelines for access. (p. 14)

9. The federal government and the Financial Transactions and Reports Analysis Centre of Canada, in consultation with entities required to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations, annually review ways in which:

    - the compliance burden on reporting entities could be minimized; and
    - the utility of reports submitted by reporting entities could be optimized. (p. 15)

10. The Financial Transactions and Reports Analysis Centre of Canada provide entities required to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations with:

    - on a quarterly basis and specific to each entity, feedback on the usefulness of its reports;
    - on a quarterly basis and specific to each sector, information about trends in money laundering and terrorist financing activities; and
    - tools, resources and other ongoing support designed to enhance the training of employees of reporting entities in relation to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its obligations. (pp. 15-16)

11. The Financial Transactions and Report Analysis Centre of Canada review its guidelines in relation to the period in which reports must be submitted to it by entities required to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations. The goal of the review should be to ensure that, to the greatest extent possible, reports are submitted in "real time". (p. 16)

12. The federal government, notwithstanding the recently proposed changes to Canada's *Witness Protection Program Act*, ensure that the safety of witnesses and other persons who assist in the investigation and prosecution of money laundering and/or terrorist financing activities is protected. (p. 16)

13. The federal government establish a mechanism by which employees of entities required to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations, and other individuals, could anonymously notify the Financial Transactions and Reports Analysis Centre of Canada about:

    - failures to comply with the requirements of the Act; and
    - individuals or entities possibly complicit in money laundering and/or terrorist financing. (p. 17)

The Optimal Scope and Focus

14. The federal government enhance Canada's existing anti-money laundering and anti-terrorist financing regime by placing additional emphasis on:

    - the strategic collection of information; and
    - risk-based analysis and reporting. (p. 19)

15. The federal government review, on an ongoing basis, the entities required to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations to ensure the inclusion of sectors where cash payments exceeding the current $10,000 threshold are made. (p. 19)

16. The federal government eliminate the current $10,000 reporting threshold in relation to international electronic funds transfers. (p. 20)

17. The federal government review annually, and update as required, the definition of "monetary instruments" in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* in order to ensure that it reflects new payment methods and technological changes. (p. 20)

18. The federal government, in consultation with the proposed Financial Literacy Leader, develop a public awareness program about Canada's anti-money laundering and anti-terrorist financing regime, and about actions that individuals and businesses can take to combat money laundering and terrorist financing. (p. 21)

CHAPTER ONE – INTRODUCTION

> *According to the United Nations, money laundering is "any act or attempted act to disguise the source of money or assets derived from criminal activity." Essentially, it is the process whereby "dirty money" — produced through criminal activity — is transformed into "clean money," the criminal origin of which is difficult to trace. Money laundering is linked to various criminal activities, including terrorism, drug trafficking, corruption and organized crime.*
>
> *The United Nations estimates that the amount of money laundered globally each year is between 2% and 5% of the world's gross domestic product, or between US$800 billion and US$2 trillion. The Royal Canadian Mounted Police estimates that, in 2011, between $5 billion and $15 billion was laundered in Canada.*

On January 31, 2012, pursuant to section 72 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act), the Standing Senate Committee on Banking, Trade and Commerce (the Committee) received authorization from the Senate to undertake a review of Canada's anti-money laundering and anti-terrorist financing regime (the Regime). This is the second five-year review. In 2006, the Committee released a report entitled *Stemming the Flow of Illicit Money: A Priority for Canada*, which contained 16 recommendations to the federal government, several of which were subsequently implemented through amendments to the Act.

Section 72 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act *requires a parliamentary review of the administration and operation of the Act five years after the coming into force of that section, and every five years thereafter.*

The Committee's current review follows two consultation papers initiated by the Department of Finance. In November 2011, the Department released *Proposed Amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations on Ascertaining Identity*, of which proposed amendments to regulations were released in October 2012. In December 2011, the second report released was entitled *Strengthening Canada's Anti‑Money Laundering and Anti‑Terrorist Financing Regime*.

Furthermore, in 2010 Capra International Inc. conducted a 10-year external evaluation of the Regime at the request of the Department of Finance. It made recommendations regarding the funding allocations for the government agencies that participate in the Regime, and the need to conduct a public opinion survey to determine the level of public awareness of money laundering and terrorist financing, as well as of the Regime. It also recommended the creation of an interdepartmental working group to improve compliance with international commitments and to examine issues such as the sharing of information, concerns raised by reporting entities, statistics on the Regime's performance, and the roles and responsibilities of federal departments and agencies that participate in the Regime.

The Committee's current review represents the second five-year parliamentary review of the Act.

When reviewing legislation, the purpose and context in which it was initially enacted and subsequently amended should be considered in determining whether it is having the intended effect.

Within the context that "value for money" should be an overarching goal of the Regime, the Committee's focus is threefold:

- *the desired structure and performance;*
- *the appropriate balance between the sharing of information and the protection of personal information; and*
- *the optimal scope and focus.*

In the course of the study, the Committee received testimony from federal departments and agencies, the private sector and international entities about the various elements of the Regime, which is described in Appendix A. Appendix B notes the proposals contained in the Department of Finance's consultation papers, and summarizes the comments made by witnesses on the Department's proposals and on a number of other issues. Appendix C lists the recommendations contained in the report resulting from Capra International Inc.'s 10-year evaluation of the Regime. Appendix D is a list of witnesses and Appendix E is a list of other briefs submitted to the committee.

When reviewing legislation, the purpose and context in which it was initially enacted and subsequently amended should be considered in determining whether it is having the intended effect. The initial reasons for proceeds of crime legislation in Canada, some of the legislative changes over time, and the continued need for such legislation are discussed in Chapter Two.

Rather than commenting on each of the proposals in the Department of Finance's consultation papers, the Committee believes that – within the context that "value for money" should be an overarching goal – greater value can be added by making recommendations about three broad foundational issues:

- the desired structure and performance;
- the appropriate balance between the sharing of information and the protection of personal information; and
- the optimal scope and focus.

These three issues are discussed in Chapters Three through Five.

The report's conclusions are found in Chapter Six.

CHAPTER TWO – THE HISTORY AND IMPACT OF ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING LEGISLATION IN CANADA

A. The History

Criminals launder money with the goal of making the funds gained from their illegal activities appear legitimate. Legislation, regulation and enforcement that make it more difficult to keep and use the profits of such activities should reduce the extent to which financial crimes occur. Mechanisms and entities focused on detecting, deterring, investigating and prosecuting money laundering and terrorist financing are key aspects of a nation's anti-money laundering and anti-terrorist financing strategy.

Criminals launder money with the goal of making the funds gained from their illegal activities appear legitimate. Legislation, regulation and enforcement that make it more difficult to keep and use the profits of such activities should reduce the extent to which financial crimes occur.

Approximately 25 years ago, a variety of international efforts were directed to combatting money laundering. These efforts included the 1988 *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, as well as the establishment of the Financial Action Task Force on Money Laundering (FATF) following the July 1989 meeting of the Group of Seven nations. Canada signed the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* in December 1988, and has been a member of the FATF since its establishment.

Money laundering became a criminal offence under Canada's *Criminal Code* in 1989, and the Office of the Superintendent of Financial Institutions began to issue guidelines and best practices in respect of combatting money laundering in 1990. One year later, the Royal Canadian Mounted Police (RCMP) established Integrated Proceeds of Crime units and the federal government introduced anti-money laundering legislation. Incremental changes have been made to that legislation in response to increases in organized crime, the emergence of terrorism on a global scale, comments by the FATF on Canada's anti-money laundering and anti-terrorist financing regime (the Regime), and changes in international standards in combatting money laundering.

Mechanisms and entities focused on detecting, deterring, investigating and prosecuting money laundering and terrorist financing are key aspects of a nation's anti-money laundering and anti-terrorist financing strategy.

Prior to 2000, Canada's Regime applied only to transactions conducted by financial institutions. Legislation enacted in 1991 required them to keep records of cash transactions of $10,000 or more, to undertake client identification procedures, and to report suspicious transactions directly to law enforcement agencies on a voluntary basis.

The Proceeds of Crime (money laundering) Act *was repealed and replaced in April 2000 as part of the National Initiative to Combat Money Laundering.*

In response to recommendations by the FATF about the increasingly global nature of money laundering and organized crime, and the limitations of Canada's Regime, the *Proceeds of Crime (money laundering) Act* was repealed and replaced in April 2000 as part of the National Initiative to Combat Money Laundering. The scope of the new, yet similarly named legislation, was expanded with the result that other sectors that conduct financial transactions – such as accounting, gaming and the legal profession – became subject to the obligations of the Regime. Due to an ongoing court challenge examining whether the application of the Act to the legal profession would contravene solicitor-client privilege, the provisions of the Act that apply to this profession are currently inoperative. Reporting of suspicious transactions and large cash transactions was also required. Moreover, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) – Canada's financial intelligence unit – was created to gather and analyze reports from reporting entities, and to disseminate relevant information to law enforcement and other government agencies.

Following the terrorist attacks in the United States in September 2001, the Proceeds of Crime (Money Laundering) Act *was amended as part of Canada's efforts to combat terrorism.*

Following the terrorist attacks in the United States in September 2001, the *Proceeds of Crime (Money Laundering) Act* was amended as part of Canada's efforts to combat terrorism. The renamed *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* is designed to assist law enforcement and other government agencies in detecting and deterring terrorist financing by prohibiting reporting entities from dealing with property linked to known terrorists and terrorist groups, and by requiring reporting entities to report any such properties to FINTRAC. At that time, it was emphasized that any anti-terrorist financing measures had to be balanced with Canadians' right to privacy and other civil liberties.

Amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act *introduced in October 2006 reflected concerns raised during the Committee's first five-year parliamentary review of the legislation.*

Amendments to the Act introduced in October 2006 reflected concerns raised during the Committee's first five-year parliamentary review of the legislation. Some of the changes included the addition of money services businesses as well as dealers in precious metals and stones as reporting entities, and the introduction of a biennial review – by the Office of the Privacy Commissioner of Canada – of the protective measures taken by FINTRAC regarding the information it collects and retains.

The most recent amendments to the Act were announced in the 2010 federal budget. Part 1.1 of the Act allows the federal government to impose financial countermeasures against foreign jurisdictions that do not have an effective regime. Although not yet in force, these measures are consistent with the Committee's conclusions in the 2006 review that Canada must support efforts that encourage the adoption of

anti-money laundering and anti-terrorist financing standards by as many countries as possible.

B. The Impact

Recognizing that Canada's anti-money laundering and anti-terrorist financing legislation has had incremental changes over the past 11 years, the Committee believes that it is appropriate to examine the extent to which Canada's Regime is effective in detecting and deterring the laundering of money and the financing of terrorist activities, and contributes to the successful investigation and prosecution of those who are involved in these criminal activities. The Committee is interested in the responses to several questions:

- Have the scope and magnitude of money laundering and terrorist financing in Canada diminished over time?
- Are the time, money and other resources dedicated to addressing these activities having sufficient "results?" and
- What changes are needed to bring about better "results?"

Responses to several questions are needed:

- *Have the scope and magnitude of money laundering and terrorist financing in Canada diminished over time?*
- *Are the time, money and other resources dedicated to addressing these activities having sufficient "results"? and*
- *What changes are needed to bring about better "results"?*

Throughout the hearings, the Committee questioned witnesses about the scope and magnitude of money laundering and terrorist financing in Canada. While the Committee learned that FINTRAC has a solid reputation internationally, witnesses shared only limited and imprecise information about the extent to which the Regime meets its objective of detecting and deterring money laundering and terrorist financing. The Committee believes that there continues to be a clear need for legislation to combat money laundering and terrorist financing in Canada.

The Committee feels that there is a lack of clear and compelling evidence that Canada's Regime is leading to the detection and deterrence of money laundering and terrorist financing, as well as contributing to law enforcement investigations and a significant rate of successful prosecutions. It is possible that some witnesses were unable to share confidential information in a public meeting. It is also possible that information about the success or failure of the Regime is not being collected. In any event, the Committee feels that the current Regime is not working as effectively as it should, given the time, money and other resources that are being committed by reporting entities, a variety of federal departments and agencies, other partners and taxpayers others.

The Committee feels that the current Regime is not working as effectively as it should, given the time, money and other resources that are being committed by reporting entities, a variety of federal departments and agencies, other partners and taxpayers.

Given that multinational financial institutions have recently been implicated in money laundering and terrorist financing, the Committee is concerned about non-compliance with the Act by reporting entities. While the majority of non-compliance charges

laid in Canada are in relation to cross-border reporting offences, the Committee is aware of the July 2012 report by the United States (U.S.) Senate Permanent Subcommittee on Investigations of the U.S. Senate Committee on Homeland Security and Governmental Affairs, entitled U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History, in relation to HSBC and money laundering using international wire transfers. The U.S. Senate Committee made several recommendations designed to strengthen anti-money laundering and anti-terrorist financing controls, particularly in relation to large, multinational financial institutions with affiliates in jurisdictions that are considered to be at high risk of being targeted by money launderers and those who finance terrorism. As financial institutions play a critical role in preventing illicit money from entering the financial system, the Committee feels that FINTRAC must be vigilant in ensuring that Canada's reporting entities comply with their obligations under the Act.

The Committee believes that an approach involving incremental legislative and regulatory changes must end.

The Committee believes that an approach involving incremental legislative and regulatory changes must end. Consequently, ongoing efforts are needed to ensure that the resources committed to detecting, deterring, investigating and prosecuting money laundering and terrorist financing offences have the best "results" in the least costly, burdensome and intrusive manner. While it is virtually impossible to eliminate the illegal activities that lead to the need to launder money, a continuation of the current incremental approach – which appears to involve changes to fill gaps by adding reporting entities and to meet evolving FATF recommendations that may or may not have relevance for Canada – is not the solution that Canada needs at this time.

Ongoing efforts are needed to ensure that the resources committed to detecting, deterring, investigating and prosecuting money laundering and terrorist financing offences have the best "results" in the least costly, burdensome and intrusive manner.

Having conducted a comprehensive study, the Committee's view is that the Act should be amended to address three issues:

- the existence of a structure for Canada's Regime that leads to increased performance in relation to the detection, deterrence, investigation and prosecution of money laundering and terrorist financing;
- the existence of information-sharing arrangements that ensure that suitable information is being collected and shared with the right people at the appropriate time, bearing in mind the need to protect the personal information of Canadians; and
- the existence of a scope and focus for the Regime that is properly directed to ensuring that individuals and businesses report the required information to the appropriate entity in an expedient manner.

The time for incremental change to the Regime has ended. The time for examination of fundamental issues has arrived.

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CHAPTER THREE – THE DESIRED STRUCTURE AND PERFORMANCE

A. The Desired Structure

Every entity that plays a role in Canada's Regime shares a common goal with four elements: detection, deterrence, investigation and prosecution.

Every entity that plays a role in Canada's anti-money laundering and anti-terrorist financing regime (the Regime) shares a common goal with four elements: detection, deterrence, investigation and prosecution. While there are statutory limitations in relation to their roles and responsibilities, the Committee is not convinced that the federal departments and agencies involved in Canada's Regime are working well together or are being held to account. The Committee believes that more cooperation and an alignment of priorities among these departments and agencies would lead to better performance.

The Committee is aware that the structure of a country's anti-money laundering and anti-terrorist financing regime reflects that country's needs, and that the design of a particular country's regime may be both similar to and different from the design of other countries' regimes. For example, in some respects, Canada's Regime has a structure that is similar to that of the United States: the financial intelligence units – FINTRAC in Canada and the Financial Crimes Enforcement Network (FINCEN) in the United States – are under the authority of the Department of Finance and the Department of the Treasury respectively. As well, the Committee knows that other structures are possible. Meanwhile, the United Kingdom Financial Intelligence Unit (UKFIU) reports to the Home Office, which is responsible for security, counterterrorism, immigration and policing.

Having FINTRAC under the authority of the Department of Finance reinforces the beneficial links that exist between FINTRAC and Canadian financial institutions; it also ensures that developments in the financial system are quickly communicated to FINTRAC.

Having FINTRAC under the authority of the Department of Finance reinforces the beneficial links that exist between FINTRAC and Canadian financial institutions; it also ensures that developments in the financial system are quickly communicated to FINTRAC. That said, this structure could result in a degree of detachment between FINTRAC and law enforcement agencies. Any such detachment could give rise to a need to develop one or more mechanisms – such as access to FINTRAC's database by law enforcement agencies – designed to lead to better outcomes in terms of investigations and prosecutions.

One recommendation resulting from the 10-year evaluation of Canada's Regime was the formation of an interdepartmental working group to examine such issues as the sharing of information, the concerns of reporting entities, statistics on the Regime's performance, and the roles and responsibilities of the various departments and agencies that participate in the Regime. The Committee supports this recommendation, and believes that such a group could play a supervisory role in developing anti-money laundering and anti-terrorist financing strategies for the Regime, ensuring that priorities are aligned among the departments and

agencies, and assisting in the sharing of relevant information with appropriate recipients as quickly as possible. Furthermore, this group could focus on the fundamental goals of the Regime, rather than on the concerns of any particular stakeholder within the Regime.

For these reasons, the Committee recommends that:

1. **the federal government establish a supervisory body, led by the Department of Finance, with a dual mandate:**
    - **to develop and share strategies and priorities for combatting money laundering and terrorist financing in Canada; and**
    - **to ensure that Canada implements any recommendations by the Financial Action Task Force on Money Laundering that are appropriate to Canadian circumstances.**

    This supervisory body should be comprised of representatives of federal interdepartmental working groups and other relevant bodies involved in combatting money laundering and terrorist financing.

An overarching goal for the Committee is "value for money," one aspect of which is the quantifiable and non-quantifiable "results" of Canada's Regime.

B. Statistical Information About "Results" and Costs

An overarching goal for the Committee is "value for money," one aspect of which is the quantifiable and non-quantifiable "results" of Canada's Regime. From a quantitative perspective, the Committee is currently unable to assess the efficacy of the Regime in terms of investigations and prosecutions, as insufficient information was presented, and no information was received from law enforcement agencies, the Canadian Security Intelligence Service (CSIS), the Canada Border Services Agency (CBSA) and the Canada Revenue Agency (CRA) about the contribution made by FINTRAC case disclosures to federal prosecutions. From a non-quantitative perspective, it is virtually impossible to determine the extent to which Canada's Regime has had a deterrent effect.

FINTRAC made 777 case disclosures to law enforcement and other government agencies in the 2010-2011 fiscal year.

That said, the Committee is aware that FINTRAC made 777 case disclosures to law enforcement and other government agencies in the 2010-2011 fiscal year. Some of the disclosures occurred in response to a request from agencies that already had sufficient information to begin an investigation, while other disclosures were made to these agencies proactively by FINTRAC. The Committee did not receive information indicating the extent to which FINTRAC disclosures contributed to the success of investigations or provided any new avenues for investigation when disclosures were made in response to a request.

The Royal Canadian Mounted Police (RCMP) told the Committee that, in 2010, it received 93 proactive disclosures from FINTRAC, which resulted in 92 new criminal investigations. Of those 92 investigations, 69 were concluded without charges being laid, while the remaining 23 were ongoing as of February 14, 2012.

The Public Prosecution Service of Canada (PPSC) informed the Committee that, in the 2010-2011 fiscal year, 4 out of 46 people who were charged with money laundering under the *Criminal Code* were convicted, while 8 people pleaded guilty. An additional 6,733 charges were laid for possession of property obtained through criminal activity, with 61 people being convicted and 578 people pleading guilty. Regarding terrorist financing, the PPSC also stated that 6 people have been charged since the 2005-2006 fiscal year; 1 person has been convicted and 1 person has pleaded guilty.

A second aspect of the overarching goal of "value for money" is the costs incurred in order to obtain "results."

FINTRAC produces an annual public report that may include data regarding the Regime's "results." However, these data are not presented consistently from year to year. Annual reporting of the same data would assist in the evaluation of "results."

Finally, the Committee was informed that a one-for-one link between case disclosures and successful prosecutions does not exist, and that there are dangers in using successful prosecutions to measure the performance of Canada's Regime.

In the 2010-2011 fiscal year, $64.3 million in direct funding was provided to the CBSA, the CRA, the Department of Finance, FINTRAC, the Department of Justice, the PPSC and the RCMP in support of the Regime.

A second aspect of the overarching goal of "value for money" is the costs incurred in order to obtain "results." Expenditures of taxpayer funds in all areas should occur with a view to providing as much value as possible for the amount that is spent. From that perspective, the "results" of Canada's Regime must be assessed in the context of the Regime's costs.

In the 2010-2011 fiscal year, $64.3 million in direct funding was provided to the CBSA, the CRA, the Department of Finance, FINTRAC, the Department of Justice, the PPSC and the RCMP in support of the Regime. These departments and agencies may have also contributed additional resources from their general operating budgets in support of the Regime. As well, provincial and local law enforcement agencies contributed resources to anti-money laundering and anti-terrorist financing activities in Canada, although no amounts were presented to the Committee.

From this perspective, the Committee recommends that:

2. the federal government require the supervisory body recommended earlier to report to Parliament annually, through the Minister of Finance, the following aspects of Canada's anti-money laundering and anti-terrorist financing regime:

- **the number of investigations, prosecutions and convictions;**
- **the amount seized in relation to investigations, prosecutions and convictions;**
- **the extent to which case disclosures by the Financial Transactions and Reports Analysis Centre of Canada were used in these investigations, prosecutions and convictions; and**
- **total expenditures by each federal department and agency in combatting money laundering and terrorist financing.**

It is not possible, with existing information, to determine the extent to which Canada's Regime is obtaining "results" that are adequate in light of the associated costs.

C. Assessing Performance and Enhancing "Value for Money"

It is not possible, with existing information, to determine the extent to which Canada's Regime is obtaining "results" that are adequate in light of the associated costs. Given the significant costs and efforts involved, the Regime should be more effective than it is. The lack of information on "results" and costs, which was also highlighted in the 10-year external evaluation of the Regime, is a significant deficiency that would be remedied to some extent through annual reporting by the proposed supervisory body. Regular, independent performance reviews of the Regime would ensure that "value for money" is being provided.

Therefore, the Committee recommends that:

The lack of information on "results" and costs is a significant deficiency.

3. the federal government ensure that, every five years, an independent performance review of Canada's anti-money laundering and anti-terrorist financing regime, and its objectives, occurs. The review could be similar to the 10-year external review of the regime conducted in 2010, and could be undertaken by the Office of the Auditor General of Canada. The first independent performance review should occur no later than 2014.

In the course of an examination of the regimes that exist in other countries, the Committee learned about approaches that are used when investigations and prosecutions occur. If adopted here, these approaches could improve the "results" of Canada's Regime.

For example, some regimes distribute funds forfeited through money laundering and terrorist financing investigations to law enforcement agencies. The agencies use these funds to support training in financial crimes, as well as to finance other anti-money laundering and anti-terrorist financing activities. In Canada, forfeited funds are paid into the Consolidated Revenue Fund. Canada's law enforcement agencies, like

their counterparts in some other countries, could benefit from additional funds.

Consequently, the Committee recommends that:

In Canada, forfeited funds are paid into the Consolidated Revenue Fund.

4. the federal government consider the feasibility of establishing a fund, to be managed by the supervisory body recommended earlier, into which forfeited proceeds of money laundering and terrorist financing could be placed. These amounts could supplement resources allocated to investigating and prosecuting money laundering and terrorist financing activities. The government should ensure that implementation of this recommendation does not preclude victims from collecting damages awarded to them by a court of law in a suit brought under the *Justice for Victims of Terrorism Act*.

The Committee learned that, in the United States, certain law enforcement investigators have expertise in financial crimes, which was developed through participation in anti-money laundering and anti-terrorist financing policing activities This type of expertise – particularly when it is augmented by ongoing training to ensure that expertise evolves alongside technological advancements – would improve the Regime's "results."

Expertise in financial crimes – particularly when it is augmented by ongoing training to ensure that expertise evolves alongside technological advancements – would improve the Regime's "results."

Thus, the Committee recommends that:

5. the federal government ensure that the Financial Transactions and Reports Analysis Centre of Canada and the Royal Canadian Mounted Police employ specialists in financial crimes, and provide them with ongoing training to ensure that their skills evolve as technological advancements occur.

CHAPTER FOUR – THE APPROPRIATE BALANCE BETWEEN THE SHARING OF INFORMATION AND THE PROTECTION OF PERSONAL INFORMATION

A. FINTRAC's Relationship with Law Enforcement, Intelligence, and Other Domestic and Foreign Departments and Agencies

The Committee was told that the privacy provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* have been weakened since 2000 because of the expansion in FINTRAC's ability to share information with law enforcement, intelligence and other federal departments and agencies, as well as with foreign financial intelligence units with which it has a memorandum of understanding. The Committee was also informed that FINTRAC's ability to disclose and disseminate information is too restrictive, giving rise to requests that information be more accessible to reporting entities and to other governmental departments and agencies in order to increase the "results" of Canada's Regime. Furthermore, the Committee was advised that some foreign financial intelligence units provide access to reporting databases and that reporting entities should be permitted to share information with each other under certain circumstances.

The Committee recognizes that a balance is needed: on one hand, law enforcement and other agencies should be supported; on the other hand, individuals have the right to protection of their personal information.

The Committee recognizes that a balance is needed: on one hand, law enforcement and other departments and agencies should be supported; on the other hand, individuals have the right to protection of their personal information. It can be difficult to find and maintain this balance, but appropriate resources and measures must exist to ensure the protection of personal information that Canadians have come to expect while still providing law enforcement and other departments and agencies with the information that will assist in the investigation of money laundering and terrorist financing.

An understanding of the manner in which case disclosures are used by those who receive them could lead to improvements in the quality and timeliness of the information provided by FINTRAC.

An understanding of the manner in which case disclosures are used by those who receive them could lead to improvements in the quality and timeliness of the information provided by FINTRAC. From that perspective, those who receive and use case disclosures should provide FINTRAC with feedback about how case disclosures contribute to investigations and prosecutions, and whether improvements are needed so that the disclosures continue to be useful in investigations and prosecutions.

As a result, the Committee recommends that:

6. **the federal government require the Royal Canadian Mounted Police, the Canadian Security and Intelligence Service, the Canada Border Services Agency and the Canada Revenue Agency to provide quarterly feedback to the Financial Transactions and Reports Analysis Centre of Canada regarding the manner in which they use case disclosures and how those disclosures could be improved.**

FINTRAC's mandate is limited to disclosing financial information pertaining to money laundering and terrorist financing.

According to the Act, FINTRAC's mandate is limited to disclosing financial information pertaining to money laundering and terrorist financing. Unless money laundering or terrorist financing is suspected, FINTRAC does not provide case disclosures to law enforcement and intelligence agencies for crimes such as tax evasion. The Committee believes that expanding FINTRAC's mandate to allow the disclosure of information on other crimes would enhance FINTRAC's role in contributing to the investigation and prosecution of criminal activities.

Therefore, the Committee recommends that:

7. **the federal government permit the Financial Transactions and Reports Analysis Centre of Canada to provide case disclosures in relation to offences under the Criminal Code or other Canadian legislation.**

Another option to facilitate the sharing of, and increase the usefulness of, information involves providing selected federal departments and agencies with direct access to FINTRAC's database.

Another option to facilitate the sharing of, and increase the usefulness of, information involves providing selected federal departments and agencies with direct access to FINTRAC's database, as occurs in certain other countries. Given the priority placed on individual privacy in Canada, any such access should ensure the protection of personal information.

Consequently, the Committee recommends that:

8. **the federal government develop a mechanism by which the Royal Canadian Mounted Police, the Canadian Security and Intelligence Service, the Canada Border Services Agency and the Canada Revenue Agency could directly access the Financial Transactions and Reports Analysis Centre of Canada's database. The Privacy Commissioner of Canada should be involved in developing guidelines for access.**

B. FINTRAC's Relationship with Reporting Entities

The proper balance must exist between providing useful and adequate information to FINTRAC on one hand, and ensuring that the compliance

burden on reporting entities is not onerous in terms of time, money or other resources on the other hand. Although specific information about costs was not provided, the Committee is aware that reporting entities incur costs in complying with their client identification, customer due diligence, recordkeeping, reporting and other obligations under the Act. From that perspective, it is important that the reports submitted by them be as useful as possible, and be submitted as expeditiously as possible, in order to meet the goals of Canada's Regime.

In the 2010-2011 fiscal year, reporting entities submitted nearly 20 million reports to FINTRAC; many of these were likely submitted on an automated basis. Of those reports, 58,722 were suspicious transaction reports that require a greater investment of human resources. The Committee believes that "results" in relation to Canada's Regime must be considered in the context of the compliance costs incurred by reporting entities, with these costs minimized to the extent possible while ensuring that the Regime's objectives are met.

The Committee believes that "results" in relation to Canada's Regime must be considered in the context of the compliance costs incurred by reporting entities, with these costs minimized to the extent possible while ensuring that the Regime's objectives are met.

Consequently, the Committee recommends that:

9. the federal government and the Financial Transactions and Reports Analysis Centre of Canada, in consultation with entities required to report under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its regulations, annually review ways in which:

- **the compliance burden on reporting entities could be minimized; and**
- **the utility of reports submitted by reporting entities could be optimized.**

Given the critical role that both FINTRAC and reporting entities play in the Regime and the shared goal of reducing money laundering and terrorist financing in Canada, FINTRAC should provide reporting entities with feedback and information that educates them about the importance of their contributions and that enhances their role. FINTRAC is well-placed to provide reporting entities with a range of support including sector specific feedback to enhance effectiveness and achieve better "results."

FINTRAC is well-placed to provide reporting entities with a range of support including sector specific feedback to enhance effectiveness and achieve better "results."

For these reasons, the Committee recommends that:

10. the Financial Transactions and Reports Analysis Centre of Canada provide entities required to report under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act with:

- **on a quarterly basis and specific to each entity, feedback on the usefulness of its reports;**

- **on a quarterly basis and specific to each sector, information about trends in money laundering and terrorist financing activities; and**
- **tools, resources and other ongoing support designed to enhance the training of employees of reporting entities in relation to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its obligations.**

In the Committee's view, reports should – to the extent possible – be submitted to FINTRAC in "real time" in order to enhance the "results" of Canada's Regime.

In the Committee's view, reports should – to the extent possible – be submitted to FINTRAC in "real time" in order to enhance the "results" of Canada's Regime. For example, the Committee is aware that, in accordance with FINTRAC's Guidelines, reports in relation to electronic funds transfers are currently submitted in batch transfers within five working days of the transaction; similarly, other reports have deadlines for submission.

From that perspective, the Committee recommends that:

11. the Financial Transactions and Reports Analysis Centre of Canada review its guidelines in relation to the period in which reports must be submitted to it by entities required to report under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its regulations. The goal of the review should be to ensure that, to the greatest extent possible, reports are submitted in "real time."

The relatively low number of money laundering and terrorist financing convictions in Canada could be due to difficulties in having witnesses testify in court.

In the course of examining the regimes in other countries, the Committee learned that – in some countries – witnesses play an important role in combatting money laundering and terrorist financing. The relatively low number of money laundering and terrorist financing convictions in Canada could be due to difficulties in having witnesses testify in court. The Committee believes that protecting those who assist law enforcement agencies – whether anonymous sources or witnesses who agree to testify at trial – may lead to improved "results."

For this reason, the Committee recommends that:

12. the federal government, notwithstanding the recently proposed changes to Canada's Witness Protection Program Act, ensure that the safety of witnesses and other persons who assist in the investigation and prosecution of money laundering and/or terrorist financing activities is protected.

With multinational financial institutions such as HSBC failing to comply with anti-money laundering and anti-terrorist financing requirements in their respective jurisdictions, the Committee believes that increased

support for whistle blowers, could lead to improved "results." The number of incidences of non-compliance by reporting entities could be improved in Canada if individuals were to notify FINTRAC about failures by reporting entities to comply with the Act, or about individuals and entities who may be complicit in money laundering and/or terrorist financing.

The number of incidences of non-compliance by reporting entities could be improved in Canada if individuals were to notify FINTRAC about failures by reporting entities to comply with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, *or about individuals and entities who may be complicit in money laundering and/or terrorist financing.*

Thus, the Committee recommends that:

13. **the federal government establish a mechanism by which employees of entities required to report under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its regulations, and other individuals, could anonymously notify the Financial Transactions and Reports Analysis Centre of Canada about:**
    - **failures to comply with the requirements of the Act; and**
    - **individuals or entities possibly complicit in money laundering and/or terrorist financing.**

CHAPTER FIVE – THE OPTIMAL SCOPE AND FOCUS

A. Risk-based and Threshold-based Reporting

Canada's anti-money laundering and anti-terrorist financing regime (the Regime) has both threshold-based and risk-based reporting requirements. For example, the current $10,000 threshold for large cash transactions does not require an assessment of risk; such an approach for this type of transaction may limit the extent to which criminals try to introduce illicit cash into the financial system through reporting entities. Conversely, with the latter, suspicious transaction reports might help to identify a specific or series of transactions that could be linked to money laundering and terrorist financing.

To the extent that is feasible, all decisions about the design elements of Canada's Regime should be assessed through the lens of the associated risk.

To the extent that is feasible, all decisions about the design elements of Canada's Regime should be assessed through the lens of the associated risk. These design elements include:

- the sectors that should report;
- the activities that should be reported;
- the information that should be included in reports;
- the extent to which, and manner in which, records should be kept by reporting entities and FINTRAC;
- the frequency and method of client identification and monitoring by reporting entities that should occur;
- the clients in respect of whom identification and monitoring should occur; and
- the information that should be shared by FINTRAC with reporting entities about their reports, as well as with law enforcement and other government agencies in relation to investigations and prosecutions.

An entirely risk-based approach is not appropriate for Canada: there is a need for both threshold-based and risk-based approaches.

The Committee recognizes that an entirely risk-based approach would enable efforts to be focused on clients, transactions and payment methods that are considered to pose the greatest risk for money laundering and terrorist financing. However, an entirely risk-based approach – which is typified by the regime in the United Kingdom – is not appropriate for Canada: there is a need for both threshold-based and risk-based approaches.

Accordingly, the Committee recommends that:

14. the federal government enhance Canada's existing anti-money laundering and anti-terrorist financing regime by placing additional emphasis on:

- **the strategic collection of information; and**
- **risk-based analysis and reporting.**

B. Reporting Entities

Consideration should be given to the sectors designated as reporting entities for purposes of Canada's Regime. In determining whether a particular sector should be designated, the circumstances in which cash transactions having a large dollar amount can occur should be an important consideration. From that perspective, in addition to the sectors that are currently designated as reporting entities, consideration should be given to vendors of electronic products, vehicles, large equipment, boats and art, all which could involve large cash transactions. As a payment method, cash presents risks that may not arise with other payment options.

As a payment method, cash presents risks that may not arise with other payment options.

Consequently, the Committee recommends that:

15. the federal government review, on an ongoing basis, the entities required to report under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its regulations to ensure the inclusion of sectors where cash payments exceeding the current $10,000 threshold are made.

Both risk-based and threshold-based reports are appropriate, depending on the circumstances.

C. International Electronic Funds Transfers

As noted earlier, both risk-based and threshold-based reports are appropriate, depending on the circumstances. Regarding the latter, such reports may be particularly important in respect of international electronic funds transfers, as Canada could be one in a series of countries through which money laundering, terrorist financing and other financial crimes occur.

Some countries are considering removal of the $10,000 threshold for international electronic funds transfers, the result of which would be the submission of reports in respect of all such transfers. As FINTRAC received approximately 12 million reports in relation to international electronic funds transfers from reporting entities in the 2010-2011 fiscal year, the Committee is concerned that FINTRAC may have insufficient resources to collect and analyze more reports. The removal of such a

threshold would also have implications for reporting entities, which would face increased compliance costs; higher compliance costs could be particularly problematic for some small and medium-sized enterprises. Nevertheless, the Committee believes that money laundering and terrorist financing are global issues, and that international electronic funds transfers are an activity where international standards are required.

The Committee believes that money laundering and terrorist financing are global issues, and that international electronic funds transfers are an activity where international standards are required.

Therefore, the Committee recommends that:

16. the federal government eliminate the current $10,000 reporting threshold in relation to international electronic funds transfers.

D. Consideration of Technological Changes

One benefit of a parliamentary review requirement is the opportunity it gives legislators to ensure that legislation is amended as economies, societies and technologies evolve. During the current review of the Act, the Committee noted how technology has changed since the 2006 review. Technological changes have implications for the manner in which reporting entities can fulfil their obligations and people can undertake financial transactions.

Prepaid payment cards have emerged as a method of moving "dirty money" across international borders without involving financial institutions.

The development of electronic methods to launder money must be addressed through timely amendments to the Act and its regulations. In particular, prepaid payment cards, which cannot be seized under the Act by law enforcement or border agents because such cards are not defined as "monetary instruments", have emerged as a method of moving "dirty money" across international borders without involving financial institutions. Without the involvement of financial institutions, no report is required pursuant to the Act. FINTRAC's ability to detect emerging methods of money laundering and terrorist financing, some of which are related to advancements in technology, is enhanced both through ongoing review of Canada's Regime and the legislation that establishes it, and through continuous training of its employees.

Consequently, the Committee recommends that:

17. the federal government review annually, and update as required, the definition of "monetary instruments" in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act in order to ensure that it reflects new payment methods and technological changes.

E. Public Awareness

At present, many people are unaware of the nature and scope of money laundering and terrorist financing in Canada, and of Canada's Regime.

Residents of all countries – whether individuals or businesses – can play a role in combatting money laundering and terrorist financing, which are global issues. In order for residents to play a role, they must be informed about the activities that constitute money laundering and terrorist financing, and about specific actions they can take in the event that they suspect or are made aware of these activities. At present, many people are unaware of the nature and scope of money laundering and terrorist financing in Canada, and of Canada's Regime. Recently, the Committee completed an examination of Bill C-28, An Act to amend the Financial Consumer Agency of Canada Act, which would create the position of Financial Literacy Leader within the Financial Consumer Agency of Canada. In that context, the Committee believes that the proposed Financial Literacy Leader may have a role to play in educating Canadians about money laundering and terrorist financing.

As a result, the Committee recommends that:

18. the federal government, in consultation with the proposed Financial Literacy Leader, develop a public awareness program about Canada's anti-money laundering and anti-terrorist financing regime, and about actions that individuals and businesses can take to combat money laundering and terrorist financing.

CHAPTER SIX – CONCLUSION

There is a lack of clear and compelling evidence that Canada's Regime is attaining "results" – whether measured by the detection and/or deterrence of money laundering and terrorist financing or by significant contributions to related investigations and prosecutions – that are commensurate with the time, monetary and other resources devoted to it.

In undertaking the statutory review required by section 72 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, the Committee heard testimony from federal, provincial and international departments and agencies, as well as the private sector, about the various elements of Canada's anti-money laundering and anti-terrorist financing regime (the Regime). In determining whether the legislation is having the intended effect, the Committee considered the Act's purpose and the context in which the legislation was initially enacted and subsequently amended.

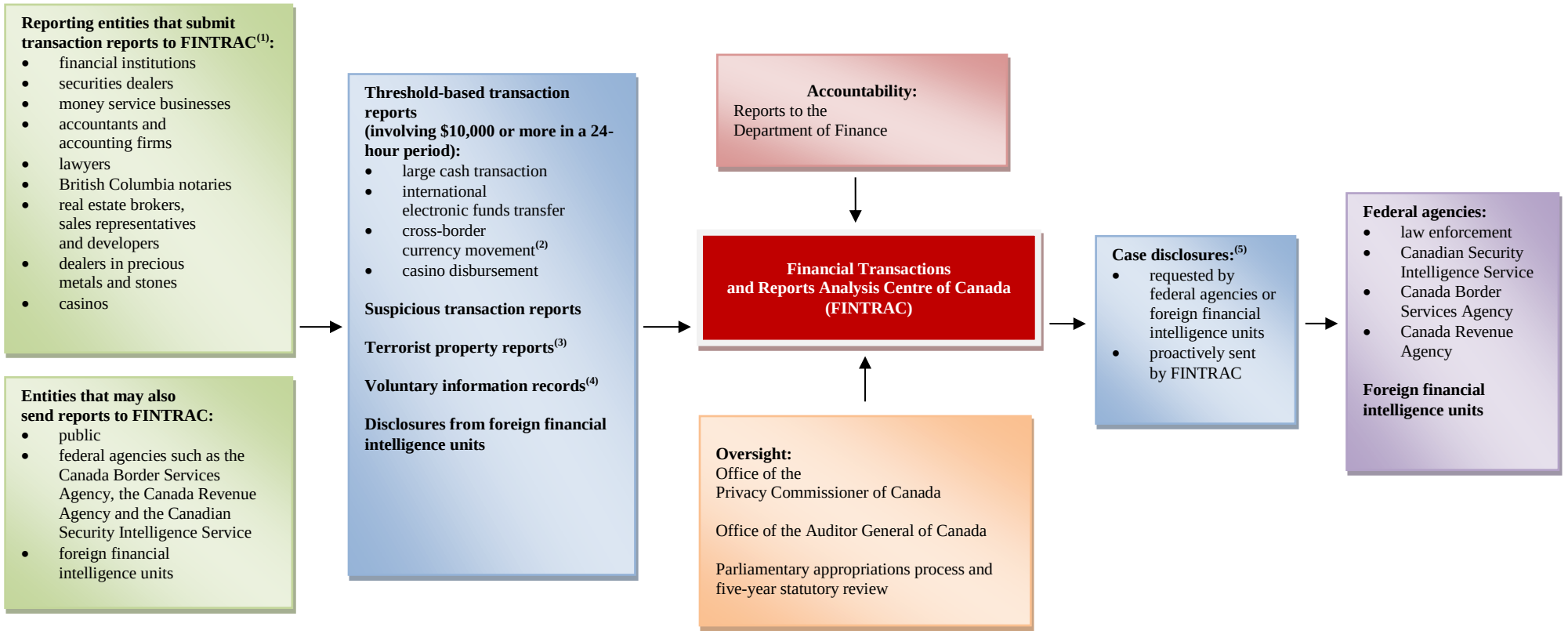
Having considered the testimony, the Committee concludes that there is a lack of clear and compelling evidence that Canada's Regime is attaining "results" – whether measured by the detection and/or deterrence of money laundering and terrorist financing or by significant contributions to related investigations and prosecutions – that are commensurate with the time, monetary and other resources devoted to it. In some sense, the approach of incremental legislative and regulatory changes that appears to have been used in the past has not been entirely successful. While elements of Canada's Regime that are working well must be retained, elements that are not having the desired "results" must be changed, and lessons that can be learned from the regimes in other countries must be embraced.

Believing that "value for money" should be an overarching goal, the Committee has made recommendations in three areas:

- the desired structure and performance Canada's Regime;
- the appropriate balance between the sharing of information and the protection of personal information in that Regime; and
- the optimal scope and focus for the Regime.

The Committee is confident that implementation of these recommendations will lead to the fundamental changes that are needed to improve the efficacy of Canada's anti-money laundering and anti-terrorist financing regime. The Committee looks forward to examining proposed legislative changes to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and to the next statutory review.

APPENDIX A – CANADA'S ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING REGIME



Notes: (1) Reporting entities are also required to implement a compliance regime, maintain records of transactions and identify clients.

(2) Only the Canada Border Services Agency submits cross-border currency movement reports to FINTRAC.

(3) Terrorist property reports are submitted when any person has property in his/her possession or control that he/she knows or believes is owned or controlled by or on behalf of a terrorist group or a listed person.

(4) Voluntary information records can be submitted by members of the public or federal agencies.

(5) FINTRAC may disclose information if it has reasonable grounds to suspect that the information to be disclosed 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.

(6) Regarding lawyers, due to an ongoing court challenge examining whether the application of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to lawyers would contravene solicitor-client privilege, the provisions of the Act that apply to the legal profession are currently inoperative. Source: Financial Transactions and Reports Analysis Centre of Canada, *FINTRAC's Business Process*, 2011, http://www.fintrac.gc.ca/publications/brochure/2011-02/longdesc-eng.asp; Financial Transactions and Reports Analysis Centre of Canada, *Annual Report 2011*, 2011, http://www.fintrac.gc.ca/publications/ar/2011/ar2011-eng.pdf.

APPENDIX B – SUMMARY OF THE EVIDENCE

Strengthening Customer Identification and Due Diligence

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. Client Identification Records

Paragraph 54(1)(a) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations requires financial entities and casinos to ascertain the identity of at least three authorized signers of each business account. They are not, however, required to keep a record of their identities or to identify the measures taken to confirm the identity of the signers. Proposal 1.1 in the Department of Finance's December 2011 consultation paper (the consultation paper) suggests that these reporting entities should be required to maintain records regarding the identities of the authorized signers.

2. Exemptions for Introduced Business

Pursuant to subsection 56(2) and paragraph 62(1)(b) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the Act), if a financial institution introduces its client to another financial institution, the second – or recipient – financial institution is exempt from some of the customer identification and due diligence requirements that would normally apply in respect of a new client. Proposal 1.2 in the consultation paper suggests that these exemptions should be reviewed, and that the division of responsibility regarding recordkeeping, client identification and due diligence in relation to the client introduced by one financial institution to another financial institution should be clarified.

3. Non-face-to-face Identification Requirements

In 2007, in Schedule 7 to the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations, the federal government introduced measures for accounts opened at financial institutions in situations where the client is not physically present or the identity of the client cannot be confirmed with a government-issued identification document. Bank statements from another financial institution have been used to confirm the identity of the account holder. Proposal 1.3 in the consultation paper suggests that clarity is needed about what procedures might be used to confirm the identity of the client in the instances discussed above.

4. Signing Authority

Proposal 1.4 in the consultation paper suggests that the requirement that reporting entities must maintain a record of their clients' signatures should be reviewed.

5. Politically Exposed Foreign Persons

Through the definition of "politically exposed foreign person" in subsection 9.3(3) of the Act, a distinction is implicitly made between clients who are politically exposed foreign persons (PEFPs) and other clients. PEFPs include: heads of state; senior politicians;

senior government, judicial or military officials; senior executives of state-owned enterprises; and political party officials. Due to their prominence and influence, these foreign officials are deemed to be a greater risk in terms of involvement in money laundering and/or terrorist financing activities. Proposal 1.5 in the consultation paper suggests that the definition of "politically exposed foreign person" should be expanded to include close associates of these foreign officials.

6. Politically Exposed Foreign Persons and Insurance Companies

Proposal 1.6 in the consultation paper suggests that insurance companies should be required to determine if a new client is a PEFP, and to follow all relevant PEFP requirements in the event that he/she is found to be such a person.

7. Existing Clients and Politically Exposed Foreign Persons

Under paragraph 54.2(b) and subsection 57.1(2) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations, financial entities and securities dealers are not required to determine if their existing low-risk account holders are PEFPs. Proposal 1.7 in the consultation paper suggests that reporting entities should be required to determine if all existing account holders are PEFPs.

8. Exemption for Listed Corporations

Pursuant to paragraph 62(2)(m) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations, reporting entities are not required to keep records in respect of public bodies or corporations with net assets of at least $75 million that are traded on a Canadian or other designated stock exchange, since – due to their public reporting requirements – these corporations are deemed to be a lower risk in terms of involvement in money laundering and/or terrorist financing activities. Proposal 1.8 in the consultation paper suggests that the threshold of $75 million should be eliminated.

9. Existence of a Corporation

The frequency with which reporting entities must confirm the existence of a corporation is not identified in the Act. Proposal 1.9 in the consultation paper suggests that reporting entities should be required to confirm annually the existence of their corporate clients. According to the proposal, this confirmation would occur by means of documents issued by the competent authority governing the relevant legislation under which the corporate client is incorporated.

10. Third Party

Pursuant to section 8 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations, a third party "provides instructions" to reporting entities, although some have interpreted the phrase to mean that the third party "carries out instructions." Proposal 1.10 in the consultation paper suggests that the term "third party" should be replaced by the term "instructing party."

B. What the Witnesses Said and Proposed

1. Client Identification

The Ontario Lottery and Gaming Corporation, Amex Bank of Canada and MasterCard supported changes to the existing requirements in relation to non-face-to-face identification, which they believe are complicated and have become less relevant over time. As well, in their view, the Act and its regulations have not been amended to recognize changes in digital identification and authentication methods. Amex Bank of Canada and the Ontario Lottery and Gaming Corporation advocated a more timely administrative approval process, rather than a legislative process, by which new identification methods might be used for the purposes of the Act's identification requirements. They believed that, with this change, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) would have to be more open to accepting electronic copies of identification and other documents.

In order to verify the identity of clients more easily, Amex Bank of Canada proposed that specific government databases could be used by reporting entities to confirm the identity of their clients, as is the case in Australia, the United Kingdom and the United States. Amex Bank of Canada also identified a number of examples of electronic documents that could be used to verify the identity of clients.

To encourage the use of a risk-based approach for client identification purposes, MasterCard suggested that a principled standard be considered for non-face-to-face identification rather than prescribing certain data sources that could be used to verify identification.

The Canadian Gaming Association and the Ontario Lottery and Gaming Corporation highlighted that the current regulations for non-face-to-face client identification limit the growth of the Canadian online gaming sector due to the requirements under the Act to provide certain identification documents to the reporting entity, and suggested that these regulations encourage Canadian online gamblers to use offshore gaming companies rather than those offered by provincial gaming operators.

With regard to client identification documents, the Canadian Real Estate Association asked that consideration be given to accepting expired documents for purposes of client identification, particularly for reporting entities with elderly clients.

Western Union emphasized that it has stricter client due diligence requirements than those set out in the Act; it requires identification from its clients when sending $1,000 or more or when receiving more than $300 as well as personal interviews when clients are sending more than $7,500. Western Union also has monitoring systems that analyze transactions occurring across all Western Union locations, with the result that Western Union submits a high number of suspicious transaction reports to FINTRAC.

2. Signing Authority

Amex Bank of Canada supported a review of the record of signing authority requirement, and advocated the adoption of digital identification methods and the elimination of written signature requirements.

3. Politically Exposed Foreign Persons

Mouvement Desjardins and the Investment Funds Institute of Canada asserted that the Department of Finance's proposals regarding client identification and recordkeeping requirements in relation to PEFPs would place an onerous compliance burden on insurance companies. The Investment Funds Institute of Canada stated that existing clients might be reluctant to provide additional personal information, while Mouvement Desjardins argued that expanding the PEFP requirements to existing clients would extend client identification and recordkeeping obligations to low-risk transactions and insurance products; in its view, only those transactions or insurance products that are high risk for money laundering or terrorist activities should be subject to client identification and recordkeeping obligations, and these transactions and products should be specified.

4. Exemption for Listed Corporations

The Investment Funds Institute of Canada and the Investment Industry Association of Canada supported the proposed recordkeeping exemption for listed corporations and the proposed removal of the $75 million threshold for net assets.

The Investment Industry Association of Canada urged consideration of extending the proposed exemption for listed companies to foreign companies that are listed on a foreign stock exchange. Given that Proposal 1.8 in the consultation paper recognizes that listed companies have extensive reporting requirements under Canadian securities law and thus are at low risk for money laundering or terrorist financing, the Investment Industry Association of Canada believed that a similar exemption should be given to foreign companies that are subject to similar securities regulation regimes.

The Investment Funds Institute of Canada stressed that its members would be concerned if changes to the current exemption that allows investment dealers to use the "allocated compliance model" for client identification, a process that minimizes the duplicative collection of personal client identification, were to occur.

Closing the Gaps in Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. International Electronic Funds Transfer Threshold

Paragraphs 12(1)(b) and (c) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations require reporting entities to disclose, to FINTRAC, electronic funds transfers of at least $10,000 originating in or destined for foreign jurisdictions.

Proposal 2.1 in the consultation paper suggests that this $10,000 threshold amount should be eliminated.

2. Prepaid Payment Cards

Some prepaid payment cards are issued by entities that are not required to report under the Act. Proposal 2.2 in the consultation paper suggests that customer identification and due diligence requirements should apply to entities that issue prepaid payment cards and other prepaid devices.

3. International Transactions and Prepaid Credit Cards

Proposal 2.3 in the consultation paper suggests that the Cross-Border Currency and Monetary Instruments Reporting Regulations should apply to cross-border transactions that occur on a prepaid payment card or other prepaid device.

4. Life Insurance Companies, Agents and Brokers

Subsection 19(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations requires reporting entities to disclose life insurance and annuity policies for which the client will be expected to make payments of at least $10,000. Other life insurance activities deemed to be low risk for money laundering are not required to be reported. Proposal 2.4 in the consultation paper suggests that the reporting requirements that currently exist in relation to life insurance and annuity payments of a certain amount should be extended to other insurance activities offered by insurance companies, agents and brokers, including account openings and loan products. As well, according to the proposal, the $10,000 threshold amount for reporting with respect to annuity and life insurance policies should be eliminated.

5. Reporting Obligations Below the Large Cash Transaction Threshold and Life Insurance

Section 17 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations requires life insurance companies, agents and brokers to disclose all transactions of at least $10,000. Proposal 2.5 in the consultation paper suggests that, unless the origin of transactions is known and could be deemed to be low risk, these reporting entities should be required to disclose transactions with a value below that threshold amount.

6. Large Cash Transaction Obligations

According to section 13 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations, reporting entities are required to disclose cumulative large cash transactions of at least $10,000 in a 24-hour period; however, if those funds are received by an agent or affiliate of the reporting entity, disclosure is not required. Proposal 2.6 in the consultation paper suggests that this exemption in relation to agents and affiliates should be eliminated.

7. Reporting Requirements and Dealers in Precious Metals and Stones

Section 39.1 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations requires reporting entities to disclose all precious metal and stone transactions that have a value of at least $10,000 and that meet various other criteria. Proposal 2.7 in the consultation paper suggests that an exemption should be created for the sale of precious metals and stones for manufacturing purposes unrelated to money laundering and terrorist financing.

8. Reporting Obligations for the Accountant Sector

Proposal 2.8 in the consultation paper suggests that an exemption with respect to reporting should be created for activities undertaken by accountants and accounting firms when providing trustee-in-bankruptcy services.

9. 24-Hour Rule

Subsection 3(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations requires reporting entities to disclose multiple transactions that total at least $10,000 in a 24-hour period. Proposal 2.9 in the consultation paper suggests that the language in the Regulations should be clarified so as not to exclude certain transactions that ought to be disclosed.

B. What the Witnesses Said and Proposed

1. International Electronic Funds Transfer Threshold

Capra International Inc. and KPMG Forensic supported elimination of the $10,000 international electronic funds transfer (EFT) threshold, believing that the result would be more information being sent to FINTRAC for analysis. Capra International Inc. thought that elimination of the threshold would be particularly beneficial in trying to deter terrorist financing, as it typically involves smaller amounts of money when compared to money laundering or other types of criminal activity. However, KPMG Forensic, Credit Union Central of Canada, the Office of the Privacy Commissioner of Canada and the Canadian Bankers Association expressed doubts about FINTRAC's ability to process and analyze so many additional reports in an effective manner.

The rationale given in the consultation paper for eliminating the international EFT threshold was to target terrorist financing and to be consistent with other jurisdictions around the world; however, the Canadian Security Intelligence Service (CSIS) stated that an increase in the number of reports being submitted to FINTRAC would not necessarily result in a proportional increase in the number of case disclosures being sent by FINTRAC to law enforcement and other government agencies. The Office of the Privacy Commissioner of Canada and the Canadian Bankers Association identified a need for further study to determine whether a threshold of $10,000 or some other amount should be the appropriate threshold for international EFT and/or large cash transaction reports.

While KPMG Forensic thought that a change in the international EFT threshold would not be overly problematic for reporting entities that have an automated reporting procedure for EFTs, other reporting entities – such as Credit Union Central of Canada, Mouvement Desjardins, the Canadian Association of Independent Life Brokerage Agencies, the Canadian Life and Health Insurance Association Inc., the Investment Industry Association of Canada and Western Union – indicated that elimination of the international EFT threshold would impose a significant compliance burden on reporting entities given the additional reports that would have to be submitted to FINTRAC. The Investment Industry Association of Canada argued that using a risk-based approach and relying on suspicious transaction reporting to examine smaller financial transactions would be more valuable to FINTRAC in targeting terrorist financing than would lowering the international EFT threshold.

2. Prepaid Payment Cards

According to the Royal Canadian Mounted Police (RCMP), new technologies to carry and transfer money are being examined by law enforcement agencies for their use in money laundering; in particular, store value cards, such as retail gift cards, and prepaid credit cards are increasing in prevalence. The Department of Finance indicated that customer due diligence and client identification should occur in relation to individuals buying prepaid payment cards. KPMG Forensic suggested that further study is needed regarding the type of prepaid payment card that should be included under the Act; for example, open loop prepaid payment cards, which are accepted at numerous retail locations, may be at a higher risk of being used for money laundering when compared to closed loop cards, which are accepted only at a particular retailer.

MasterCard highlighted that non-reloadable and reloadable prepaid credit cards have different levels of risk of being used for money laundering and terrorist financing.1 It noted that non-reloadable prepaid credit cards have lower value limits and are of lower risk than reloadable prepaid credit cards. Although MasterCard stated that the imposition of customer identification requirements on retailers and issuers of prepaid payment cards would create compliance burdens that would outweigh any anti-money laundering benefits, it suggested that the financial institutions that issue reloadable prepaid cards would be in the best position to perform any customer due diligence requirements. Similarly, Amex Bank of Canada requested that reporting entities not be required to undertake customer due diligence measures in respect of prepaid devices with a balance, or cumulative monthly transaction amount, of less than $3,000.

The Office of the Privacy Commissioner of Canada argued that the increased collection of personal information by the retail sector would be a significant undertaking with a high compliance burden, and suggested that measures that would not require the collection of personal information should be considered. The Office of the Privacy Commissioner of Canada and KPMG Forensic indicated that establishing a limit for the amount of money

[1] Non-reloadable cards are purchased at retailers, do not have a cash back option and have a maximum load limit at the time of purchase. Reloadable prepaid credit cards can be reloaded with additional funds and cash can be withdrawn from these cards at an automated teller machine; these cards have a greater maximum load limit and are available from financial institutions that issue the cards.

that could be loaded onto prepaid payment cards without client identification requirements being imposed would be a viable alternative to collecting personal information.

3. Precious Metals and Stones

The Canadian Jewellers Association asked that Proposal 2.7 be more specific with regard to the term "manufacturing," as the term has several different meanings that may not be consistent with the intention of the proposal.

4. Reporting Obligations for the Accounting Sector

The Canadian Institute of Chartered Accountants supported Proposal 2.8 and argued that the proposed exemption should be extended to activities undertaken by accountants when acting as a receiver, receiver-manager, interim receiver or monitor in an insolvency proceeding, since – in those circumstances – accountants are acting under the supervision of a court and not on behalf of a client. According to it, broadening the exemption would also provide consistency with interpretation notices provided by FINTRAC.

Improving Compliance, Monitoring and Enforcement

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. Registration of Money Services Businesses

Proposal 3.1 in the consultation paper suggests that the information that money services businesses are required to disclose when they register with FINTRAC should be reduced.

2. Eligibility Requirements for Money Services Business Registration

Subsection 3(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations stipulates that individuals convicted of violating current legislation specified in section 11.11 of the Act are prohibited from registering as a money services business. Proposal 3.2 in the consultation paper suggests that individuals should also be prohibited from registering as a money services business if they have been convicted of violating acts that were later repealed or replaced.

3. Non-compliance with Reporting Obligations

According to section 73.15 of the Act, FINTRAC can impose a penalty on reporting entities that have failed to disclose a suspicious transaction, large cash transaction, electronic funds transfer to or from a foreign jurisdiction, or terrorist property report. Non-compliance proceedings against reporting entities that have not complied with the Act terminate after the penalty has been paid. Proposal 3.3 in the consultation paper suggests that FINTRAC should be permitted to require a reporting entity to file the report that it neglected to submit, even after a penalty has been paid, or to impose additional penalties on the reporting entity in the event that it continues to fail to provide FINTRAC with the report.

4. Reasonable Measures

The Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations require reporting entities to take reasonable measures to obtain various information when performing their due diligence role with respect to clients. They are not, however, required to record the reasonable measures that they have taken. Proposal 3.4 in the consultation paper suggests that reporting entities should be required to record the reasonable measures that they have taken in fulfilling their client identification and customer due diligence requirements.

5. Reporting

According to paragraph 73(1)(e.1) of the Act, modifications to the information on the reporting form used by reporting entities must be undertaken through the regulatory process and receive Governor in Council approval. Proposal 3.5 in the consultation paper suggests that the Minister of Finance should have the authority to modify the information on the reporting form.

6. Cross-Border Currency Reporting

Section 12 of the Act requires individuals and entities to report to the Canada Border Services Agency (CBSA) when they have imported or exported monetary instruments; this reporting must occur when the instruments have a value of at least $10,000. Proposal 3.6 in the consultation paper suggests that the CBSA's powers should be broadened so that it would have the authority to question individuals and entities about their compliance with the Act and to compel truthful responses.

B. What the Witnesses Said and Proposed

1. Non-compliance with Reporting Obligations

According to FINTRAC, having sound recordkeeping and client identification requirements as well as ensuring that reporting entities comply with these requirements are means by which to create an environment that is inhospitable to money laundering and terrorist financing. It also stated that the monetary penalties for non-compliance with the Act are applied sparingly, with only 15 penalties being assessed since the end of 2008, when it became possible to apply monetary penalties. As well, FINTRAC indicated that it will work with reporting entities to improve their compliance with the Act's requirements. KMPG Forensic said that, generally, reporting entities have a desire to comply with their obligations under the Act in order both to meet regulatory requirements and to be socially responsible.

The Public Prosecution Service of Canada provided statistics on the number of charges laid for non-compliance with the Act. During the 2005-2006 to 2009-2010 fiscal years, 89 non-compliance charges were laid, with 3 convictions and 31 guilty pleas; 68 of the 89 charges pertained to cross-border reporting violations. In the 2010-2011 fiscal year, 34 charges were laid for non-compliance with the Act, and all were related to cross-border reporting; there were no convictions and 13 guilty pleas.

Capra International Inc. noted that there is a lack of understanding of reporting obligations and how to identify the level of risk for a transaction. KMPG Forensic, the Canadian Life and Health Insurance Association Inc., C.D. Barcados Co. Ltd. and the Canadian Jewellers Association suggested that FINTRAC should provide more guidance and feedback before sending findings letters to the reporting entities. KPMG Forensic indicated that, as a result of not understanding their reporting requirements and a fear of monetary penalties for non-compliance, reporting entities tend to over-report rather than pose questions to FINTRAC regarding reporting requirements. The Office of the Privacy Commissioner of Canada also observed, in its last audit of FINTRAC in 2009, that reporting entities were submitting reports for transactions that did not meet the threshold of "reasonable grounds to suspect" that the transaction was related to money laundering or terrorist financing; these submissions were occurring because reporting entities feared being fined for non-compliance and they lacked information about what constitutes a suspicious transaction.

In the view of the Canadian Association of Independent Life Brokerage Agencies and the Canadian Life and Health Insurance Association Inc., FINTRAC should provide information on money laundering and terrorist financing trends in relation to particular industries; in this regard, the Canadian Life and Health Insurance Association Inc. advocated the creation, by FINTRAC, of a "threat assessment by sector" document similar to those provided by other countries' financial intelligence units. Similarly, C.D. Barcados Co. Ltd. and the Canadian Jewellers Association highlighted the need for information on money laundering trends in the precious metals and stones sector, and argued that FINTRAC should provide reporting entities with a sample compliance regime so that they could evaluate whether the measures that they have taken are sufficient to meet the compliance requirements of the Act.

The Canadian Real Estate Association suggested that, rather than imposing a fine on reporting entities that fail to provide FINTRAC with all of the information needed for a report, FINTRAC could require reporting entities to take reasonable measures to obtain the necessary information. Redwood Realty asserted that civil and criminal penalties for non-compliance with an administrative task could be seen to be excessive.

The Investment Industry Association of Canada asserted that, despite the challenges encountered by most reporting entities in trying to obtain feedback from FINTRAC, FINTRAC is open to hearing from the reporting entities and to learning more about the needs of the various industries. Capra International Inc. commented that FINTRAC is often constrained in its ability to provide feedback to reporting entities due to the Act's restrictions regarding the sharing of information as well as privacy legislation.

Strengthening the Sharing of Information in Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. Disclosure Information

According to subsection 55(7) of the Act, FINTRAC is able to disclose designated – rather than all – information to law enforcement and other government agencies. Proposal 4.1 in the consultation paper suggests that the designated information that FINTRAC is permitted to share with law enforcement and other government agencies should be expanded to include:

- the gender and occupation of the individual to whom the disclosure is related;
- the grounds for suspicion provided by international partners;
- the narrative from cross-border seizure reports;
- the actions that have been taken by reporting entities with respect to a suspicious transaction; and
- the "reasonable grounds to suspect" for which FINTRAC has decided to share this information.

2. Foreign Information Sharing

Section 58 of the Act permits FINTRAC to share designated information with law enforcement, government or foreign agencies that have powers and duties that are similar to those of FINTRAC. Proposal 4.2 in the consultation paper suggests that FINTRAC should be permitted to disclose the identity of the foreign entity or individual to foreign agencies when it would be relevant to do so.

3. Information Sharing and Registered Charities

The Canada Revenue Agency's Charities Directorate, which administers the registration of charities, receives information from government entities, such as CSIS, the RCMP and FINTRAC. Proposal 4.3 in the consultation paper suggests that the CBSA should be permitted to share information with the Charities Directorate when it is related to cross-border seizures associated with charities.

4. Disclosure of Information on Charities

Proposal 4.4 in the consultation paper suggests that the conditions under which FINTRAC discloses information to the Canada Revenue Agency (CRA) should be reviewed.

5. Disclosures to the Canada Border Services Agency

Under paragraph 55(3)(e) of the Act, FINTRAC is required to disclose, to the CBSA, information that is relevant to cases related to the importation of prohibited, controlled or regulated goods. Proposal 4.5 in the consultation paper suggests that this disclosure requirement should be expanded to include the exportation of these goods.

6. Disclosures for National Security

Proposal 4.6 in the consultation paper suggests that FINTRAC should be required to disclose information to the CBSA when there are grounds to suspect that there may be a threat to national security.

7. Disclosures to Police

Subsection 36(2) of the Act requires FINTRAC to disclose pertinent information to the police when there are reasonable grounds to suspect that the information is relevant to a money laundering or terrorist financing offence. Proposal 4.7 in the consultation paper suggests that this disclosure requirement should be extended to cases where a person may be in imminent danger of physical injury or death.

B. What the Witnesses Said and Proposed

1. Disclosure Information

Capra International Inc. stated that, under section 55 of the Act, FINTRAC can only disclose designated information to law enforcement and other government agencies, while FINTRAC mentioned that there is a disclosure threshold that must be met before information is provided to law enforcement and other government agencies; the disclosure threshold includes an examination of voluntary information reports from law enforcement and other government agencies or the public, suspicious transaction reports, newspaper articles and other media to determine whether the disclosure of information is warranted. FINTRAC indicated that, with regard to foreign requests for information, it has the discretion to determine whether it will disclose information, even if a memorandum of understanding exists between the financial intelligence units of the two countries; in 2010, FINTRAC provided 150 disclosures to, and received 50 disclosures from, foreign financial intelligence units.

The Canadian Bankers Association argued that FINTRAC should be permitted to disclose information to reporting entities and that, under certain circumstances, reporting entities should be allowed to disclose information to each other. An example provided by the Canadian Bankers Association of the restrictions placed on FINTRAC with regard to the disclosure of information is that FINTRAC cannot ask a reporting entity for additional information after receiving a suspicious transaction report. It highlighted that, under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, the United States allows banks to share information under very rigid circumstances. While the Canadian Bankers Association acknowledged the need for the protection of personal information, it

advocated a balance between the protection of personal information on one hand and preventing criminals from using financial institutions and other reporting entities to launder funds or finance terrorism on the other hand.

In order to improve communication among the partners in Canada's anti-money laundering and anti-terrorist financing regime, Capra International Inc. argued that the Department of Finance should lead an interdepartmental working group with the partners to examine regime-related legislation and regulations with a view to removing any barriers that would decrease the efficiency of the regime.

2. Disclosure of Information on Charities

The Canadian Bar Association indicated that a more extensive review of the disclosure provisions in the Act as they pertain to charities should be conducted in order to address deficiencies in the collection and use of information against registered charities, and to ensure that the principles of procedural fairness and natural justice are observed.

Countermeasures

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. Countermeasures

Proposal 5.1 in the consultation paper suggests that the Minister of Finance should require reporting entities to take countermeasures in relation to foreign states and foreign entities that are deemed to be high risk for facilitating money laundering or terrorist financing; the list of countermeasures would be an enhancement of the Act's existing requirements in relation to domestic transactions and domestic reporting requirements. For example, reporting entities would be required to identify clients, disclose the documents used to identify clients, take reasonable measures to identify the persons who control corporations and entities, ascertain the identity of clients of foreign financial institutions with whom the reporting entity has a relationship, and perform due diligence in relation to clients, among other requirements. Moreover, with respect to transactions, the reporting entity would be required to determine the purpose of specified transactions, monitor designated transactions, keep records of these transactions and report to FINTRAC, relevant transactions originating from or destined for foreign jurisdictions.

2. Foreign Entities

Proposal 5.2 in the consultation paper suggests that foreign entities should be classified in one of three categories:

- foreign entities that would be deemed to be reporting entities in Canada;
- entities incorporated, formed or operating in a foreign jurisdiction, including branches or subsidiaries of the entity; and
- entities not otherwise subject to the Act.

B. What the Witnesses Said and Proposed

1. Countermeasures

In the view of KPMG Forensic, FINTRAC should provide more guidance to reporting entities, including by providing ratings for countries to indicate the degree to which they present a risk of money laundering and/or terrorist financing. The Canadian Real Estate Association asserted that non-face-to-face identification methods should still be allowed under the proposed countermeasures, as relying on face-to-face identification measures would be impractical and would place a burden on reporting entities that would be too high. The Canadian Institute of Chartered Accountants said that the boundaries of the proposed countermeasures are unclear and urged further guidance on the proposed changes to the regulations. Lastly, Mouvement Desjardins supported the proposed changes in relation to countermeasures, as they would provide the federal government with the ability to implement countermeasures against foreign states and foreign entities quickly by providing information directly to reporting entities; however, the government would need to provide support to reporting entities to implement any of these measures.

Other Proposals

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. Suspicious Activities

As indicated in subparagraph 3(a)(iii) of the Act, reporting entities are required to report suspicious transactions. Proposal 6.1 in the consultation paper suggests that reporting entities should be required to report activities that would give rise to suspicion of money laundering or terrorist financing.

2. Submitting Reports to FINTRAC

Subsection 12(5) of the Act requires the CBSA to submit, to FINTRAC, cross-border currency records in relation to monetary instruments having a value of at least $10,000; at present, the CBSA provides both electronic and physical records in this regard. Proposal 6.2 in the consultation paper suggests that the Act should be clarified in order to ensure that both physical and electronic records are provided.

3. Threshold for Non-compliance Disclosures

Subsection 65(1) of the Act stipulates that FINTRAC may disclose information to the police when there "is evidence of a contravention" of Part 1 of the Act. Proposal 6.3 in the consultation paper suggests that FINTRAC should be able to disclose information when disclosure "would be relevant to a contravention" of Part 1 of the Act.

4. Client Credit Files

Paragraphs 14(i) and 30(a) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations require reporting entities to retain records of their client credit

files when they do so as part of their normal operations. Proposal 6.4 in the consultation paper suggests that reporting entities should be required to create and retain a client credit file when it enters into a credit arrangement.

B. What the Witnesses Said and Proposed

1. Suspicious Activities

The Canadian Institute of Chartered Accountants argued that the wording of Proposal 6.1 is unclear, as it could be interpreted to include certain accounting activities, such as assurance services, that are currently not covered by the Act. In its view, clarity is needed. The Office of the Privacy Commissioner of Canada stated that this proposal could encompass activities that take place before a financial transaction actually occurs, which would increase the level of over-reporting to FINTRAC by reporting entities.

Technical Amendments

A. The Act and Its Regulations, and the Department of Finance's Proposals

1. Immigration and Refugee Protection Act

Proposal 7.1 in the consultation paper suggests that subsection 36(1.1) and paragraph 55(3)(d) of the Act should refer to section 91 of the Immigration and Refugee Protection Act in order to permit FINTRAC to recognize offences under section 91 for information-sharing purposes.

2. Financing of Terrorist Activities

Proposal 7.2 in the consultation paper suggests that, in order to require FINTRAC to inform the public about its activities in relation to terrorist financing, a reference to the financing of terrorist activities should be added to the Act.

Proposals in the Department of Finance's November 2011 Consultation Paper in Relation to the *Proceeds of Crime (money laundering) and terrorist financing regulations*

A. Introduction of "Business Relationships"

1. Department of Finance Proposal

Proposal 1.1 in the Department of Finance's November 2011 consultation paper suggests that the term "business relationship" should be added to the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations to define the ongoing relationship between a reporting entity and its clients. According to the proposal, the term would mean activities and transactions between a reporting entity and its clients, and reporting entities would be required to maintain a record of their business relationships. This proposal would support the notion that reporting entities must understand the ongoing

relationship that they have with a client, rather than conduct customer due diligence measures only when an account is opened or when a relationship commences.

2. What the Witnesses Said and Proposed

The Canadian Association of Independent Life Brokerage Agencies stated that business relationships of the type envisioned in Proposal 1.1 do not exist between its members and their clients. Moreover, according to it, its members may not have met the client or been privy to the discussions related to the transaction. Similarly, the Canadian Gaming Association argued that the concept of "business relationship," as it is described in the proposal, is not relevant to the gaming sector.

KPMG Forensic argued that the concept of a "business relationship," as described in Proposal 1.1, is unclear, and was concerned that the concept would be applied in unintended areas. It questioned whether the concept of a "business relationship" would apply to all transactions and clients, including low-risk clients and transactions. As an example, KPMG Forensic identified certain types of low-risk transactions, such as the exchange of mortgage-backed securities, that are exempted from the provisions of the anti-money laundering and anti-terrorist financing regime in the United States.

B. Customer Due Diligence in Respect of Suspicious Transactions that Are Otherwise Exempted from Customer Due Diligence Obligations

1. Department of Finance's Proposal

Proposal 2.1 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to determine the identity of clients who conduct transactions that give rise to suspicion of money laundering or terrorist financing; according to the proposal, there should be no exception to this requirement.

2. What the Witnesses Said and Propose

In the opinion of Western Union, adoption of Proposal 2.1 could lead to compliance duplication if both money services businesses and financial institutions are required to fulfil customer due diligence obligations.

C. Customer Due Diligence in Respect of Suspicious Attempted Transactions

1. Department of Finance's Proposal

Proposal 2.2 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to determine the identity of a person who attempts to conduct transactions that would give rise to suspicion of money laundering or terrorist financing.

2. What the Witnesses Said and Proposed

KPMG Forensic argued that the requirement to conduct customer due diligence for transactions and attempted transactions that would give rise to suspicion of money laundering or terrorist financing could contravene existing obligations in FINTRAC guidelines, which require reporting entities not to "tip off" clients about whom they intend to submit a suspicious transaction report.

D. Expand Customer Due Diligence Measures for Beneficial Ownership Information

1. Department of Finance's Proposal

Proposal 3.1 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to take reasonable measures to determine and record the beneficial ownership of their clients that are corporations, entities or trusts.

2. What the Witnesses Said and Proposed

KPMG Forensic noted that the determination of beneficial ownership is difficult and is not always possible. For example, according to it, public documentation may not exist to establish the beneficial ownership of foreign entities. It also felt that Proposal 3.1 is unnecessary, since the "reasonable measures" taken to determine the beneficial ownership of a corporation or other entity generally would involve the reporting entity asking the corporation or other entity to provide the identity of its beneficial owners.

E. Extend Ongoing Monitoring to All Risk Levels of Customers

1. Department of Finance's Proposal

Proposal 3.2 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to perform ongoing monitoring in relation to all clients, rather than only their high-risk clients.

2. What the Witnesses Said and Proposed

KPMG Forensic noted that enhanced customer due diligence measures and ongoing monitoring of clients should focus on the clients that pose the highest risk. It stated that, currently, reporting entities focus their monitoring efforts on the 5% to 10% of their clients who present the greatest risks; adoption of Proposal 3.2 would require reporting entities to focus on all of their clients.

Western Union suggested that adoption of Proposal 3.2 would negatively affect the risk-based approach of Canada's anti-money laundering and anti-terrorist financing regime by imposing costly and burdensome ongoing monitoring obligations on reporting entities. The Canadian Jewellers Association also argued that this and other proposals would impose a high compliance burden on dealers in precious metals and stones; consequently,

in its view, this proposal, among others, should not apply to dealers in precious metals and stones.

F. Conduct Ongoing Monitoring in Respect of Business Relationships

1. Department of Finance's Proposal

Proposal 3.3 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to conduct ongoing monitoring of the entire business relationship that they have with their clients.

2. What the Witnesses Said and Proposed

The Canadian Real Estate Association and Redwood Realty argued that ongoing monitoring of clients should not apply to the real estate sector, where the relationship with the client is generally limited to a single transaction. Similarly, the Canadian Jewellers Association felt that Proposal 3.3 should not apply to dealers in precious metals and stones. Western Union was concerned about the costs, processes and infrastructure required to perform ongoing monitoring.

G. Purpose and Nature of a Business Relationship

1. Department of Finance's Proposal

Proposal 3.4 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to maintain a record of the purpose and nature of their business relationships with their clients.

2. What the Witnesses Said and Proposed

KPMG Forensic suggested that the purpose of Proposal 3.4 is unclear, and argued that the proposal could be unnecessary. Furthermore, it stated that the nature of the relationship between a reporting entity and its client is not always easy to determine. The Canadian Jewellers Association suggested that this proposal should not apply to dealers in precious metals and stones.

H. Clarify and Expand the Application of Enhanced Customer Due Diligence Measures

1. Department of Finance's Proposal

Proposal 3.5 in the Department of Finance's November 2011 consultation paper suggests that reporting entities should be required to undertake enhanced due diligence measures in relation to high-risk clients, including with regard to the identification of clients, the maintenance of up-to-date client identification information and ongoing client monitoring.

2. What the Witnesses Said and Proposed

The Canadian Jewellers Association commented on the introduction of the concept of enhanced customer due diligence and its associated recordkeeping requirements. It noted that, while it understands the Department of Finance's position, the adoption of Proposal 3.5 could impose a significant compliance burden on dealers in precious metals and stones, depending on the manner in which the proposal is drafted in FINTRAC guidelines. As such, it believed that dealers in precious metals and stones should be exempt from this proposed measure.

Other Witness Views and Proposals

A. The Financial Transactions and Reports Analysis Centre of Canada's New Director

FINTRAC's new Director, who assumed office on 15 October 2012, said that demand for FINTRAC's products is high because of both threats to the safety and security of Canadians and FINTRAC's ability to trace monetary flows. He also noted that FINTRAC's contributions to Canada's anti-money laundering and anti-terrorist financing regime are often misconceived and must be considered in the context of the relative contributions of other federal departments and agencies that participate in the regime, and suggested that FINTRAC must constantly adapt and could potentially improve its reporting if the Act's reporting threshold in relation to international electronic funds transfers was reduced. He identified five key areas where action is required in order to strengthen Canada's anti-money laundering and anti-terrorist financing regime: deepen and strengthen FINTRAC's relationships with other federal departments and agencies that participate in the regime; better define risk factors to be monitored and establish risk profiles by sector; use the parliamentary review process to address some of the Act's limitations regarding the type of information that should be received and disclosed by FINTRAC; improve technological capabilities to facilitate electronic manipulation and sharing of information; and improve and constantly update the training of FINTRAC employees in order to ensure an ability to respond to new technologies as well as money laundering and terrorist financing techniques.

B. Funding for Canada's Anti-money Laundering and Anti-terrorist Financing Regime

Capra International Inc. recognized that the efficiency of Canada's anti-money laundering and anti-terrorist financing regime has increased since 2008, but stated that additional improvements are unlikely under current funding arrangements. In particular, it indicated that the regime-based funding directed to the RCMP is not sufficient for it to respond to FINTRAC's proactive disclosures. Moreover, Capra International Inc. noted that there is a discrepancy between funded and unfunded regime partners, and stated that funded partners have a stronger commitment to the regime; FINTRAC is the only fully funded partner. Lastly, it recognized that partially funded regime partners commit their own resources to anti-money laundering and anti-terrorist financing activities.

C. Statistics

Capra International Inc. identified the existence of difficulties in making links between and among reports received by FINTRAC, case disclosures made by FINTRAC to law enforcement agencies, actions taken by law enforcement agencies, charges laid and convictions won by the Public Prosecution Service of Canada.

The RCMP and CSIS indicated that the abilities and efficiency of FINTRAC have improved greatly over time, while the CRA noted that statistics in relation to Canada's anti-money laundering and anti-terrorist financing regime may not capture the criminal investigations that it has undertaken with the information received from FINTRAC.

Capra International Inc. indicated that data collection in relation to Canada's anti-money laundering and anti-terrorist financing regime occurs by each department or agency for its own purposes; consequently, these data are not harmonized. It argued that the federal government should create an interdepartmental working group to address this issue and to coordinate the collection of statistics among regime partners.

The Office of the Privacy Commissioner of Canada argued that better quantitative measures of the performance of Canada's anti-money laundering and anti-terrorist financing regime should be established. Moreover, it said that any amendments to the regime should be supported by data and evidence.

D. Risk-based Approach

American Express, KPMG Forensic, the Canadian Bankers Association, Mouvement Desjardins, Credit Union Central of Canada, MasterCard, Capra International Inc., the Canadian Life and Health Insurance Association Inc., the Canadian Jewellers Association and the Investment Industry Association of Canada either supported a risk-based approach or were concerned about the proposals in the Department of Finance's November and December 2011 consultation papers that would involve a departure from a risk-based approach. Furthermore, they recognized that reporting entities have limited resources and that their compliance efforts are best directed towards high-risk, rather than all, clients and transactions.

KPMG Forensic noted that the best practice globally in relation to an anti-money laundering and anti-terrorist financing regime is a risk-based approach, which is recommended by the Financial Action Task Force on Money Laundering (FATF) and is used in other countries, including the United States and the United Kingdom. It questioned the value of requiring reporting entities to allocate resources to the monitoring of relatively low-risk clients and transactions. Similarly, the Canadian Bankers Association stated that the purpose of using a risk-based approach is not to reduce reporting entity compliance costs, but rather to provide FINTRAC with better information. Further, it argued that reporting entities know their customers best and, as such, are able to determine which customers pose the greatest risks.

Capra International Inc. noted that a risk-based approach is used in government policy. It argued, for example, that since FINTRAC has performed a compliance examination on

only 0.3% of reporting entities to date, it must have used a risk-based approach in determining which reporting entities should be examined. The Canadian Life and Health Insurance Association Inc. supported a risk-based approach as a means of minimizing the compliance burden and of permitting reporting entities to allocate their resources more efficiently. Noting that insurance products are at a relatively low risk for money laundering, it suggested that reporting entities should be permitted to use simplified customer due diligence measures for relatively low-risk products, such as critical illness insurance and term insurance. Similarly, the Canadian Jewellers Association argued that dealers in precious metals and stones should receive a lower risk assessment than other sectors.

The Canadian Life and Health Insurance Association Inc. supported the recommendations in the FATF's October 2009 report, Risk-Based Approach: Guidance for the Life Insurance Sector, which identified different risks by type, including customer, product, service, transaction, delivery channel and country. In arguing for a risk-based approach, the Investment Industry Association of Canada indicated that each firm can establish its own risk-assessment regime based on the guidelines established by FINTRAC, which require reporting entities to assess risk in relation to product, transaction, client and jurisdiction. The Canadian Institute of Chartered Accountants suggested that the government should provide financial institutions with guidance about countries that pose a relatively higher risk of money laundering.

Lastly, the Investment Industry Association of Canada recognized that Canada's anti-money laundering and anti-terrorist financing regime already uses a risk-based approach, and suggested that the proposals in the Department of Finance's consultation papers deviate from that approach.

E. Compliance Burden

Credit Union Central of Canada spoke about the compliance burden imposed on reporting entities that are small businesses, such as credit unions. It noted that the current "one-size-fits-all" regulations mean that it is easier for large institutions to comply because of their size and ability to automate many of the requirements of Canada's anti-money laundering and anti-terrorist financing regime. Consequently, it suggested that the regime's regulatory requirements should be "filtered" through a "small business lens." Jewellers Vigilance Canada Inc. characterized the compliance burden imposed on small business dealers in precious metals and stones as "onerous."

The Canadian Jewellers Association, Jewellers Vigilance Canada Inc. and C.D. Barcados Co. Ltd. emphasized that the precious metals and stones sector consists primarily of small independent businesses that have not necessarily adopted technology, including email, which makes communication among dealers in precious metals and stones difficult. They suggested that the proposed requirements appear to target only low-risk transactions occurring with retail jewellers, rather than high-risk transactions that take place with transient dealers who purchase precious metals and stones from the public, for example. Jewellers Vigilance Canada Inc. argued that the existing compliance burden for small

independent jewellers is very high, as most jewellers do not deal with cash transactions exceeding $10,000 yet are required to maintain a compliance regime.

C.D. Barcados Co. Ltd. mentioned that the Canadian standards for jewellers go beyond FATF recommendations, which have a $15,000 cash transaction threshold, and argued that only those entities that would like to accept more than $15,000 in cash should be subject to the reporting requirements of Canada's anti-money laundering and anti-terrorist financing regime; entities that agree not to accept $15,000 or more in cash should not be subject to the regime. Similarly, the Canadian Jewellers Association suggested that dealers in precious metals and stones, and perhaps other reporting entities, should be exempt from the regime's reporting requirements if they agree not to receive cash exceeding a certain threshold amount. Moreover, it urged an increase in the large cash reporting threshold to $15,000, as recommended in the February 2012 FATF report.

The Investment Funds Institute of Canada supported the Department of Finance's proposals to improve efficiency, minimize the compliance burden and avoid duplication while meeting anti-money laundering objectives.

According to the Canadian Real Estate Association and Redwood Realty, most realtors are entrepreneurs and small businesses, with the majority conducting fewer than 10 transactions per year; consequently, the compliance burden under the Act is high for most realtors.

F. Protection of Personal Information

The Office of the Privacy Commissioner of Canada, which – under the Act – biennially reviews the measures taken by FINTRAC to protect the information that it collects, suggested that FINTRAC receives information beyond its legislative mandate. FINTRAC stated that it takes the privacy requirements of Canada's anti-money laundering and anti-terrorist financing regime seriously, and undertakes efforts to ensure that reporting entities do not send information that it does not want or need. Furthermore, it noted that information that is not needed is either returned to the reporting entity or destroyed.

The RCMP stated that it has compiled a database of information collected from FINTRAC disclosures. Following a review by the Office of the Privacy Commissioner of Canada, the RCMP determined that it did not need this information, which has since been deleted.

The Office of the Privacy Commissioner of Canada commented on what it believes is the gradual weakening of the privacy provisions of the Act since 2000, and noted that FINTRAC's ability to share information with other government entities has been expanded to include the Communications Security Establishment, the RCMP, CSIS, the CRA, the CBSA, and Citizenship and Immigration Canada. However, it also stated that its review of FINTRAC did not identify any inappropriate case disclosures made to law enforcement or other government agencies.

As well, the Office of the Privacy Commissioner of Canada argued that, in the event that FINTRAC's mandate is broadened, FINTRAC should be subject to permanent oversight

with respect to its information-protection measures because of the implications of an expanded mandate for the privacy of Canadians.

From its perspective as a recipient of information from FINTRAC, the CRA stated that the privacy requirements of Canada's anti-money laundering and anti-terrorist financing regime are restrictive. It noted that the decision to include tax evasion as a predicate offence under the regime had not materially changed the quantity of information shared by FINTRAC; therefore, there should not be any concern with respect to the protection of personal information. Moreover, the CRA indicated that it could not freely retrieve FINTRAC's database because of restricted access to the information.

KPMG Forensic was more concerned about the sharing of personal information than it was about privacy, and argued that more – rather than less – information is better for investigators. According to it, the financial intelligence units in other countries seem to have a greater ability to share personal information. It argued that financial institutions should be permitted to share personal information among themselves, with appropriate safeguards to address legitimate privacy concerns arising from that sharing.

The Canadian Bankers Association also suggested that financial institutions should be permitted to share personal information among themselves. It argued that, without an ability to share such information, a financial institution could terminate its relationship with a client believed to be involved in money laundering or terrorist financing, only to have that client obtain those services from another financial institution.

The Canadian Life and Health Insurance Association Inc. noted that the balance between privacy requirements on one hand and the ability to share personal information with law enforcement and FINTRAC on the other hand is problematic. It recognized that the privacy legislation in each jurisdiction impedes the cross-border flow of personal information between financial institutions and financial intelligence units. The Canadian Association of Independent Life Brokerage Agencies suggested that insurance policy contracts should contain a clause that informs the client that FINTRAC will have access to the personal information contained in the contract or application once the contract begins. The Canadian Bar Association argued that strong controls regarding the sharing of personal information are needed in order to protect the privacy of Canadians that is guaranteed in legislation and by the Canadian Charter of Rights and Freedoms.

With respect to data retention, FINTRAC indicated that it is required to retain personal information received from reporting entities for 10 years and must destroy that information after 15 years. The RCMP retains personal information related to proceeds of crime or money laundering investigations for eight years.

G. Access to Information

The Office of the Information Commissioner of Canada questioned both whether the personal information held by FINTRAC should be protected indefinitely and the circumstances under which the interests of the public outweigh the privacy provisions of Canada's anti-money laundering and anti-terrorist financing regime. It noted what it sees

as unnecessary access-to-information exemptions, both in the Act and in the Access to Information Act. In particular, it noted that exemptions exist in section 24 of the Access to Information Act and are listed in Schedule II of that Act for information submitted to and retained by FINTRAC under paragraphs 55(1)(a), (d) and (e) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

According to the Office of the Information Commissioner of Canada, different partners in Canada's anti-money laundering and anti-terrorist financing regime are subject to different access-to-information requirements; some of the documentation held by FINTRAC is subject to the exemption in section 24 of the Access to Information Act, while other types of information held by FINTRAC, and information held by CSIS and the RCMP, are subject to the general access-to-information provisions of the Access to Information Act. It suggested that the section 24 exemption in the Access to Information Act in respect of paragraphs 55(1)(a), (d) and (e) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act should be removed. According to it, those exemptions could be incorporated directly into the Access to Information Act in order to eliminate duplication and confusion.

From the perspective of the Office of the Information Commissioner of Canada, the balance between the public's right to know on one hand and the protection of personal information on the other hand has been lost, as information referred to in paragraphs 55(1)(a), (d) and (e) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act is – in effect – permanently protected from public disclosure due to section 24 of the Access to Information Act. It argued that access to personal information should be denied in only specific and limited circumstances.

H. Reporting Entities and Other Sectors to Be Included in the Regime

1. Reporting Entities

a. Insurance Companies

The insurance sector has been recognized by the FATF as a sector that should be covered by anti-money laundering and anti-terrorist financing legislation. The Canadian Association of Independent Life Brokerage Agencies and the Canadian Life and Health Insurance Association Inc. do not disagree with the FATF, and asserted that the insurance sector is at low risk of money laundering or terrorist activity financing, as insurance companies do not accept cash and only certain investment policies offered by insurers could pose a risk of being used to launder money. The Canadian Life and Health Insurance Association Inc. indicated that neither the RCMP nor the Sûreté du Québec could identify any situations in Canada where insurance proceeds were used to launder money.

With regard to the current reporting requirements for the insurance sector, the Canadian Association of Independent Life Brokerage Agencies commented that managing general agents, who are intermediaries between insurance advisors and insurance companies, have the same reporting and client identification obligations as advisors, even though

they do not meet with clients. Regarding managing general agents, it argued that these obligations are difficult and that compliance with them is costly; consequently, in its view, any future expansion of these obligations would be a challenge for managing general agents.

b. Casinos

The Ontario Lottery and Gaming Corporation and the Canadian Gaming Association highlighted that casinos and gaming in Canada are regulated by the provinces/territories as well as by FINTRAC. The Ontario Lottery and Gaming Corporation noted that, although casinos in Canada may be operated by private companies, they are owned and regulated by provincial/territorial Crown agencies. Similarly to FINTRAC, provincial gaming legislation also regulates client identification and transactions in casinos; for example, in Ontario, casinos are required to track cash transactions that exceed $2,500.

In the view of the Canadian Gaming Association, the federal government and FINTRAC should recognize that money laundering in casinos can occur only in the event of a payout and that casinos must report to FINTRAC whenever there are payouts of $10,000 or more.

c. Lawyers and Law Firms

The Department of Finance indicated that lawyers are involved in a variety of financial transactions on behalf of their clients; as a result, there is a risk of money laundering in the legal profession. In particular, according to the Department, transactions that take place through lawyers' trust accounts as well as trust accounts opened by a lawyer for a specific client could hide the identity of clients and their associated financial transactions.

The Federation of Law Societies of Canada explained that provincial/territorial law societies have implemented rules to cover any perceived gaps in Canada's anti-money laundering and anti-terrorist financing regime, in particular with a "no cash" rule that prevents lawyers from accepting cash exceeding $7,500 for financial transactions and other rules in relation to client identification. It indicated that the federal government has not found the client identification rules to be sufficient to combat money laundering in the legal profession, and requires lawyers to submit reports to FINTRAC for financial transactions.

The Federation of Law Societies of Canada and the Canadian Bar Association described how the Act has been applied to the legal profession since obligations for lawyers and law firms were enacted in 2001. They indicated that the 2001 provisions that required lawyers to submit suspicious transaction reports were repealed by the federal government in 2006 and that, since 2008, lawyers and law firms have been required to verify client identification as well as to keep records of when they receive or pay funds exceeding $3,000 on behalf of another person or entity, or if the transaction occurs through a trust fund. They noted, however, that these provisions are currently inoperative due to ongoing litigation examining whether the Act's obligations contravene solicitor-client privilege,

and highlighted the September 2011 British Columbia Supreme Court decision that the Act infringes on the solicitor-client relationship; in the Court's view, the rules set out by provincial/territorial law societies are sufficient for client identification and verification purposes. Finally, they commented that, as the federal Crown has appealed this decision, a temporary injunction will continue to exempt lawyers and law firms from the application of the Act and its regulations.

In response to concerns that lawyers and law firms may be targets for money laundering, the Canadian Bar Association noted that lawyers are subject to stringent codes of conduct administered by the law societies and that they are subject to the Criminal Code in the same manner as all other Canadian citizens. It also commented that trust accounts are audited regularly by law societies and that client identification rules require lawyers to verify a client's identity for all non-face-to-face transactions, including international transactions through trust accounts. The Federation of Law Societies and the Canadian Bar Association shared their view that regulation of money laundering in the legal profession should be administered by the law societies rather than by FINTRAC.

2. Other Sectors to Be Included in the Regime

Amex Bank of Canada argued that businesses that accept cash and have less oversight pose a particular risk for money laundering. MasterCard identified cash and cross-border movements of cash as a means by which money is laundered. Similarly, the Canadian Institute of Chartered Accountants stated that "bulk cash" smuggling to foreign jurisdictions with fewer controls was a method of laundering money. KPMG Forensic noted that it is not unusual for the police to discover large amounts of cash during a raid. As well, the Canadian Institute of Chartered Accountants identified trade-based money laundering, which results from the sale or purchase of imports and exports at artificially inflated or deflated prices, as another approach taken by money launderers.

The Canadian Bankers Association stated that, in its view, all sectors that should be included in Canada's anti-money laundering and anti-terrorist financing regime are covered at this time. However, it also noted that it is possible to purchase a new car, such as a Maserati, with $150,000 in cash.

The Canadian Jewellers Association and the Canadian Institute of Chartered Accountants identified retailers that accept large amounts of cash, such as vendors of electronics, cars and boats, as businesses that are exempt from reporting obligations in Canada. The Canadian Jewellers Association, C.D. Barcados Co. Ltd. and Jewellers Vigilance Canada Inc. indicated that auction houses, which can accept cash as payment and are also excluded from Canada's anti-money laundering and anti-terrorist financing regime, should be covered. Jewellers Vigilance Canada Inc. commented that, similarly, art dealers are not covered. The Canadian Jewellers Association argued that all sectors and industries should be subject to reporting requirements.

C.D. Barcados Co. Ltd. noted that while dealers in precious metals and stones are covered by Canada's anti-money laundering and anti-terrorist financing regime, the "we buy your gold" businesses are difficult to monitor because they may only be open

temporarily and may not have a fixed address. The Canadian Jewellers Association requested that this type of business be covered by the regulations to the Act. The Canadian Real Estate Association and the Department of Finance identified private real estate sales as a potential area where large cash transactions could occur without any reporting obligations. The Department recognized, however, that a deposit at a financial institution following a private real estate transaction would likely result in a report to FINTRAC.

Imperial Tobacco asked that an in-depth study be conducted on contraband tobacco products and their links to organized crime, money laundering and terrorist financing. In particular, it requested that the government take measures to ensure the integrity of the Canada–United States border in relation to the smuggling of contraband tobacco, impose mandatory jail sentences for repeat offenders in relation to contraband tobacco, create an RCMP anti-contraband tobacco force, enforce the law equally for all tobacco manufacturers and retailers, not raise tobacco taxes, deploy a contraband tobacco public awareness campaign and create a joint Quebec-Ontario-federal government working group to coordinate efforts in the fight against illicit tobacco sales.

The Canadian Bank Machine Association indicated that it does not support the House of Commons Standing Committee on Justice and Human Rights' recommendation, contained in its report The State of Organized Crime, that non-bank automated bank machine (ABM) operators be required to report to FINTRAC in respect of cash transactions of $7,500 or more. The Canadian Bank Machine Association noted that, while non-bank ABM operators do not submit reports to FINTRAC, they do follow Interac's anti-money laundering regulations that set out criteria for potential purchasers of ABMs and that require owners of ABMs to deposit funds from ABMs into Canadian bank accounts. Furthermore, the Canadian Bank Machine Association emphasized that non-bank ABM operators do not have control over withdrawals from ABMs and thus do not play a role in preventing criminal activity that may be linked to cash withdrawals from ABMs.

The Canadian Automobile Dealers Association stated that large cash transactions relating to the purchase of new vehicles are rare and that more than 90% of such purchases are financed. It also indicated that 85% of its members report that cash transactions exceeding $10,000 represent less than 2% of their total sales. According to the Canadian Automobile Dealers Association, when a dealer deposits more than $10,000 in cash at a financial institution in relation to a single transaction, the dealer must provide information about the purchaser of the vehicle. Furthermore, it noted that – in order to meet requirements for licencing, warranty registration and vehicle insurance – dealers collect information about the driver of the vehicle, including his/her licence number, address, social insurance number and insurance company. It suggested that it would be difficult to launder large amounts of cash through automobile dealerships without detection, and speculated that home construction and renovations as well as unregulated used car brokers are more likely targets for money launderers. It observed that its members are greatly affected by vehicle theft by criminals involved in organized crime, with vehicle thefts valued at up to $1 billion annually for the resale of parts and exportation. It also said that any new regulations in relation to combating money

laundering should be consistent with the goals of the federal Red Tape Reduction Commission and noted that its members are willing to work with the federal government regarding proposed reporting requirements.

The Ontario Motor Vehicle Industry Council (OMVIC) stated that automotive dealerships facilitate money laundering with relative ease and, therefore, are highly desired by organized crime. Although the OMVIC agreed that large cash transactions are rare in the automotive sector, it argued that automobiles often act as a high-value alternative to cash, and are exchanged in mass quantities between automobile dealers and across borders as a means of payment for contraband items, such as drugs. It also observed that, in some cases, the automobiles may not exist; the criminals may fabricate documents, such as false invoices bearing serial numbers and forged identification of individuals, as "proof" of a large automotive purchase or sale as a means to transfer funds. The OMVIC also indicated that a significant portion of its resources are spent in combatting money laundering in the automotive dealership sector.

Heffel Fine Art Auctioneers stated that it is extremely rare for a piece of art to be purchased with cash at an auction house; thus, it does not believe that auction houses are targets for money launderers. That said, it suggested that someone buying a piece of art from a private dealer with cash who then sells it through an auction house could be laundering money. It also noted that very few art dealers in the secondary market sell art that is valued at more than $10,000 per piece; nevertheless, there are more opportunities for money laundering with art dealers than with auction houses. It also said that, as an alternative to cash, the transportation of pieces of art across borders to be resold could involve money laundering. It remarked that, in recent years, Heffel Fine Art Auctioneers' auctions – which have had annual sales valued at between $30 million and $50 million – have involved less than $10,000 in cash. It commented on the suggestion by dealers in precious metals and stones that auctions provide opportunities for money laundering due the anonymity of buyers and sellers, stating that while the identities of buyers and sellers are not made publicly available, auction houses both confirm the identity of sellers and ask for identification and banking information from buyers participating in live or online auctions. Finally, it indicated that most art in Canada is purchased by buyers directly, rather than through agents.

Boating Ontario stated that cash transactions for boat purchases represent less than 2% of total sales, that 65% to 75% of such purchases are financed, and that its members are required to provide financial institutions with information about the identity of purchasers when cash deposits exceeding $10,000 for a single transaction are made. It also indicated that its members confirm the ownership of boats and trailers for the secondary market sales of boats. Moreover, Boating Ontario noted that sales of recreational boats have decreased since the onset of the global financial and economic crisis, and that the boating manufacturing sector is being negatively affected by the relative value of the Canadian dollar. That said, its members are willing to work with the federal government regarding potential reporting requirements related to Canada's anti-money laundering and anti-terrorist financing regime.

I. Public Education

Capra International Inc. argued that the Department of Finance should conduct a survey to determine the level of public awareness about money laundering, terrorist financing and Canada's anti-money laundering and anti-terrorist financing regime. The Canadian Jewellers Association urged the creation of marketing materials to explain to clients the need for customer identification and other information requirements. It also requested that FINTRAC's money laundering typologies specifically address the laundering of money in the precious metals and stones sector, and that FINTRAC provide materials describing a sample compliance regime for small, medium and large dealers in precious metals and stones.

J. Amendments to the Act and Its Regulations

The Canadian Life and Health Insurance Association Inc. supported regular updates to the legislation that establishes Canada's anti-money laundering and anti-terrorist financing regime, especially since FATF recommendations were released in February 2012.

Recognizing that, in January 2012, FINTRAC began a compliance assessment in relation to dealers in precious metals and stones, the Canadian Jewellers Association felt that amendments to Canada's anti-money laundering and anti-terrorist financing regime that would affect these dealers should not be made until the assessment is complete.

In the view of the Canadian Bar Association, amendments to the Act and its regulations should be drafted with precision, as numerous reporting entities are not confident that they understand their obligations. It also felt that imprecise legislation can lead to an arbitrary interpretation of the law.

K. Deterrence

According to the Department of Finance, the existence of an anti-money laundering and anti-terrorist financing regime in Canada is a strong deterrent to such activities and increases confidence in Canada's financial system. Moreover, it indicated that the regime's compliance obligations require financial institutions to implement systems that combat fraud and manage risk.

The Canadian Bankers Association argued that the effectiveness of Canada's anti-money laundering and anti-terrorist financing regime should be measured by the degree of difficulty encountered in, and the costs associated with, laundering money, recognizing that criminals will find a way to launder money.

Capra International Inc. noted that while immediate outcomes can be measured, deterrence effects must be inferred. The Office of the Privacy Commissioner of Canada was critical of the government's view that Canada's anti-money laundering and anti-terrorist financing regime is working and is a deterrent to money laundering. It questioned whether more sophisticated methods, such as comparative and quantitative analysis, could be used to measure deterrence.

L. Terrorism and Terrorist Lists

The Office of the Privacy Commissioner of Canada stated that, since the beginning of Canada's anti-money laundering and anti-terrorist financing regime, one person has received a six-month sentence for participating in the financing of the Tamil Tigers.

Public Safety Canada indicated that Canada has three complementary terrorist listing regimes implemented under the United Nations Resolutions on the Suppression of Terrorism, the United Nations Al-Qaida and Taliban Regulations, and Canada's Criminal Code, in accordance with which Public Safety Canada has responsibility for the terrorist list pursuant to section 83.06 of the Code; there are currently 44 persons or entities on that list. The Department of Foreign Affairs and International Trade takes the lead role with respect to lists and regulations under the United Nations Act, while the Office of the Superintendent of Financial Institutions notifies financial institutions of the sanctions imposed on entities.

According to Public Safety Canada, when a person or entity is placed on a terrorist list, financial institutions are required to freeze the assets of that person or entity, and persons in Canada and Canadians abroad are prohibited from knowingly dealing with the assets of that person or entity. Furthermore, Public Safety Canada indicated that persons in Canada and Canadians abroad are required to notify CSIS or the RCMP of property in their possession that belongs to a terrorist group, and that reporting entities must submit terrorist property reports to FINTRAC.

With respect to anti-terrorist financing, the Canadian Life and Health Insurance Association Inc. argued that a single government entity should maintain a useful, up-to-date and cost-efficient consolidated list of terrorist groups.

M. Freezing of Assets and Property

According to Public Safety Canada, in Canada, there is currently about $200,000 in frozen assets belonging to persons or entities on a terrorist list.

According to the Department of Foreign Affairs and International Trade, on 23 March 2011, the Governor in Council introduced regulations under the Freezing Assets of Corrupt Foreign Officials Act to freeze the assets and property of politically exposed foreign persons at the request of the Government of Egypt and the Government of Tunisia. It indicated that, to date, 268 persons – 123 in respect of Tunisia and 145 in respect of Egypt – have been listed in the regulations and that, in total, the Government of Canada has frozen residential property valued at $2.55 million and accounts containing $122,000. As well, the Department indicated that the assets of persons from Libya have also been frozen based on decisions made by the United Nations Security Council pursuant to the United Nations Act; at one time, more than $2 billion in assets belonging to persons and entities from Libya were frozen.

N. Disclosures, Criminal Investigations and Prosecutions

With respect to law enforcement agencies, KPMG Forensic noted that, according to Capra International Inc.'s 10-year review of Canada's anti-money laundering and anti-terrorist financing regime, about 80% of the case disclosures sent by FINTRAC to the RCMP were associated with ongoing cases, while proactive case disclosures made up 20% of all FINTRAC disclosures. It also indicated that the RCMP may not have the resources to investigate proactive case disclosures. KPMG Forensic recognized that there are many intangible benefits to the current regime, as FINTRAC disclosures can assist open investigations by providing additional information about suspects and their activities as well as by identifying as-yet-unknown associates. To address the problem of allegedly inadequate law enforcement resources, KPMG Forensic suggested that the federal government should provide additional resources to the RCMP's Integrated Proceeds of Crime units to enable the proactive disclosures received from FINTRAC to be addressed.

The RCMP stated that, in 2010, it had initiated investigations based on 93 proactive disclosures from FINTRAC. Of those 93 investigations, 69 have been concluded, 23 are still under investigation, and no investigation has resulted in charges being laid.

The Department of Finance warned against using prosecutions to measure the success of Canada's anti-money laundering and anti-terrorist financing regime. In particular, it stated that there is not a one-for-one link between FINTRAC disclosures to law enforcement agencies and successful prosecutions, and noted that information may also be associated with plea bargains and other beneficial results, including the deterrence of money laundering.

The Public Prosecution Service of Canada explained that it does not gather evidence, but it receives evidence that it uses to determine if the evidence is sufficient to lay charges.

As well, the Public Prosecution Service of Canada provided data on charges laid and their outcomes – including convictions and guilty pleas – associated with proceeds of crime, money laundering and terrorist financing. Over the 2005-2006 to 2009-2010 fiscal years, 425 money laundering charges were laid, with 11 convictions and 77 guilty pleas; as well, 32,149 charges of possession of property obtained through criminal activity were laid, with 385 convictions and 2,519 guilty pleas. Over that period, five terrorist financing charges were laid, with one conviction. In the 2010-2011 fiscal year, 46 money laundering charges were laid, with 4 convictions and 8 guilty pleas; 6,733 charges of possession of property obtained through criminal activity were laid, with 61 convictions and 578 guilty pleas. Finally, in that fiscal year, one terrorist financing charge was laid, with one guilty plea.

It recognized that it has no information about the role played by FINTRAC disclosures in criminal investigations or whether those investigations result in the laying of charges or other outcomes.

O. Charities

According to Public Safety Canada, it and its partner organizations work with the CRA to prevent abuse of the charity registration system. The CRA's Charities Directorate indicated that it reviews the list of registered charitable organizations to ensure that registered charities are not a source of terrorist financing.

According to the CRA, in 2006, amendments to the Act permitted FINTRAC to share information with the CRA regarding charities involved in terrorist financing. It also indicated that equivalent amendments were made to the Income Tax Act to permit the CRA to share information with FINTRAC and other government entities in relation to suspected terrorist financing.

P. Tax Evasion

According to the Department of Finance, with the July 2010 addition of tax evasion to the list of predicate offences under Canada's anti-money laundering and anti-terrorist financing regime, and subject to certain initial tests such as suspicion of money laundering, FINTRAC may disclose information to the CRA on suspected tax evasion. In discussing the 2010 changes, the Office of the Privacy Commissioner of Canada stated that it understood the rationale for these changes to the Act, since money laundering and tax evasion offences are often related.

According to the CRA, it received 147 proactive disclosures from FINTRAC in 2011; these disclosures resulted in 115 audits and $27 million in reassessed federal taxes. Moreover, the CRA commented that, over the last five years, it has received 800 proactive disclosures from FINTRAC, which has resulted in 500 audits and about $81 million in reassessed federal taxes. While these audits are civil assessments, the CRA noted that it also engages in criminal investigations for more serious matters; in any given year, it conducts approximately 150 criminal investigations. Moreover, the CRA said that, since the changes to Canada's anti-money laundering and anti-terrorist financing regime in July 2010, it has sent a voluntary information record to FINTRAC with each of those investigations. Finally, the CRA commented that, in 2011, charges were laid against 204 taxpayers for offences under the Criminal Code.

Q. International Comparison

According to the United Kingdom Financial Intelligence Unit (UKFIU), which is part of the Serious Organized Crime Agency and reports to the Home Office, it – like FINTRAC – is a member of the FATF and of the Egmont Group; as well, it must also meet the obligations set out in European Union Money Laundering Directives.

The UKFIU noted that its primary role is to manage suspicious activity reports (SARs) submitted by reporting entities; approximately 250,000 SARs were submitted to the UKFIU in 2011. It also indicated that it receives consent reports, which allow businesses to avail themselves of a defence against money laundering charges by seeking the consent of the UKFIU to undertake an activity that could be illegal and subject to criminal charges. Regarding the collection of information, the UKFIU highlighted its use

of a risk-based approach rather than an approach that involves threshold-based transactions.

Moreover, according to the UKFIU, SARS are stored on the ELMER database – which is accessible by law enforcement and authorized government agencies – for a period of six years, after which they are deleted. The UKFIU admitted that it is difficult to evaluate the success of the United Kingdom's anti-money laundering and anti-terrorist financing regime, as statistics that pertain to prosecutions or the amount of money seized by law enforcement agencies are not correlated with information obtained from the ELMER database; however, any money that is seized is given to law enforcement agencies and, consequently, those involved in the regime have an incentive to act in a manner that leads to success in the fight against money laundering and terrorist financing.

Finally, the UKFIU indicated that reporting entities want more feedback with regard to SARs and advancements in the technology that support the United Kingdom's anti-money laundering and anti-terrorist financing regime.

APPENDIX C – CAPRA INTERNATIONAL INC. RECOMMENDATIONS

The [Anti-Money Laundering and Anti-Terrorist Financing] Regime should be continued as a horizontal initiative with at least the same level of resourcing provided as currently exists. In addition, [the Department of] Finance, in consultation with the Regime partners, should conduct a review and provide recommendations regarding the funding allocations for the Regime partners that include a detailed assessment of the appropriateness and use by the partners of the current funding levels relative to their responsibilities for anti-money laundering and anti-terrorist financing (AML/ATF) activities.

[The Department of] Finance should lead an Interdepartmental Working Group with representation from Regime partners to determine future steps for continuing to improve the Regime's compliance with international commitments and to examine the following key issues:

a. regime-related legislation and regulations (Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and related enabling legislation of Regime partners) that may be constraining information sharing with the aim of identifying possible solutions that may require either legislative/regulatory amendments or operational changes to remove barriers to effective and efficient Regime operations;

b. concerns raised by reporting entities, as cited in this evaluation report, with a view to addressing their issues, as appropriate, regarding how requirements under the PCMLTFA are being complied with;

c. the inconsistencies identified in the Regime performance data and statistics to facilitate the Regime's ability to accurately report on its achievement; and

d. whether updates are required to the Regime's management and accountability framework and Logic Model, particularly in relation to the Regime roles and responsibilities of [the Office of the Superintendent of Financial Institutions], [the Department of] Justice (as it now exists after the creation of the Public Prosecution Service of Canada), and the Royal Canadian Mounted Police – Money Laundering unit, and in relation to the current expected outcomes that do not include reference to measures of the number of Money Laundering/Terrorist Financing charges laid and the number of convictions obtained.

[The Department of] Finance should consider conducting a public opinion survey to determine the level of public awareness of the Money Laundering/Terrorist Financing threat and of the AML/ATF actions of the Regime. This survey would provide a baseline of information to be used in future evaluations, and to assess the extent of public acceptance of the Regime.

APPENDIX D – WITNESSES

Organization	Name, Title	Date of Appearance	Committee Issue No.
Department of Finance	Allan Prochazka, Senior Analyst, Financial Sector Division	2012-02-02	9
Department of Finance	Diane Lafleur, General Director, Financial Sector Policy Branch	2012-02-02	9
Department of Finance	Annik Bordeleau, Senior Project Leader, Financial Crimes - Domestic, Financial Sector Division	2012-02-02	9
Department of Finance	Leah Anderson, Director, Financial Sector Division	2012-02-02	9
Canada Border Services Agency	Maria Romeo, Director, Emerging Border Programs Division, Border Programs Directorate, Programs Branch	2012-02-08	10
Canadian Security Intelligence Service	Allison Merrick, Director General DDEX (Discovery and Data Exploitation)	2012-02-08	10
Public Safety Canada	Michael MacDonald, Director General, National Security Operations Directorate	2012-02-08	10
Department of Public Safety	Yves Legeurrier, Director, Serious and Organized Crime Division	2012-02-08	10
Royal Canadian Mounted Police	Superintendent Jeff Adam, Proceeds of Crime Director	2012-02-08	10
Financial Transactions and Reports Analysis Centre of Canada	Barry MacKillop, Deputy Director, Financial Analysis and Disclosure	2012-02-09	10
Financial Transactions and Reports Analysis Centre of Canada	Chantal Jalbert, Assistant Director, Regional Operations and Compliance	2012-02-09	10
Financial Transactions and Reports Analysis Centre of Canada	Paul Dubrule, General Counsel	2012-02-09	10

Organization	Name, Title	Date of Appearance	Committee Issue No.
Financial Transactions and Reports Analysis Centre of Canada	Darlene Boileau, Deputy Director, Strategic Policy and Public Affairs	2012-02-09	10
Office of the Superintendent of Financial Institutions Canada	Alain Prévost, General Counsel in the Legal Services Division	2012-02-15	11
Office of the Superintendent of Financial Institutions Canada	Nicolas Burbidge, Senior Director of the Anti-Money Laundering and Compliance Division	2012-02-15	11
Public Prosecution Service of Canada	Simon William, Senior Counsel	2012-02-16	11
Office of the Information Commissioner of Canada	Suzanne Legault, Commissioner	2012-02-16	11
Public Prosecution Service of Canada	George Dolhai, Acting Deputy Director of Public Prosecutions and Senior General Counsel	2012-02-16	11
Canada Revenue Agency	Claude St-Pierre, Director General, Enforcement and Disclosures Directorate, Compliance Programs Branch	2012-02-29	12
Canada Revenue Agency	Alison Rutherford, Acting Director, Review and Analysis Division, Charities Directorate, Legislative Policy and Regulatory Affairs Branch	2012-02-29	12
Canada Revenue Agency	Stephanie Henderson, Manager, Special Enforcement Program, Enforcement and Disclosures Directorate, Compliance Programs Branch	2012-02-29	12
Canada Revenue Agency	Cathy Hawara, Director General, Charities Directorate, Legislative Policy and Regulatory Affairs Branch	2012-02-29	12

Organization	Name, Title	Date of Appearance	Committee Issue No.
Foreign Affairs and International Trade Canada	Sabine Nolke, Director General, Non-Proliferation and Security Threat Reduction	2012-02-29	12
Foreign Affairs and International Trade Canada	Michael Walma, Director, International Crime and Terrorism Division	2012-02-29	12
Office of the Privacy Commissioner of Canada	Jennifer Stoddart, Privacy Commissioner	2012-03-01	12
Office of the Privacy Commissioner of Canada	Mike Fagan, Manager, Audit and Review	2012-03-01	12
Office of the Privacy Commissioner of Canada	Carman Baggaley, Senior International Research and Policy Analyst	2012-03-01	12
KPMG Forensic	Susana Johnson, Head, Anti-Money Laundering Services	2012-03-07	13
Canadian Bankers Association	Bill Randle, Assistant General Counsel	2012-03-08	13
Credit Union Central of Canada	Marc-André Pigeon, Director, Financial Services Sector	2012-03-08	13
Credit Union Central of Canada	Evelyne Olivier, Internal Audit and Administration Officer, Winnipeg Police Credit Union	2012-03-08	13
Canadian Bankers Association	Stephen Harvey, Vice President, Chief Anti-money Laundering Officer, CIBC	2012-03-08	13
Mouvement Desjardins	Karine Bolduc, Certified Management Accountant and Director, Compliance and Anti-Money Laundering	2012-03-08	13
Capra International Inc.	Waldo Rochow, Evaluator	2012-03-14	14
Capra International Inc.	Gunter Rochow, President	2012-03-14	14
Capra International Inc.	Rick Reynolds, Evaluator	2012-03-14	14
Capra International Inc.	Michel Laurendeau, Senior Evaluator	2012-03-14	14

Organization	Name, Title	Date of Appearance	Committee Issue No.
Capra International Inc.	Ralph Kellett, Chief, Evaluation Practice	2012-03-14	14
Capra International Inc.	Eric Culley, Evaluator	2012-03-14	14
Canadian Life and Health Insurance Association Inc.	Frank Swedlove, President	2012-03-15	14
Ontario Lottery and Gaming Corporation	Derek Ramm, Director, Anti-Money Laundering Programs, Legal, Regulatory and Compliance	2012-03-15	14
Canadian Gaming Association	Paul Burns, Vice President	2012-03-15	14
Canadian Association of Independent Life Brokerage Agencies	Allan Bulloch, Chair, Legislative Committee	2012-03-15	14
Canadian Life and Health Insurance Association Inc.	Jean-Pierre Bernier, Special Advisor to the President, Risk Management	2012-03-15	14
Canadian Jewellers Association	David Ritter, President and CEO	2012-03-28	15
Jewellers Vigilance Canada Inc.	Phyllis Richard, Executive Director	2012-03-28	15
The Investment Funds Institute of Canada	Ralf Hensel, General Counsel, Corporate Secretary, Director, Policy - Manager Issues	2012-03-28	15
C.D. Barcados Co. Ltd.	Alexander Barcados, President	2012-03-28	15
Investment Industry Association of Canada	Amanda L. Archibald, Vice-President, Compliance and AROP, Raymond James Ltd.	2012-03-28	15
Investment Industry Association of Canada	Michelle Alexander, Director, Policy and Corporate Secretary	2012-03-28	15
Canadian Real Estate Association	Gary Simonsen, Chief Executive Officer	2012-03-29	15
Canadian Real Estate Association	David Salvatore, Director, External Relations	2012-03-29	15

Organization	Name, Title	Date of Appearance	Committee Issue No.
Western Union Financial Services (Canada), Inc.	Derek McMillan, Director, Compliance (International)	2012-03-29	15
MasterCard Canada Inc.	Richard McLaughlin, Senior Vice-President, Global Products and Solutions	2012-03-29	15
Canadian Institute of Chartered Accountants	Matthew McGuire, Chair, Anti-Money Laundering Committee	2012-03-29	15
Amex Bank of Canada	Wilf Gutzin, Vice-President and Senior Counsel	2012-03-29	15
Amex Bank of Canada	Scott Driscoll, Vice President, Chief Compliance Officer and Chief Anti-Money Laundering Officer	2012-03-29	15
Canada Regional Counsel, MasterCard Canada Inc.	Andrea Cotroneo, Vice-President	2012-03-29	15
Federation of Law Societies of Canada	Frederica Wilson, Senior Director, Regulatory and Public Affairs	2012-04-04	16
Canadian Bar Association	Ronald A. Skolrood, Member, CBA Proceeds of Crime Working Group	2012-04-04	16
Canadian Bar Association	Gaylene Schellenberg, Lawyer, Legislation and Law Reform	2012-04-04	16
Federation of Law Societies of Canada	John J.L. Hunter, Q.C., President	2012-04-04	16
Serious Organised Crime Agency	Alan Hislop, Head, United Kingdom Financial Intelligence Unit	2012-04-26	16
Imperial Tobacco Canada	Pénéla Guy, Director, Regulatory and Government Affairs	2012-05-02	17
Canadian Bank Machine Association	Chris Chandler, President	2012-10-17	24
Boating Ontario Association	Jeff Wilcox, Governor	2012-11-29	26

Organization	Name, Title	Date of Appearance	Committee Issue No.
Canadian Automobile Dealers Association	Richard C. Gauthier, President and Chief Executive Officer	2012-11-29	26
Heffel Fine Art Auctioneers	Andrew Gibbs, Ottawa Representative	2012-11-29	26
Financial Transactions and Reports Analysis Centre of Canada	Gérald Cossette, Director	2012-12-06	28

APPENDIX E – OTHER BRIEFS SUBMITTED TO THE COMMITTEE

ORGANIZATION	NAME
Art Dealers Association	Elizabeth Edwards
Department of the Treasury Financial Crimes Enforcement Network, United States	Bess J. Michael
Ontario Motor Vehicle Industry Council	Carey Smith
Anti-Money Laundering and Counter Terrorism Financing	Denis Meunier