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Chair

The Honourable Wayne Easter

Standing Committee on Finance

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• (1635)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I call the meeting to order.

First, my apologies. We're an hour late. I wanted to notify people so that they didn't come and sit here and wait the hour. We will start.

Pursuant to the order of reference of Monday, January 29 and section 72 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, we have a statutory review of the act.

I'll just introduce you as we go through each group. The first witness is the Financial Transactions and Reports Analysis Centre of Canada, with Luc Beaudry, the Assistant Director; Dan Lambert, the Assistant Director, Intelligence and Operations; and Joane Leroux, Assistant Director, Regional Operations.

The floor is yours, and then we'll go to OSFI.

Mr. Luc Beaudry (Assistant Director, Collaboration, Development and Research Sector, Financial Transactions and Reports Analysis Centre of Canada): Thank you, Mr. Chair, for inviting us today regarding your review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. Joining me at the table are my colleagues Dan Lambert, Assistant Director of our Intelligence Sector, and Joane Leroux, Assistant Director of our Compliance Sector.

I would like to take a few minutes this afternoon to describe FINTRAC's mandate and the role we play in helping to protect Canadians and the integrity of Canada's financial system. I will focus my remarks in particular on the contribution the centre makes to the money-laundering and terrorism financing investigations of Canada's police, law enforcement, and national security agencies. In the interests of time, I have shortened my remarks, but you still have access to my full opening statement.

FINTRAC was created in 2000 by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act to deter, prevent, and detect money laundering and terrorist activity financing. Under this legislation, FINTRAC, police, national security agencies, and thousands of businesses across the country all have a role to play in creating a hostile environment for those who seek to abuse our financial system or to threaten the security of Canadians.

The act establishes obligations for financial services entities, money services businesses, and other businesses subject to the act to establish a compliance program, identify clients, monitor business

relationships, keep certain records, and report specific types of financial transactions to FINTRAC, including suspicious transactions.

[Translation]

Recognizing that the overall effectiveness of Canada's anti-money laundering and anti-terrorist financing regime is dependent on businesses submitting high-quality and timely financial transaction reports, FINTRAC employs a comprehensive risk-based compliance program that ensures businesses subject to the act fulfill their obligations.

Every year, we complete hundreds of compliance examinations across the country, issue policy interpretations, and respond to thousands of inquiries in order to facilitate and ensure compliance with the act. As a result of these efforts and an ever-increasing commitment from Canadian businesses, FINTRAC received nearly 25 million financial transaction reports last year. This is up 20% over the past three years.

I would like to emphasize that safeguarding this information is an overarching consideration in all aspects of our operations. Clear principles for the protection of privacy are set out in the centre's governing legislation, which respects the Canadian Charter of Rights and Freedoms and the Privacy Act, and are reinforced by FINTRAC's own operational policies and security measures.

The financial transaction reports we receive from Canadian businesses every year are the lifeblood of our analysis and make it possible for us to do our intelligence work and, ultimately, to help protect Canada and Canadians.

Last year, we provided 2,015 disclosures of financial intelligence to our regime partners to aid their investigations of money laundering, terrorist activity financing, and threats to the security of Canada. Our financial intelligence is used to assist money laundering investigations in the context of a wide variety of criminal investigations, where the origins of the suspected criminal proceeds were linked to fraud, drug trafficking, corruption, and other criminal offenses.

•(1640)

[English]

The effectiveness of Canada's regime can be seen most clearly with Project Protect, a unique public-private sector initiative that mobilized partners across the country over the past couple of years to combat human trafficking in the sex trade.

With this initiative, Canadian financial institutions committed to tracking the money laundering associated with this illicit activity as a priority of their compliance programs. For our part, we worked closely with these institutions and our police and law enforcement partners to develop an operational alert. This alert focused on the types of financial transactions, financial patterns, and account activities that may raise suspicions of money laundering related to human trafficking and trigger the requirement to send a suspicious transaction report to FINTRAC.

As a result of these efforts, we received nearly 4,000 suspicious transaction reports, which led to the production of over 200 financial intelligence disclosures. To put a human face on this initiative, it has led directly to dozens of young Canadian women being rescued from the most deplorable conditions imaginable over the past year.

This type of public-private sector initiative is the first of its kind in the world, and we are pleased to say that there has been tremendous interest internationally in understanding and replicating it.

Here in Canada, we are hoping for the same level of success with Project Guardian, a similar public-private sector partnership that will see the mobilized efforts of Canadian financial institutions and money service businesses, FINTRAC, and Canada's law enforcement agencies brought to bear to combat the trafficking of illicit fentanyl.

[Translation]

In addition to contributing financial intelligence to the money laundering investigations of Canada's police and law enforcement agencies, we are also playing a key role in combatting terrorist activity financing in Canada and abroad.

Last year, FINTRAC provided 462 financial intelligence disclosures relevant to terrorist activity financing and threats to the security of Canada.

I would like to conclude by emphasizing that the success of Canada's anti-money laundering and anti-terrorist financing regime is dependent on the dedicated efforts of all players, from businesses on the front lines of Canada's financial system to prosecutors securing the conviction of money launderers and terrorist financiers. Together, we are producing significant results for Canadians.

Thank you, Mr. Chair. We will be pleased to answer your questions.

[English]

The Chair: Thank you very much, Mr. Beaudry.

I would say to all that we may have to invite you back because we lost an hour and I know there are a lot of questions for FINTRAC. That's just to give you that warning in advance.

We have the Office of the Superintendent of Financial Institutions, Christine Ring, Managing Director, Anti-Money Laundering and Compliance Division, and Erin Feeney, Director of the same division.

Go ahead, Ms. Ring.

•(1645)

Ms. Christine Ring (Managing Director, Anti-Money Laundering and Compliance Division, Office of the Superintendent of Financial Institutions): Thank you, and good afternoon.

As the chair said, my name is Christine Ring, and I'm the Managing Director of the AML and Compliance Division at OSFI. With me is Erin Feeney, one of my directors.

To respect the members' time for questions, I will also shorten my remarks, which were tabled with the clerk.

OSFI's mandate is to protect the depositors, policyholders, and creditors of the institutions we supervise while allowing them to compete and take reasonable risks. My division's efforts focus on whether an institution has put in place the appropriate risk management and controls to detect and deter money laundering and terrorist financing.

Our supervisory approach allows us access to a wide range of supervisory information, not just information aligned to requirements under Canada's AML legislation. This means that we can see beyond technical compliance and assess the effectiveness of the overall AML/ATF governance framework established by a federally regulated financial institution.

OSFI's supervisory approach also reflects the nature, size, complexity, and risk profile of an institution. This means that not all measures taken by one institution will be effective at all institutions. Some systems or rules can put a reporting burden on entities, regulators, and Canadians that may not result in an optimal balance of privacy, security and safety, and soundness. Finding this balance in an ever-changing world is why I'm happy to appear beside our peer agencies before this committee.

Together we would be pleased to answer any questions that the committee may have.

The Chair: Thank you very much, Ms. Ring.

Turning to Global Affairs, I have it listed here as the Department of Foreign Affairs, Trade and Development. I don't know what the technicalities are around that, but that's what I have.

Mr. Bell is the Executive Director, International Crime and Terrorism.

Mr. Jamie Bell (Executive Director, International Crime and Terrorism, Department of Foreign Affairs, Trade and Development): Thank you, Chair. It is in fact Global Affairs Canada, but we have many names from the past and we recognize them all. Thank you for your memory of this last name.

It's my pleasure to be here before you and this committee for your review and to support this review. As the chair said, my name is Jamie Bell. I'm the Executive Director of the International Crime and Terrorism Division at Global Affairs Canada.

Criminals and terrorists do not respect national borders. Transnational crime and terrorism as well as terrorist financing and money laundering are global problems that require global solutions. As a result, Global Affairs Canada is an active partner in the broader efforts of the Government of Canada to counter illicit financial flows.

[Translation]

Although Global Affairs Canada does not have direct responsibilities under the Proceeds of Crime and Terrorist Financing Act, and it does not receive funding through Canada's anti-money laundering and anti-terrorist financing regime, our activities support the regime's goals of detecting and deterring money laundering and terrorist financing.

Given the international nature of money laundering and terrorist financing, any country that does not have adequate means for prevention, detection, investigation, prosecution, and sanctioning perpetrators may cause risk to other countries.

To help countries fill those gaps, Canada provides technical assistance through funding projects around the world.

[English]

Global Affairs Canada is responsible for two programs that contribute to enhancing the capacity of beneficiary states to fight terrorism and transnational organized crime through the provision of technical assistance. These two programs are the anti-crime capacity-building program and the counterterrorism capacity-building program.

Both of these programs reflect a whole-of-government approach, drawing on the expertise of Government of Canada departments and agencies to effectively deliver security capacity-building to beneficiary states, supporting them to better manage and respond to security threats.

These programs also aim to contribute to Canada's national security and protect Canadian interests, such as the safety of Canadians abroad, the provision of a more stable international environment for Canadian commerce and trade, and an increase in Canada's international reputation.

● (1650)

[Translation]

The capacity building programs currently have 13 operational projects valued at nearly \$11 million focused on or targeting money laundering and terrorist financing.

[English]

Assistance on money laundering and countering the financing of terrorism is provided through a number of different service providers, but primarily through projects implemented by the World Bank, the International Monetary Fund, and the United Nations Office on Drugs and Crime. In some cases, the anti-crime capacity-building program and the counterterrorism capacity-building program also fund technical assistance provided directly by other government departments and agencies, with recent projects implemented by FINTRAC and the RCMP, for example.

These capacity-building projects that Canada has supported have helped to, among other things, improve prevention and detection of money laundering and terrorist financing; enhance quality, timeliness, and volume of reportable data from reporting entities; equip law enforcement agencies in targeted countries with skills and knowledge to conduct financial investigations and profiling, including freezing, seizing, and confiscation of assets; and improve the understanding of legislative provisions in national legal frameworks related to countering money laundering and the financing of terrorism.

Also of interest to this committee will be the role that Global Affairs Canada plays in the domestic implementation of Canada's international legal obligations with regard to terrorist financing. We oversee the listing regime associated with the United Nations Security Council resolution 1267 through the United Nations al Qaeda and Taliban regulations.

The United Nations al Qaeda and Taliban regulations were created in 1999 under Canada's United Nations Act to implement the UN Security Council resolution 1267 and its successor resolutions, which require states to freeze the assets of the Taliban, Osama bin Laden, his associates, and members of al Qaeda and prevent the supply, sale, and transfer of arms and technical assistance to them.

Once an individual or an entity is added to the UN's consolidated list, all federally regulated financial institutions are obligated to comply and have a duty to determine whether they are in possession of or in control of the relevant property and to report this to their principal regulator. These include asset freezes, travel bans, and arms embargoes.

Finally, Global Affairs Canada also contributes to Canada's engagement at a number of international fora where money-laundering and terrorist financing issues are addressed, including the United Nations, the Organization of American States, and the Counter-ISIL Finance Group, as well as in a number of bilateral consultations.

[Translation]

For each of these fora, GAC coordinates with Finance Canada and other regime partners to ensure that Canada's domestic anti-money laundering and countering the financing of terrorism—AML/CFT—policies are accurately represented at international meetings and that regime partners are kept apprised of relevant developments at these meetings.

[English]

Thank you for your attention today. I'd be more than happy to answer any questions on my department's role in this regime.

The Chair: Thank you, Mr. Bell.

We will turn to Innovation, Science and Economic Development Canada, with Mr. Schaan, Director General, Framework Policy Branch, Strategy and Innovation Policy Section.

Mr. Mark Schaan (Director General, Marketplace Framework Policy Branch, Strategy and Innovation Policy Sector, Department of Industry): Thank you, Mr. Chairman and members of the committee, for the invitation to appear before you.

My name is Mark Schaan, and I serve as Director General of the Marketplace Framework Policy Branch in the Strategic and Innovation Policy Sector of Innovation, Science and Economic Development Canada.

[Translation]

The sector broadly includes such policy areas as innovation, telecommunications, and clean technology. However, my branch specifically analyzes the role of marketplace framework laws in meeting the department's objectives.

While the review you are now conducting covers specifically the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, or PCMLTFA, it should be acknowledged that other pieces of legislation contribute to trust and confidence in the marketplace. In that sense, they reinforce the objectives of the PCMLTFA.

Most relevant for today's discussion are the Canada Business Corporations Act, or CBCA, the Personal Information Protection and Electronic Documents Act, or PIPEDA, and the Competition Act.

We are all aware of the fallout from international information leaks that have shown the need for clear and coordinated action to detect and deter money laundering, terrorist financing, tax evasion, and tax avoidance, while continuing to facilitate the ease of doing business in Canada. Innovation, Science and Economic Development Canada, alongside government partners, has been at the forefront of a national strategy to strengthen the transparency of legal persons and legal arrangements, and to improve the availability of beneficial ownership information.

•(1655)

[English]

As you may already know, security holders may decide to nominate a third person as nominee to hold and trade the security on their behalf. In the case of a shareholder, a nominee would be listed as a registered shareholder in the share registry of a corporation.

Nominees can be appointed for good business reasons. One need only think of shares of publicly traded companies held through mutual funds or investment brokers. However, legitimate business practices should not foster a climate in which secrecy reigns to the benefit of wrongdoers who use the shadow of nominees to facilitate their criminal activity.

Corporate governance is an area of shared federal-provincial-territorial jurisdiction in Canada, so the Canada Business Corporations Act, CBCA, alone is not enough to address the issue of beneficial ownership. Only about 10% of corporations in Canada are federally incorporated, so an effective legal response to this issue naturally requires strong federal-provincial-territorial co-operation to ensure we have consistent standards across the country.

To this end, following up on budget commitments made in 2017, federal officials have been working with provincial and territorial counterparts toward implementing new standards for corporate and beneficial ownership transparency. Provincial and territorial interest in this process has proven to be strong, and provincial and territorial officials have been engaging with us by providing practical and thoughtful contributions to the development of a Canadian approach.

This partnership hit an important benchmark in December 2017 when the federal, provincial, and territorial ministers of finance agreed on an initial phase to a legislative strategy to enhance the transparency of beneficial ownership of corporations. The objective is simple and targeted: corporations should be required to disclose the identity of beneficial owners who control the corporate decision-making process through voting shares or because they are in a position to materially influence company decisions.

The details of the approach are currently under discussion with the provinces and territories, but with the proposed changes, Canada would bring its corporate standards further in line with those of other OECD countries.

[Translation]

I should also briefly mention the relevance of Bill C-25 currently before the Senate. If adopted, this bill would improve corporate transparency and accountability through the abolition of bearer share options and warrants. These instruments can be used to transfer securities without their beneficiaries having to register the transfer.

PIPEDA is technology-neutral and principles-based legislation that came into force in 2001 and sets the ground rules for how private-sector organizations collect, use, or disclose personal information in the course of commercial activities across Canada. It also applies to personal information of employees of federally regulated works, undertakings, or businesses—organizations that are federally regulated such as banks, Faith airlines, and telecommunications companies.

As a general rule, PIPEDA requires organizations to obtain the individual's consent for the use, collection, or disclosure of his or her personal information. Individuals can then choose whether or not to consent to the collection, use, or disclosure of their personal information.

[English]

With respect to certain uses and disclosures of personal information, PIPEDA provides for exceptions to the requirements related to informed consent. For example, organizations subject to PIPEDA can disclose personal information to a government institution without the knowledge or consent of an individual if the institution identifies its lawful authority and indicates that it suspects that the information relates to national security, defence, or international affairs, or for the purposes of enforcing a law of Canada.

PIPEDA also makes specific reference to disclosure to government institutions in accordance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. PIPEDA also allows for the disclosure of certain personal information to other private sector organizations without knowledge or consent in cases of suspected fraud or for the purpose of investigating a contravention of a law in Canada.

As a statute of general application, PIPEDA has broad scope and generally overrides other provisions that can be found in other federal statutes, unless expressly provided for in the other statute. As such, PIPEDA applies generally to all sectors of the economy and does not target specific sectors. Under the PIPEDA framework, some provinces have privacy legislation for the private sector that has been deemed substantially similar to PIPEDA, which means that such legislation applies instead of PIPEDA in some cases.

Protection of personal information is also included in several federal and provincial sector-specific statutes. The federal Bank Act, for example, contains provisions regulating the use and disclosure of personal and financial information by federally regulated financial institutions, and most provinces have legislation dealing with consumer credit reporting. As noted earlier, the presence of other legislation that has privacy-related provisions does not necessarily mean that PIPEDA does not apply.

● (1700)

[Translation]

The Minister of Innovation, Science and Economic Development is responsible for PIPEDA, while the Office of the Privacy Commissioner of Canada and the federal courts are responsible for its enforcement. If an individual believes that his or her personal information has been mishandled by an organization, he or she can file a complaint with the Privacy Commissioner, who, as an independent agent of Parliament, will investigate the complaint.

The Competition Act is a law designed to protect and promote competition in the Canadian marketplace, through administration and enforcement by the Competition Bureau. Most of its key provisions address classic anti-trust principles, such as cartel activity and merger review, but the act also contains a set of civil and criminal provisions that address deceptive marketing, particularly false or misleading representations, which includes mass marketing fraud.

[English]

I would be happy to respond to any questions you may have on any of these statutes and their relations to the PCMLTFA.

[Translation]

Thank you.

[English]

The Chair: Thank you, all.

Before I turn to questions, you're all aware of the discussion paper on the finance department's website, I assume. Was everyone involved in the assistance in getting that discussion paper there?

Okay. Thank you.

We'll go to Ms. O'Connell for five minutes.

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): Thank you, Mr. Chair.

I'm going to start with FINTRAC. I have a number of questions for everyone.

The purpose of this study we're working on is to identify gaps and make recommendations to ensure the legislation is actually working and changing with the times.

One of the areas that has been highlighted as having some gaps is FINTRAC. I read recently—and please correct me if anything is incorrect—that as of May 2016, FINTRAC has not been able to levy any fines, due to a court challenge. That seems to be a consistent thread in some of the gaps: the legislation is not meeting the standard rule of law, essentially, and it's being overruled.

This committee is going to be tasked with making recommendations to close some of these gaps and ensure that the legislation actually works. It's my understanding that FINTRAC has been working to meet the court's recommendations in terms of accountability and transparency, and that is not due out until the summer.

What can you offer this committee in terms of recommendations to address the fact that under the legislation at this point, FINTRAC is completely unable to even levy a fine? Obviously more is needed, and we can't necessarily wait until the summer for these consultations and to make the recommendations of this study. Can you suggest what this committee needs to be looking at to close the gaps in FINTRAC's ability, essentially, to do its job?

Mr. Luc Beaudry: Thank you very much, Mr. Chair.

You're right. In May 2016, the Federal Court of Appeal in the matters of Kabul Farms and Max Realty agreed with the FINTRAC assessment that these entities violated the PCMLTFA. The court recognized FINTRAC's authority and its assessment that violations had occurred.

The court also ruled, essentially, that the information that was provided to the penalized entities about the penalty amount was insufficient. The court really ruled on that matter, and not on the substance of the FINTRAC authority to issue a penalty.

We are now reviewing every unique factor that could be detrimental to the penalty amount based on the harm done. Those are all criteria that are currently in the legislation.

We're committed to being completely transparent about that new method. We want the reporting entities to be very well informed and understand in plain language the consequences of violations under the PCMLTFA.

It's important for the committee to understand that we do not penalize for money laundering. This is not the role of FINTRAC. We penalize for violations to the PCMLTFA, which are administrative violations.

There are approximately 200 violations possible under the act, so that's what we look at. That's what we have to assess, and we have to determine what harm is done to the regime when they violate the—

● (1705)

Ms. Jennifer O'Connell: I don't have a lot of time. I don't mean to cut you off, but I have to get this out.

The authority isn't challenged, but if your mandate is to make sure that agencies such as banks—and that was a major fine that was levied—are fulfilling their obligations to report, and you don't have the ability because of a lack of legislation or wording that actually holds up, then how can you exercise that authority if you have no teeth, and for at least two years? We still haven't seen the results of this work.

Are the people working on this also consulting with the legal community to ensure that this time it actually stands up, or should this committee be recommending some further oversight to ensure that we don't spend another two years without any teeth in FINTRAC? Your authority might be there, but really, what is the authority if you're not able to actually act on it?

Mr. Luc Beaudry: We would certainly welcome the committee's views on this issue. I think the consultation paper that you have in front of you alludes to this. Whether or not a penalty calculation should be put in the regulations is one of the options. One other option that is being looked at, and we're looking for your views as well, is the discretion of the director to name a penalized entity. Yes, we are welcoming your views on this.

There are consultations ongoing within FINTRAC. The work is ongoing. We're consulting with the Department of Justice as well. In the next few months, by summer 2018, we hope that review will be completed.

Maybe I can ask my colleague Madame Leroux, who is responsible for the compliance program, to provide you with further details.

The Chair: Perhaps you can be fairly quick, Ms. Leroux.

Mr. Luc Beaudry: Yes.

Ms. Joane Leroux (Assistant Director, Regional Operations, Financial Transactions and Reports Analysis Centre of Canada): Yes, I will.

I just want to add to the very good question, and we're with you. We're trying to screen the regime program. The review is ongoing because what the court has said is about the calculation of the penalty. As you said, the authority is there, but the calculation is by policy presently. We're reviewing the policy itself, and all the cases in the pipeline.

We have other mechanisms to address non-compliance. I think that's the important message to retain. Those files in abeyance will be looked at with the new lens of this new policy. We want to make sure that it meets the transparency requirement. It's not only for the penalty program, but also holistically, because the penalty is imposed after a compliance assessment. We have to look at transparency in the whole continuum of what we do.

We have other mechanisms, such as the non-compliance disclosure to law enforcement. There are other measures that we can take in the meantime.

The Chair: Thank you.

Mr. Kmiec is next.

● (1710)

Mr. Tom Kmiec (Calgary Shepard, CPC): I have two sets of questions, first for Mr. Bell and then for OSFI.

Mr. Bell, you mentioned drugs at one point. There are three international treaties that Canada belongs to: the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Government of Canada has the intention, by July 1 of this year, to decriminalize and legalize cannabis. It does form part of the black market and it is how some terrorist organizations as well as other illegal organizations finance themselves. They use the proceeds of trafficking to sustain their organizations.

What work has your organization done to get ready for that moment when cannabis becomes legal in Canada? Have you done any work? Is Canada pulling out of these treaties? How does it impact the monitoring of organizations that may be doing cannabis today, and were doing maybe heroin and cocaine to finance their activities, but have also been doing...? Then, on July 1, cannabis will be legal. How does that fit in? What are you doing to get ready for that moment?

Mr. Jamie Bell: Thank you very much for that question.

Chair, if I may, I'd respond by saying that we're here to speak about the anti-money laundering act and the measures that Global Affairs Canada is involved in overseas with organizations to improve their capacities. We're doing that through organizations like the UN Office on Drugs and Crime, and we're providing capacities to various entities abroad to deal with all sorts of crimes and all sorts of matters around drugs. That includes money laundering associated with drugs. That will continue. That work is the work that Global Affairs Canada is focused on.

Mr. Tom Kmiec: Mr. Bell, you didn't answer my question.

Canada will legalize cannabis on July 1. Cannabis is sold to produce money. Money is then used by organizations. Some of them are terrorist organizations. Some are criminal organizations that do it solely.... You don't sell drugs "just because". You sell it because you want to make money to use for an illicit purpose.

Is your department getting ready for that moment when Canada has it legalized? Are you getting ready for it? Are you doing anything else? Are you taking the time to distinguish among different organizations and how they finance themselves today, yes or no?

Mr. Jamie Bell: Chair, with respect, I would respond again that we're here to talk about the study into these acts regarding financial matters. We are, in Global Affairs Canada, continuing all the same acts, all the same activity abroad that we've been doing to support international anti-crime measures, and we will continue to do that throughout this year and after the passing of this next act.

The Chair: I do believe it is a fair question. Are there implications in what you do internationally with the new act coming into force in Canada, and what are those implications? Are discussions ongoing to try and deal with whatever the implications may be? I think that's a fair question.

Mr. Jamie Bell: Chair, I agree it's a fair question. I think what I could do is take that question back on notice and return to the committee with a proper answer.

The Chair: That's fine. Is that okay, Tom?

Mr. Tom Kmiec: Could we put a date on that? Could it be within two weeks of today's meeting?

Mr. Jamie Bell: We're at the chair's availability.

The Chair: We're out for a week. If we could have it in a couple of weeks, that would be dandy.

Mr. Tom Kmiec: Great.

Can I now move on to OSFI, please?

The Chair: Go ahead. I took some of your time.

Mr. Tom Kmiec: Thank you.

Out of curiosity, do you calculate the cost of compliance for business to comply with the rules set by OSFI? In this case I'm referring specifically to the banks. At any point did you calculate the cost of compliance for the rules that you set in order for the banks to comply with the regulations set forward to prevent money-laundering operations?

I know people who work in the banking industry, so I'm familiar with some of what happens in the branches to try to catch persons who are engaging in illicit activity and trying to conceal it. I'm just curious if you collect any data on the cost of compliance.

Ms. Christine Ring: Our focus is with respect to the quality of controls that the institutions put in place to manage their risks. With respect to the cost of compliance, we do not aggregate that information.

Mr. Tom Kmiec: Mr. Beaudry, does FINTRAC collect any information on compliance costs for private organizations?

• (1715)

Mr. Luc Beaudry: No, we do not aggregate those costs. We don't have those figures. We understand that the private sector is investing heavily in compliance matters, and we are very sympathetic to this expense. That's why we're trying to alleviate their burden as much as possible.

An example of that, if I can offer one, is Project Protect. Again, what we did, essentially, was sit down with the reporting entities, particularly in the banking sector, and identify to them the types of transactions that would be the most meaningful to report to FINTRAC in the context of human trafficking. What was distributed to committee members before this meeting is about Project Guardian, which is in the same vein.

If we're talking about the trafficking of illicit opioids and fentanyl, what we did essentially was sit down with the banking community and major money services businesses to identify what would be the most meaningful information to provide to FINTRAC to help us combat money laundering in the illegal opioid field. Recognizing the cost of compliance, we keep an open dialogue—and what we think is a positive dialogue—with the private sector to make sure that we achieve the right balance of keeping the country and Canadians safe while combatting money laundering, terrorist financing, and other threats to the security of the country, and protecting the privacy of citizens, all while making sure that the private sector does not bear all the costs of compliance to the regime.

It is a fair question, and this is something we take very seriously at FINTRAC.

The Chair: Mr. Julian is next.

[*Translation*]

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you very much, Mr. Chair.

I hope we'll be able to see all of you again. Since we have little time, it will be difficult to answer all of our questions. Our time was cut short today, but I hope we'll be able to continue what we started.

I would like to thank you for your extremely important work. You are looking at resource issues, and the committee is trying to make sure that everything is in place so that you can do your job properly.

I would like to tell you about two articles that appeared in the paper over the past 24 hours. First, there's one in *La Presse*, which covers cannabis and investments from tax havens. Mr. André Lareau is quoted and, roughly translated, this is what he said:

Tax laws are making Canada a real sieve. We tell foreign investors: "Find yourself a Canadian gadget that will increase significantly in value, realize a quick gain, you won't pay tax here, and with the right structure, you won't pay tax anywhere. And it's all perfectly legal."

My first question is on how departments and organizations coordinate their efforts in terms of tax havens. Even though you were consulted, Canada recently signed an agreement with Antigua and Barbuda and with Grenada.

Are departments and organizations consulted when Canada signs such agreements with tax haven countries, which have an enormous impact on money laundering?

[*English*]

The second article I wanted to cite just came out an hour and a half ago from the prestigious *The Guardian* newspaper in Britain. The headline is "How Canada became an offshore destination for 'snow washing'". What follows are just brief extracts:

Canada is one of the world's most opaque jurisdictions when it comes to identifying the owners of private companies and trusts, according to anti-corruption campaigners who say that more rigorous checks are required to obtain a library card than to set up a company in the country.

"Anyone can start a company in Canada. It costs about C\$200 and the owner of the company can remain completely anonymous," said lawyer Mora Johnson, who recently authored a report detailing the country's lax rules around corporate registration.

A 2013 study by American researchers ranked Canada worst in the world among 60 countries, along with Kenya, in terms of setting up an untraceable company.

This opacity – described in a recent Transparency International report as the "getaway car of financial crime" – has become the perfect vehicle for "snow washing": the use of Canada's positive image to tout the country as an offshore destination where suspect transactions can be legitimised.

It goes on to cite in 2009 estimates of \$15 billion a year being laundered each year in Canada, mostly through companies where ownership is unclear.

The two questions in English I would like to ask are, first off, what is the amount now that you estimate is being money-laundered through Canada, whether that's through offshore tax havens, an increasing number of which we're signing treaties with, or through other means? What do we need to change? Obviously, you're working very hard. You're doing a lot of good work with scant resources, but when we're getting the reputation internationally for snow washing, what needs to change so you can do your work more effectively?

• (1720)

The Chair: Who wants to start?

Mr. Luc Beaudry: I think it's a very good question again.

To address your first question, we don't know what the exact amount is for money laundering and terrorist financing in Canada. We don't have those numbers, and I don't think anyone has them. To arrive at that number, we would have to calculate the amount of the drug trade in Canada, or the extent of fraud, the extent of corruption, the extent of tax evasion, and any other crime that generates money, so no, we don't have those numbers.

We would also have to take into consideration the criminality that occurs overseas when the proceeds are placed in Canada.

We have a very attractive financial system. It is very sound, and very solid, so yes, Canada's an attractive place to launder money. Our financial sector has robust safeguards in place, but because of its soundness, this is a place where international investors want to be.

When it comes to beneficial ownership, I think this is one of the key aspects of this review, Mr. Chair, with all due respect. I think this can go a long way to fill gaps that have been identified internationally, particularly by the Financial Action Task Force. I think the Department of Finance rightly identified this issue and is consulting on it. We are looking forward to the views of this committee on this issue.

In relation to tax evasion, I will let Mr. Lambert elaborate a little bit on this matter for you.

The Chair: Go ahead, Mr. Lambert, and we're going to quickly run out of time. We're out of time for you, Peter, but give us a quick answer, Mr. Lambert.

Mr. Dan Lambert (Assistant Director, Intelligence, Operations, Financial Transactions and Reports Analysis Centre of Canada): I would just mention something in the context of your question on the offshore aspect and so forth, and the aspect of the Panama papers.

Earlier today, CRA announced that they had done a number of searches. Much of the information and the intelligence that was provided that supported those searches was as a result of the significant contribution that FINTRAC has made in relation to working on tax evasion and money laundering in Canada.

The Chair: Okay. I can see that we're going to have you back.

Mr. Fergus is next.

[Translation]

Mr. Greg Fergus (Hull—Aylmer, Lib.): Thank you very much, Mr. Chair.

I would like to thank all the witnesses who are here today.

Since it is late, I will ask my questions right away.

Mr. Beaudry, what measures are G20 countries taking to fight money laundering and the financing of terrorist activities? What measures should Canada take, given what the G20 and the Financial Action Task Force, or FATF, are doing to fight money laundering?

Is there a type of information that is not in the transaction reports, but that FINTRAC should be collecting?

Ms. Ring, how do your office and FINTRAC share information as part of their memorandum of understanding? Does sharing information help to fight money laundering and terrorist financing? Are there areas where the memorandum of understanding could be improved to strengthen co-operation between your two organizations?

• (1725)

Mr. Luc Beaudry: Thank you very much for your question.

The FATF conducted an evaluation and found two important things about the Canadian system. The first is that lawyers do not act as reporting entities and the second is with regard to beneficial owners. These two factors are truly crucial to improving the system. They are difficult and complex issues. Including the legal profession is particularly complex from a constitutional standpoint.

The committee's study will be rather important. The weakness in the Canadian system that was underscored by the FATF is quite sizable.

In terms of information that could be useful to FINTRAC, they could first look at e-currencies,

[English]

the cryptocurrencies, Bitcoin and the others.

This aspect was not envisaged when FINTRAC was created, when the law was originally adopted. I think it needs to be updated in that respect. I think the government signalled that.

I think the second category is in relation to foreign money service businesses that offer services to Canadians. Again, when the legislation was adopted in the early 2000s, this was not envisaged. I think this is a sector that is emerging strongly. We're talking here about the PayPals of the world, and others. This financial service is offered to Canadians, so we need to make sure the information they have that could be relevant to money laundering or terrorist financing is sent to FINTRAC. I think the government is also committed to looking at that issue.

I think closing those two information gaps would advance our work significantly.

Ms. Christine Ring: There is an MOU that permits the exchanging of information between OSFI and FINTRAC. We do exchange information with federally regulated financial institutions.

In addition to that, we have been working collaboratively to work more efficiently and reduce the regulatory burden on our on-site assessments of the FRFI, the federally regulated financial institutions sector. This is an ongoing relationship that we have with each other. We recognize each other as important regime partners and—

Mr. Greg Fergus: Great; I'm glad you guys have an MOU and it's working out. I knew that, but I was just wondering in what ways you can be working better.

Can you identify places where you feel there are some gaps? What would be desirable to make sure there is even more co-operation, or more effective co-operation?

Can you give us examples? You said you're working more efficiently. How, and then what are those gaps?

Ms. Christine Ring: Right. In the FATF report, the Financial Action Task Force mutual evaluation report, it was recognized that there could be opportunities for us to work more efficiently. We are very focused on the scope of our work with respect to on-site assessments, to ensure that we are reducing the possibility of duplication of efforts and that we are leveraging each agency's strengths when we are assessing the quality of an AML/ATF program at a FRFI.

In addition to that, the regime itself is more proactive with respect to working groups, and both OSFI and FINTRAC, with our colleagues at the Department of Finance, are engaging with the private sector, with the financial institutions, with respect to ongoing issues, communication, and sharing of information that helps them to comply with their obligations under the AML legislation and expectations in the regime.

• (1730)

The Chair: Thank you.

In order to balance it up, can we go five minutes over, so it's balanced in terms of the questions? Agreed?

Some hon. members: Agreed.

The Chair: Mr. Albas, you have five minutes.

We were supposed to adjourn at 5:30 p.m. I know it's Valentine's Day, and we get pretty severe orders to that effect, I'm told.

Go ahead, Mr. Albas.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Well, since it's Valentine's Day, I just wanted to reinforce the expectation of the committee to Mr. Bell that when we ask for an answer, our constituents are expecting us to do our job, so I do hope that you come back with a substantive response to MP Kmiec's concerns, and I do appreciate the chair adding that to do our job well, we deserve those things.

I'd like to go to FINTRAC.

Mr. Beaudry, first of all, in regard to the ongoing cost of compliance with FINTRAC, if you don't measure it, how do you know you're being efficient?

Mr. Luc Beaudry: We are very confident in the efficiency of the agency when we see results that are being published and shared with our partners. Law enforcement, national security agencies, and others regularly come to FINTRAC and increasingly come to FINTRAC for financial intelligence.

Mr. Dan Albas: Just to be clear here, there's a clear difference here between having efficacy and efficiency. Credit unions in my area and right across the country often are small. Banks and other financial institutions may move out. I hear they have common reporting standards and must show FATCA as well as FINTRAC compliance. Those costs are continually going up, and you come here and say you don't track that. I understand your mission is absolutely necessary, noble, and needs to be done, but that kind of attitude doesn't really promote confidence that you're doing this in the most efficient way.

What gets measured gets done, but you can also improve upon those things, so I really would hope you're also looking at this.

I have heard through my discussions—and I've spoken with hundreds of credit unions—that there have been cases of FINTRAC placing a fine over the designation of a particular type of work that someone does and fining that particular institution for every transaction that person did.

Have you ever heard of that before?

Ms. Joane Leroux: Maybe I can help bring some clarity to that, especially with the credit unions.

They are a big centre in the regime. When we do look at a fine, it starts with a compliance examination. As I said before, we have a risk model that selects entities for a compliance exam to see if they're fulfilling their obligation under the act. That's the extent of it. It's not an investigation.

We look at a scope, a sample. We would look at a particular scope or period of time in the transaction, and at a certain sample, and it's only in cases of very egregious non-compliance.

Mr. Dan Albas: Have you heard of that before? A small administrative error was made, and they were fined for every single transaction after that clerical error. To me, that doesn't sound like an effective use of anyone's time.

Ms. Joane Leroux: Well, I haven't heard of that.

We look at a sample, as I said. It wouldn't be all transactions. Usually we look at a six-month period. We'll do a sample of a hundred large cash or bank deposits, or whatever. Our program itself works on instances, so it will look at each instance of non-compliance. It's probably from that angle that you're hearing that. There's reasonable judgment. We go at the heart of it and find the cause, but if it's a system glitch or whatever—

• (1735)

Mr. Dan Albas: Okay. I would hope so, because it sounded a bit over the top. Again, it's hearsay.

That said, I'd like to talk to OSFI.

In the last session, we had Department of Finance officials here. They said FINTRAC follows a lot of transactions in the non-regulated mortgage space, and they have a lot of data. In your memorandum of understanding with FINTRAC, do you receive that information in any shape or form on the unregulated market?

Ms. Christine Ring: We do not. We only receive information pertaining to the institutions we regulate, which are the federally regulated institutions.

Mr. Dan Albas: My understanding, though, is that you're also responsible for financial stability. Do you just assume that it only applies within the federally regulated space, then? Wouldn't it be of interest to decision-makers to know more information about the unregulated space, from a federal perspective?

Ms. Christine Ring: With respect to the mortgage issues, it is not an area of my specialty. My focus is on AML only, and OSFI's mandate is only pertaining to the federally regulated financial institutions.

Mr. Dan Albas: Just to make a statement—and again, I have asked FINTRAC at previous meetings in regard to this point—I think there is a lot of data that could be aggregated that would not

violate any personal privacy or charter rights of any individual and that could give decision-makers, whether here in Ottawa or whatnot, whether it be in CMHC, OSFI, the Department of Finance, or the Finance Minister himself in this case.... By aggregating some of that data, we put.... As we know, there are a lot of compliance costs. Good work gets done, but there is also a lot of aggregated data, and I would really encourage that, because it's a gap I see in our current system.

The Chair: When I look at this discussion paper, I think we're probably going to have ample time to discuss those areas.

With that, is it possible for you to show the committee a mock report that either a credit union or a bank would have to fill out, with ABC company or something on it? It's easier to understand the burden of paperwork, of filling out a form, once we see it. There's no doubt you are going to be called back again, so if you could, please bring that with you.

Mr. Bell, if you could have an answer by about the 28th, we meet then as well.

Mr. Tom Kmiec: Seeing as this is the last meeting before the February break week, I just wanted to know what your plans are for the supplementary estimates and whether your intention was to call the minister for that, because I think we only have three meetings. There are many breaks between now and when the supplementary estimates can be considered, by the end of March.

The Chair: We haven't made any plans yet, but I can see that we're going to have some extra meetings. We have to deal with supplementary estimates at some point, and I think we only have two weeks in March. We will deal with it. We may have to call an extra meeting.

With that, the meeting is adjourned.

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