

# Anti-Money Laundering and Terrorist Financing Update

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# Presentation Topics

- 1) Strengthening Canada's Anti-Money Laundering and Terrorist Financing (AMLTF) regime: background and context
- 2) Recent activity and developments of interest 2016-2022
- 3) Overview of Know Your Client
- 4) Overview of Beneficial Ownership
- 5) Amendments to PCMLTFA Regulations
- 6) Legislation, Regulations and FINTRAC Resources
- 7) COVID-19 MLTF Risks
- 8) Closing Thoughts

# 1) Strengthening Canada's Anti-Money Laundering and Terrorist Financing (AMLTF) regime: background and context

# Strengthening Canada's AMLTF regime: Background

- Financial Action Task Force (FATF) 2016 Mutual Evaluation Report on Canada noted deficiencies
  - FATF is a global money laundering and terrorist financing watchdog and is the inter-governmental body setting international standards
- Canada's reputation at risk: US State Department's Report on Money Laundering identifies Canada as a "Major Money Laundering Jurisdiction"
- 2021 Basel AML Index: independent ranking assessing the risk of MLTF around the world – Canada ranked 77th/110 countries on a highest to lowest risk scale

# Strengthening Canada's AMLTF Regime:

## Context

- Money Laundering is global – “professional” launderers seek system gaps and stable economies and financial systems
- Money launderers may involve unwitting individuals, including professionals, or organizations and use a series of events or transactions designed to conceal the illicit intent
- 70% of money laundering utilizes corporations
- FINTRAC reports most disclosure packages issued in 2020-2021: Ontario, British Columbia, Quebec and Alberta
- FINTRAC reported top three offence disclosures in 2020-2021: 35% Fraud, 34% Drugs and 9% Tax Evasion

## 2) Recent Activity and Developments of Interest 2016 - 2022

# Recent Activity and Developments of Interest 2016-18

**2016** FATF report identified Canadian deficiencies including:

- Beneficial Ownership (BO)
- Additional requirements should apply to sectors including Accountants

**2016-2017** Public-Private sector committees formed by Department of Finance Canada

**2017-2018** Federal and Provincial Finance Ministers publicly address BO

**2018** Department of Finance Canada consultation paper issued – signals changes such as BO

**2018** Parliament's Standing Committee on Finance makes 32 recommendations for AMLTF legislation, some applicable to accounting profession

# Recent Activity and Developments of Interest 2019

- Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) Regulations overhauled – most changes effective June 1, 2021
- CBCA private companies required to keep BO registers – direct potential impact to CPAs in a variety of roles
- FATF updates Risk Based Approach Guidance for Accountants
- BC commissioned four reports on money laundering and launches the Cullen Commission to review Money Laundering, make findings of fact and recommendations for sectors including the accounting profession



# Recent Activity and Developments of Interest 2020 - 2022

Momentum building for BO register requirements for all private companies – analysis taking place federally and provincially regarding publicly accessible registry(ies)

Cullen Commission began formal hearings in February 2020, ending with closing submissions in October 2021 - final report deadline extended from December 15, 2021 to May 20, 2022

PCMLTFA Regulations further revised – additional changes effective June 1, 2021

FATF reports on Canada's progress in strengthening measures to tackle money laundering and terrorist financing

# 3) Overview of Know Your Client

# What is Know Your Client?

- Fundamental to meeting requirements **when engaged in activities covered by the PCMLTFA**, and contributes to prevention and detection of MLTF
- Know Your Client is one of five requirements for accountants:
  - Implement/maintain a [compliance program](#)
  - [Know your client](#) (includes BO requirements)
  - Reporting ([STR](#), [TPR](#), [LCTR](#), [LVCTR](#), [24Hr rule](#))\*
  - [Record keeping requirements](#)\*
  - [Ministerial directives](#)

\* CPA Canada article on [New AML/ATF Requirements Associated with Record Keeping and Reporting to FINTRAC](#)

# What is Know Your Client? (Continued)

Key obligations\* in “know your client” under the PCMLTFA are:

- 1) Verifying your client’s identity (person or entity)
- 2) Determining if a third party is giving them instructions
- 3) Determining business relationships and conducting ongoing monitoring
- 4) Obtaining beneficial ownership information
- 5) Determining if you are dealing with politically exposed persons or heads of international organizations, their family members or close associates

\* CPA Canada article on the [New “Know Your Client” Rules for CPAs](#)

# 4) Overview of Beneficial Ownership

# What is Beneficial Ownership

- Who *really* owns and/or controls an asset or entity and it means
  - Looking through share structures
  - Looking through corporate structure
  - Looking through trust structure
  - Looking for ultimate control that may not be by way of ownership
  - Looking behind nominees
- Not (easily) knowing who really owns and/or controls an asset or entity allows for privacy or secrecy that may be law abiding and legitimate, or not...

# Beneficial Ownership – Why it Matters

- 2016 FATF Report indicated concerns
- Canada's lack of Beneficial Ownership transparency is being used by criminals to evade tax and launder dirty money from crimes including human trafficking, illicit drugs and firearms
- Recall: Majority of money laundered (70%) occurs using corporations
- Lack of transparency has created a risk to our society, businesses, global reputation and international partners

# What does Increased Beneficial Ownership Transparency do?

- Allows authorities to identify and charge for crimes committed
- Allows for authorities and others such as those participating in the AML/TF regime to prevent crime
- Allows for authorities and others such as those participating in the AML/TF regime to prevent the proliferation of dirty money in a financial system and an economy
- Allows a country to join other international jurisdictions in the prevention, detection and prosecution of crimes including MLTF



# New Canadian Beneficial Ownership Rules

Recent and ongoing developments:

- 1) As of **June 13, 2019, Canada Business Corporations Act** requirements to create and maintain a list of individuals with *significant control*.
  - *Significant control is 25% of the Voting or Fair Market Value (FMV) of shares, held directly or indirectly by an individual.*
  - Penalties for non-compliance
- 2) Starting with **2022 tax years** (for December 31<sup>st</sup> year ends) and subsequent, trusts have new requirements including the need to detail the identities of beneficiaries, settlors and trustees
- 3) Provincial legislative and consultative developments ongoing regarding beneficial ownership

# New Beneficial Ownership Rules: Implications

New rules are expected to improve corporate transparency to help combat money laundering and tax evasion

Requirements will have implications for CPAs who own, govern or operate a private company - **Members in public practice and industry need to be aware**

Publicly accessible Beneficial Ownership information in Canada is a potential near term development

May 2020 International Federation of Accountants (IFAC) and CPA Canada released [Approaches to Beneficial Ownership Transparency: The Global Framework and Views from the Accountancy Profession](#)

# 5) Amendments to PCMLTFA Regulations

# Amendments to PCMLTFA Regulations: Background

July 2019, wide-ranging amendments were made to PCMLTFA Regulations – *most changes effective June 1, 2021*

June 2020, additional specific amendments were made to the Regulations – *most changes effective June 1, 2021*

These amendments to the Regulations strive to align Canada's AMLTF regime with international standards set by FATF, level the playing field of Reporting Entities and strengthen the regime

Federal Department of Finance has indicated the AMLTF Regime must be continually updated to respond to emerging risks and evolving international standards

# Highlights of Regulation Changes Include:

- Suspicious Transaction Reports (STRs) – timing for filing changed to as soon as practicable – April 2020 STR guidance issued by FINTRAC <https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/Guide2/2-eng>
- Large Cash Transactions – transactions made over a 24-hour period now aggregate – required to report when C\$10,000 or more
- Virtual Currency – Numerous changes including VC dealers must now register with FINTRAC

# Highlights of Regulation Changes Include:

- Identification – document used to verify ID was required to be “original, valid and current” changed to “**authentic**, valid and current”
- Expanded obligations for Accountants and Accounting Firms to ascertain and take reasonable measures to confirm beneficial ownership information when required to verify the identity of an entity
- Requirements concerning domestic or foreign Politically Exposed Persons (PEP), Head of an International Organization (HIO) or a close associate or family member of a PEP now applicable to Accountants and Accounting Firms

# 6) Legislation, Regulations and FINTRAC Resources

# Legislation, Regulations and FINTRAC Resources

**Proceeds of Crime (Money Laundering) and Terrorist Financing Act and associated Regulations:**

<https://laws-lois.justice.gc.ca/eng/acts/P-24.501/>

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-184/>

**FINTRAC guidance:**

<https://www.fintrac-canafe.gc.ca/guidance-directives/1-eng>

FINTRAC guidance can help individuals and entities understand their obligations under the PCMLTFA and associated Regulations, including how one may be assessed in an examination.

**FINTRAC mailing list:**

New information appears frequently-FINTRAC offers email updates

<https://www.fintrac-canafe.gc.ca/contact-contactez/list-liste-eng>



# 7) COVID-19 MLTF Risks

# COVID-19 MLTF Risks

- Pandemic's disruptive force has interrupted and changed the plans of those with MLTF objectives
- FATF reported increased risks and threats for MLTF that are expected to continue through the pandemic period
- New vulnerabilities have been created through the disruption, and the health and economic challenges
- Those with MLTF objectives are finding new opportunities

# COVID-19 MLTF Risks

Examples of potential MLTF Risks during Covid-19 include:

- Laundering of ill-gotten funds from government pandemic programs
- Stockpiling of cash because of border/travel restrictions that may be redeployed through otherwise legitimate businesses suffering severe economic challenges and in need of financing
- Laundering of ill-gotten funds obtained through increased cyber activities such as identity theft, Business Email Compromise etc.
- New global, jurisdictional and sector MLTF risks during the pandemic period require awareness and understanding

# COVID-19 Recent FINTRAC Update

FINTRAC is withdrawing its temporary COVID-related support to reporting entities:

<https://www.fintrac-canafe.gc.ca/covid19/2022-01-31-eng>

# Closing Thoughts

***Risky Business: Non-compliance with  
AML Requirements***

Thank you!