

Department of Finance seeks consultation by December 30 on changes to Canada's AML regime

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On November 30, 2024, the Department of Finance [announced](#) new proposed amendments to regulations made under Canada's *Proceeds of Crime (Money Laundering) and Terrorism Financing Act* (PCMLTFA). The consultation period for the proposed amendments will only last for this month, closing on December 30, 2024, at 11:59 p.m. ET, meaning interested parties should be sure to get their submissions in before the busy holiday season.

The federal government has expressed a commitment to enhancing Canada's anti-money laundering/anti-terrorist financing (AML/ATF) regime to "continuously monitor and adapt to new risks and threats" to the integrity of Canada's financial system and its national security. This latest round of amendments to the regulations under the PCMLTFA will, if passed, implement and operationalize certain measures announced in recent federal budget bills (including the 2024 Budget, which we wrote about in an April 18, 2024, blog entitled "[Budget 2024 proposes new reforms to combat financial crime in Canada](#)"). These measures are intended to address recommendations of the 2018 Parliamentary Review of the PCMLTFA, findings in the 2022 report of the Cullen Commission (which we have previously written about in a June 23, 2022, blog entitled "[Cullen Commission releases final report on money laundering in British Columbia](#)"), as well as implement certain Financial Action Task Force (FATF) standards in preparation for Canada's next FATF evaluation which will occur in 2025 and 2026.

The proposed amendments can be grouped in four areas, each of which is discussed below.

Enhanced Canada Border Services Agency powers to tackle trade-based financial crime

Trade-based financial crime involves manipulating trade transactions through actions such as misinvoicing or falsely describing goods to obscure the illicit origins of money. Presently, the Canada Border Services Agency's (CBSA) responsibilities and powers are generally aimed at ensuring compliance with customs legislation. The proposed amendments would require those trading goods in and out of Canada to report on the importation and exportation of goods to the CBSA for the purposes of detecting, deterring, and disrupting trade-based financial crime, and to retain certain records. The amendments would grant the CBSA new powers to seize and forfeit goods when it has reasonable grounds to believe that the goods are proceeds of crime or related to money laundering, terrorist financing, or sanctions

evasion. Finally, the amendments would establish an administrative monetary penalty scheme to enforce compliance with the new framework.

Facilitation of information-sharing between reporting entities

In recognition of the increase in market participants in the banking and financial services industry with the emergence of fintech providers, many of whom are registered money services businesses, the proposed amendments would operationalize the legislative amendments already introduced to the *Criminal Code* and PCMLTFA to allow reporting entities to share information with each other. The purpose of this would be to detect and deter money laundering, terrorist financing, and sanctions evasion, while maintaining privacy protections for personal information. While the amendments would not require private entities to share information, they would set out a process for entities which choose to do so, thus providing for the protection of personal information (namely, by introducing “Codes of Practice”), with FINTRAC and the Office of the Privacy Commissioner acting in an oversight role.

Mandated reporting of beneficial ownership discrepancies by reporting entities

The federal government has already taken steps to increase beneficial ownership transparency with this year’s launch of a public, searchable beneficial ownership registry of federal corporations managed by Corporations Canada. While reporting entities under the PCMLTFA are already required to obtain and verify corporate beneficial ownership information when they verify the identity of an entity, the proposed amendments would expand on this. The new requirement would be for the reporting of any material discrepancies (i.e., missing beneficial owners, not typos or non-substantive errors) between their records and a company’s registry filings with Corporations Canada (published on the public federal beneficial ownership registry) that they observe in their regular course of business. This requirement would only apply when a reporting entity determines that there is a high risk of a money laundering or terrorist financing offence. The amendments also contemplate penalties for non-compliance.

Factoring companies, cheque-cashing businesses, and financing and leasing entities brought into ambit of the PCMLTFA

In its 2024 Budget, the federal government had previously announced its intention to regulate factoring companies, cheque-cashing businesses, and financing and leasing entities, and subject them to AML/ATF controls to close a perceived regulatory loophole and bring Canada in line with international FATF standards. The proposed amendments would realize the federal government’s intentions as follows:

- Factoring companies would be prescribed as reporting entities under the PCMLTFA and be subject to existing — as well as new specific — obligations. These new specific obligations would include verifying the identity of every party entering into a factoring agreement and keeping associated records, as well as keeping records of payment of \$3,000 or more received from the payer of a factored invoice. These new specific obligations would also apply to financial entities already subject to the PCMLTFA that provide factoring services.
- Cheque-cashing businesses would be included within the definition of “money services

businesses” (MSBs) under the PCMLTFA. These entities would be subject to the full suite of existing obligations for MSBs, as well as certain new specific obligations, including verifying the identity of a client cashing cheques valued at \$3,000 or more, and keeping associated transaction records.

- Financing and leasing entities would be prescribed as reporting entities under the PCMLTFA, and be subject to existing as well as new specific obligations. These new specific obligations would include verifying the identity of every party with which a financing and leasing entity enters into a financing or leasing arrangement and, keeping associated records, and keeping records of every payment received in service of the financing or leasing agreement. These new specific obligations would also apply to financial entities already subject to the PCMLTFA that provide leasing and financing services.

These amendments, including the new specific obligations applicable to these sectors, would be subject to certain outlined exemptions, as well as penalties for non-compliance.

In support of its proposal, the Department of Finance has undertaken an analysis of costs and benefits of each proposed measure, including the impacts on affected stakeholders it has identified.

The proposed regulations relating to trade-based financial crime, discrepancy reporting, factoring companies, cheque-cashing businesses, and financing and leasing companies, would come into force on October 1, 2025. The regulations relating to information-sharing would come into force immediately on publication in Part II of the *Canada Gazette*. These changes could raise significant hurdles and regulatory requirements, but also provide some welcome tools to assist in the fight against money laundering, terrorist financing, and sanctions evasion. Industry participants are strongly encouraged to submit comments before the consultations close on December 30, 2024.