

AML Update: Looking Ahead in 2018: Investment Funds Bulletin

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The [*Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act*](#) (PCMLTFA) provides for there to be a review by Parliament of the administration and operation of the Act every five years. The House of Commons Standing Committee on Finance (FINA) is the committee designated to carry out the review. FINA held ten meetings between February 8 and April 18 of this year, and heard from 62 witnesses. FINA is expected to produce its report in the third quarter of 2018.

In addition, the Department of Finance released a discussion paper, [*Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime*](#). The paper provides some valuable insights into the thinking and priorities of policymakers. Like the FINA hearings, the paper provided an opportunity for industry participants and the general public to make their views known.

Canada was the subject of a “peer review” evaluation carried out by members of [*the Financial Action Task Force*](#) in 2015. The report was released in 2016. Although the [*Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada*](#) found that Canada has strong legislation, certain gaps were identified, and Canada has committed to closing those gaps where practicable. The Department is making it clear that Canada’s legislative and regulatory regime will continue to be guided by FATF recommendations.

Beneficial Ownership

An identified weakness is the limited availability of accurate beneficial ownership information. The Panama Papers and the Paradise Papers have made clear the importance of accurate and reliable beneficial ownership information in tracking the true ownership of assets. [*Transparency International*](#), the respected international organization for anti-corruption, [*has given Canada a failing grade*](#) for its beneficial ownership disclosure requirements, calling it “one of the world’s most opaque jurisdictions when it comes to ownership of private companies and trusts”. Canada currently has no central registry of beneficial ownership information, making information collected by “reporting entities” such as banks and securities dealers very difficult to verify or validate. In its submission to FINA, Transparency International urged the Government of Canada to “work with the provinces and territories to establish a central registry of all companies and trusts in Canada, and their beneficial owners.”

The Department of Finance is committed to addressing this matter. In December of 2017, the Department released a [*statement*](#) announcing that Finance Ministers across Canada had agreed to take measures to strengthen beneficial ownership transparency. The Ministers have agreed in principle to pursue legislative amendments to ensure corporations hold accurate and up to date information on beneficial ownership, and that such information will be available to law enforcement and tax authorities. Governments are to make best efforts to put forward the necessary legislative amendments to bring the changes into force by July 1,

2019.

There appears to be broad-based support among financial services providers for the creation of such a central registry; the difficulty, as always, will be in the details.

Expanding AML Reporting

Consideration is being given to expanding the universe of entities required to make prescribed reports under the PCMLTFA. For example, only PCMLTFA "reporting entities" are required to submit STRs or Suspicious Transaction Reports. The discussion paper highlights vulnerabilities to money laundering which affect the real estate sector and non regulated mortgage lenders. Other types of businesses being considered include finance, leasing and factoring companies, armoured car companies, high value goods (luxury autos and yachts, for example) dealers and jewellery auction houses.

Policymakers are also concerned with expanding information sharing among and between reporting entities, government agencies and law enforcement, and protocols which would surround such sharing. This is problematic not only because of the need to respect privacy rights, but because of the need to cross federal /provincial and intra-provincial jurisdictional boundaries. Despite the challenges, it seems inevitable that there will be more rather than less information sharing.

Second Regulatory Package

Amendments were made to the PCMLTFA through the 2014 and subsequent federal budget bills. Some of these amendments, including those that would require dealers in virtual currencies to register with FINTRAC, are not yet in force, as the implementing regulations have yet to be made. Department officials have indicated that these amendments, referred to as the "Second Regulatory Package" will be published for comment in 2018. Certain of the amendments may require reporting entities to modify their reporting protocols and hence the Department and regulatory agencies such as FINTRAC are planning to do extensive outreach prior to the compliance date.

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