Regulatory Impact Analysis Statement / Résumé de l'étude d'impact de la réglementation

(This statement is not part of the regulations.) / (Le présent résumé ne fait pas partie du Règlement.)

Department or agency
Department of Finance Canada

Ministère ou organisme
Ministère des Finances Canada

Title of proposal
Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act

Titre du projet
Règlement modifiant certains règlements pris en vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes

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Proceeds of Crime (Money Laundering) and Terrorist Financing Act

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Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act

REGULATORY IMPACT ANALYSIS STATEMENT

(*This statement is not part of the Regulations.*)

Executive summary

Issues: To remain relevant and effective, Canada's anti-money laundering and anti-terrorist financing (AML/ATF) Regime must continuously monitor and adapt to new risks and threats, which, if left unchecked, can undermine the safety of Canadians, the integrity of the financial system, and national security, including border security. In addition, regulatory amendments are needed to implement measures announced in Budget 2022, Budget 2023, Budget 2024 and the *2023 Fall Economic Statement;* address recommendations of the 2018 Parliamentary Review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA); respond to criticisms of the Regime, such as the 2022 Commission of Inquiry into Money Laundering in British Columbia, known as the 'Cullen Commission'; and implement international standards under the Financial Action Task Force (FATF), the international AML/ATF standard setting body, situating Canada positively for its next mutual evaluation by the FATF in 2025-26.

Description: The *Regulations Amending Certain Regulations Made Under the Proceeds of Crime (Money Laundering) and Terrorism Financing Act* (the Regulatory Amendments) will address money laundering and terrorist financing risks through **six** separate measures. The **first** will implement the requirement for traders to report on the importation and exportation of goods to the Canada Border Services Agency (CBSA) under the PCMLTFA for the purposes of detecting, deterring, and disrupting trade-based financial crime. The **second** will implement measures to enhance the ability of reporting entities to voluntarily share information with each other to detect and deter money laundering, terrorist financing, and sanctions evasion, while maintaining privacy protections for personal information, including an oversight role for the Office of the Privacy Commissioner of Canada. The **third** will strengthen corporate beneficial ownership transparency by implementing a requirement for reporting entities to report material discrepancies between their records and a corporation's registry filings to the federal beneficial ownership registry in circumstances where they assess there is a high risk of a money laundering or terrorist financing offence. The **fourth** will introduce AML/ATF regulatory requirements for factoring companies, the **fifth** will introduce AML/ATF regulatory requirements for cheque cashing businesses, and the **sixth** will introduce AML/ATF regulatory requirements for financing and leasing companies. The expansion of the federal AML/ATF Regime to these new sectors will mitigate the money laundering and terrorist financing risks they pose, create a more level regulatory playing field across businesses in Canada that provide financial services, and bring Canada in line with the international standards set by the FATF for financial entities.

Rationale: Canada's AML/ATF Regime helps protect the integrity of Canada's financial system by deterring individuals from using it to carry out money laundering, terrorist financing, or other criminal financial activities. To this end, the Regulatory Amendments will address the specific money laundering and terrorist financing risks outlined above. The changes related to trade based financial crime will mitigate known money laundering and terrorist financing risks associated with the importation and exportation of goods across Canadian borders. Amendments to enable targeted information sharing between PCMLTFA regulated entities will align Canada's AML/ATF framework with international best

practices, and enhance the efficiency and effectiveness of the Regime, while ensuring appropriate protections for private information are upheld. Moreover, the changes related to beneficial ownership discrepancy reporting, factoring companies, cheque cashing businesses, and financing and leasing companies address international obligations for Canada under the FATF. Meeting these standards will improve the integrity of the global AML/ATF framework and positively impact Canada's international reputation. It will also contribute to regulatory alignment with other countries' AML/ATF regimes, making it easier for Canadian businesses to operate internationally. Each of the measures included in this package will also enhance Canada's effectiveness in combatting organized crime, fentanyl trafficking, and money laundering. Specifically, they will contribute to combatting the urgent threat posed by transnational organized crime groups who have become major enablers in accelerating the fentanyl crisis. The Regulatory Amendments will result in an estimated total present value (TPV) of $74.3 million (M) in costs over a 10-year period. There are substantial benefits associated with the Regulatory Amendments, such as improving the integrity of the global AML/ATF framework and continuing to uphold Canada's international reputation, that cannot be monetized due to the lack of available or reliable data to accurately measure reputational, economic, and national security benefits.

Issues

To remain relevant and effective, Canada's anti-money laundering and anti-terrorist financing (AML/ATF) Regime must continuously monitor and adapt to new risks and threats, such as the urgent threat posed by transnational organized crime groups accelerating the fentanyl crisis. If left unchecked, these threats can undermine the safety of Canadians, integrity of the financial system and our borders, and national security. AML/ATF Regime partners require the appropriate authorities, resources, tools, and expertise to carry out their roles to prevent, detect, and disrupt money laundering and terrorist financing. This can include new measures to amend the suite of AML/ATF requirements applicable to reporting entities, bring new sectors within the scope of AML/ATF regulation, and improve the Financial Transactions and Reports Analysis Centre of Canada's (FINTRAC's) operations. Measures to enhance Canada's AML/ATF legislative framework must also balance the need to address identified AML/ATF risks against the costs and regulatory burden imposed on businesses, which includes applying a risk-based approach wherever possible to maximize Regime effectiveness while minimizing burden.

To support a more effective federal AML/ATF Regime, regulatory amendments are needed to implement measures announced in Budget 2022, Budget 2023, Budget 2024 and the *2023 Fall Economic Statement*; strengthen the AML/ATF legislative and regulatory framework; address recommendations of the 2018 Parliamentary Review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA); respond to criticisms of the Regime, such as the 2022 *Commission of Inquiry into Money Laundering in British Columbia*, known as the 'Cullen Commission'; and implement international standards under the Financial Action Task Force (FATF), the international AML/ATF standard setting body, which will situate Canada positively for its next mutual evaluation by the FATF in 2025-26.

Trade-based financial crime: Trade-based financial crime (more commonly known as trade-based money laundering (TBML)) is one of the main methods used by criminals to launder the proceeds of crime. TBML is the process of manipulating trade transactions through actions such as mis-invoicing or falsely describing goods to disguise the proceeds of crime, move value across borders, and ultimately obscure the illicit origins of money. Financial crime experts estimate that approximately 80% of the movement of illicit financial flows is done through mis-invoicing in TBML schemes. TBML schemes also make use of phantom shipments, which occur when no goods are shipped, but payments are made claiming to settle an invoice for a trade and no customs declarations are filed. Bad actors laundering their illicit funds through Canada's trade system negatively impact Canada's national security, reputation, economic security, and undermines tax collection.

Under existing legislation, the CBSA can assess the admissibility of goods into and out of Canada and ensure that the correct duties and taxes are paid on specified imports. The CBSA is responsible for ensuring that goods that are imported or exported comply with the legal and regulatory requirements set out in the *Customs Act* and associated regulations. This includes seizing, rejecting, or applying penalties to goods that are being imported or exported if they are not compliant with their legal and regulatory obligations. These powers help to ensure compliance with the *Customs Act* but do not facilitate the detection, deterrence, and disruption of money laundering, terrorist financing, and sanction evasion. Under this framework, TBML schemes can be structured to be fully compliant with paying necessary duties and taxes as required by the *Customs Act* but facilitate money laundering nonetheless through mis-invoicing. In such cases, even where TBML indicators are present, the CBSA has no legal authority to compel documents or refer cases to law enforcement for investigation as long as the importer or exporter is compliant with customs requirements. For instance, currently, the CBSA can compel records such as receipts and invoices for the purposes of determining compliance with the *Customs Act*, but they cannot compel these documents for the purposes of detecting and deterring money laundering, terrorist financing, and sanctions evasion under the PCMLTFA. This results in a gap that can be exploited by bad actors who, as long as they follow customs laws and regulations, will never be stopped on the goods they are shipping because they are not required to fulfill any sort of reporting obligation that relates to money laundering, terrorist financing, or sanction evasion related to goods. The Regulatory Amendments will address this gap by providing the CBSA with the authority it needs to detect, deter, and disrupt TBML at Canada's borders.

In Canada's last FATF evaluation, the FATF identified TBML ("trade fraud") as a primary ML/TF threat for Canada. FATF Standards require countries to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the identified risk. In addition to addressing this well-known domestic ML/TF threat, the Regulatory Amendments will also improve the Canada's technical compliance and effectiveness in adhering to the FATF requirements.

Information Sharing: The emergence of financial technology companies (also known as fintech) and other new market participants to the banking sector has provided consumers with increased options to access financial services. This has also resulted in a move away from traditional financial services and an increase in the use of multiple institutions instead of banking with a single financial institution with a large market share. This phenomenon has been well documented in Canada, as well as internationally by key intergovernmental organizations, such as the FATF.

While consumers benefit from a diversity of choice, this new financial services landscape exposes an ongoing risk to the effectiveness of Canada's AML/ATF Regime as private sector entities have a limited ability to share information. Criminals can take advantage of the lack of information sharing abilities between reporting entities and may attempt to engage multiple institutions at once to facilitate illicit activities and to evade detection, as each institution has a limited and partial view of transactions. Reporting entities are thus limited in their ability to identify and report potential money laundering, terrorist financing, or sanctions evasion activities.

Information sharing between private entities has been recognized by the FATF as an important tool for disrupting money laundering and terrorist financing. Additionally, a made-in-Canada information sharing framework must take into account both existing privacy legislation, as well as Section 8 of the *Charter of Rights and Freedoms,* which provides protection against unreasonable search and seizure. To this end, Budget 2024 introduced legislative amendments to the PCMLTFA to enhance the ability of reporting entities to share information with each other to detect and deter money laundering, terrorist financing, and sanctions evasion, while maintaining privacy protections for personal information, including an oversight role for the Office of the Privacy Commissioner of Canada (OPC) under regulations. The Regulatory Amendments are required to operationalize these legislative changes.

Discrepancy Reporting: The use of anonymous Canadian shell companies can conceal the true ownership of property, businesses, and other valuable assets. With authorities unable to ascertain their true ownership, these shell companies can become tools for those seeking to launder money, avoid taxes, or evade sanctions. Determining the beneficial owner(s) of a corporate structure can increase transparency and mitigate the financial crime risks posed in these circumstances. Beneficial ownership can differ from legal ownership. A beneficial owner, in this case, is any individual who either directly or indirectly owns or controls 25% or more of a corporation.

The government has taken action to shed light on the beneficial ownership of corporations operating in Canada. Notably, on January 22, 2024, the federal government launched a public, searchable beneficial ownership registry of federal corporations managed by Corporations Canada. However, the utility of the federal registry is determined by the accuracy of the information that it contains. The government is thus introducing new regulatory Amendments to assist Corporations Canada in maintaining an accurate and reliable beneficial ownership registry that provides good value to users, including law enforcement, FINTRAC, tax authorities, reporting entities, and the public. Specifically, PCMLTFA reporting entities will have a requirement to flag to Corporations Canada discrepancies in beneficial ownership information with the federal registry. This obligation will only apply in cases where reporting entities assess there to be a high risk of money laundering and terrorist financing. This discrepancy reporting requirement is not intended to be the sole means to ensure the accuracy of the registry's information and will supplement Corporations Canada's own primary compliance and verification activities.

Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations,* reporting entities are already required to obtain and confirm the accuracy of information on the beneficial owners of their corporate clients and undertake enhanced due diligence in cases where they consider there to be a high risk of money laundering or terrorist financing. A material discrepancy exists when the beneficial ownership information that a company provides to a reporting entity substantively contradicts what the company disclosed to the public registry.

Factoring Companies: Factoring is an exclusively business to business financial activity. Factoring companies supply liquidity to a client upfront in exchange for the cash value of a certain amount of the client's accounts receivable (i.e., invoices) to be collected by the factor later, plus commission and fees. While factoring is the sole line of business for most factoring companies in Canada, several large federally regulated banks also offer factoring services and represent a very large portion of the volume of Canadian factoring transactions.

Canada's 2023 *Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* found that factoring companies are inherently vulnerable to money laundering. Businesses in this sector are associated with the layering phase of money laundering, as well as commercial fraud, and TBML schemes.

The government announced its intention to regulate factoring companies under the PCMLTFA in Budget 2024. Amendments to the regulations are required to implement this announcement, which will close a regulatory loophole that can be exploited by criminals and create a more level regulatory playing field across businesses in Canada that provide financial services. These Amendments will also bring Canada into compliance with FATF standards, which require factoring companies to be subject to AML/ATF controls. During the last FATF mutual evaluation of Canada in 2016, the FATF highlighted the lack of requirements for factoring companies as a gap in Canada's AML/ATF Regime.

Cheque Cashing Businesses: Cheque cashing is a financial service that offers clients the immediate, hold free, ability to cash a cheque for a fee. Cheque cashing is a transactional, often face-to-face interaction, that requires clients to provide basic information to facilitate the service. Clients using these

businesses tend to be under-banked and members of vulnerable populations (i.e., new Canadians, temporary foreign workers, lower income Canadians, and those with poor credit).

Businesses that offer cheque cashing frequently combine this activity with other services. This can include services unregulated for AML/ATF purposes, such as pay-day lending and tax rebate discounting, as well as those that are regulated under the PCMLTFA, such as the provision of electronic funds transfer services. In some cases, these businesses are already registered as money services businesses with FINTRAC, or serve as agents of a registered money services business, by virtue of the other services they offer; however, cheque cashing as a business line is not currently captured under the Act or Regulations, presenting an inherent vulnerability that can be exploited by criminals. Consultations with industry suggest that many stand-alone cheque-cashing businesses also exist and thus need to be brought under Canada's AML/ATF framework.

Canada's 2023 *Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* found that cheque cashing businesses are inherently vulnerable to money laundering. For instance, cheque cashing is vulnerable to fraud and to the layering phase of money laundering, as this service can be used to add distance between illicit proceeds and their criminal source.

The government announced its intention to regulate cheque cashing businesses under the PCMLTFA in Budget 2024. Amendments to the regulations are required to implement this announcement, which will close a regulatory loophole that can be exploited by criminals and create a more level regulatory playing field across businesses in Canada that provide financial services. These Amendments will also bring Canada into compliance with FATF standards, which require cheque cashing businesses to be subject to AML/ATF controls. During the last FATF mutual evaluation of Canada in 2016, the FATF highlighted the lack of AML requirements for cheque cashing businesses as a gap in Canada's AML/ATF Regime.

Financing and leasing companies: The financing and leasing sector in Canada is large and diverse, consisting of both domestic and international lessors and small independent businesses. This sector provides a range of leasing services to individuals and businesses across Canada and internationally. Leasing arrangements can be offered either directly or indirectly through a third-party financial intermediary. Under a direct leasing arrangement, a vendor offers leasing as a financing option and has an internal department that oversees the various aspects of the agreement. Under an indirect leasing arrangement, a financial intermediary purchases an asset from a vendor and allows the lessee to use the asset during the leasing term and after full payment. The lessee deals directly with the financial intermediary. Financing companies can offer a much wider range of services than leasing companies and can also operate directly or indirectly with the client. Both direct and indirect financing and leasing arrangements pose known money laundering risks.

Canada's 2023 *Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* found that financing and leasing arrangements are inherently vulnerable to money laundering. Financing and leasing companies allow a variety of payment methods such as cash, electronic funds transfers, money orders, and cheques, thereby offering opportunities to be used in the placement, layering and integration stages of the money laundering process. Criminals are also known to prefer lease financing because they do not incur a loss if the leased asset is seized by law enforcement.

The assessment also found that the financing and leasing of higher value products with a high demand, such as automobiles, poses the greatest risk for money laundering amongst the range of services provided by the sector. Conversely, financing and leasing arrangements for lower value products, such as most other consumer products (i.e., rent to own furniture, electronics, etc.), are assessed to pose a low risk of money laundering.

The government announced its intention to regulate financing and leasing companies under the PCMLTFA in Budget 2024. Amendments to the regulations are required to implement this announcement, which will close a regulatory loophole that can be exploited by criminals and create a more level regulatory playing field across businesses in Canada that provide financial services. These Amendments will also bring Canada into compliance with FATF standards, which require financing and leasing companies to be subject to AML/ATF controls. During the last FATF mutual evaluation of Canada in 2016, the FATF highlighted the lack of AML requirements for financing and leasing companies as a gap in Canada's AML/ATF Regime.

Background

Money laundering is the process used to conceal or disguise the origin of proceeds of crime to make it appear as if they originated from legitimate sources. This process benefits both domestic and international criminals, as well as organized crime groups. Terrorist financing is the collection and provision of funds from legitimate or illegitimate sources for terrorist activity. It supports and sustains the activities of domestic and international terrorists that can result in terrorist attacks in Canada or abroad, causing loss of life and destruction.

Money laundering and terrorist financing are serious threats to the safety and security of Canadians, as well as the integrity of Canada's financial system. These crimes affect our society by supporting, rewarding, and perpetuating broader criminal and terrorist activities. The proceeds of crime being laundered in Canada are often generated at the direct expense of and harm to innocent Canadians, through crimes such as fraud, theft, drug trafficking, human trafficking for sexual exploitation, and online child sexual exploitation. Terrorist financing supports the activities of domestic and international terrorists, including deadly and destructive attacks in Canada or abroad.

Combatting transnational organized crime, fentanyl trafficking, and money laundering

On February 4, 2025, the Prime Minister issued the Directive on Transnational Crime and Border Security (the Directive). This Directive acknowledged the significant threats that the international and domestic drug trade pose to the livelihoods and safety of Canadians, as well as the role that organized crime groups and money laundering play in driving these threats. The Directive also acknowledges the United States as Canada's most essential partner in efforts to reduce and disrupt the shared threats posed by transnational criminal activity and drug trafficking to North America.

The Directive responds to North America's unprecedented and unrelenting rate of overdose deaths due to fentanyl and other opioids facilitated by organized crime groups engaged in drug trafficking. The international and domestic illegal drug trade and drug trafficking not only have tragic impacts on those who use illicit substances, but also on their families and our communities. In addition, organized crime groups represent significant public safety and societal threats, and through their involvement in the illicit drug market, these groups have become major enablers in the accelerating fentanyl crisis.

The Directive acknowledges transnational organized crime, cyber crime, and border security as a Canadian intelligence priority and noted two core objectives: increasing intelligence production and sharing and enhancing cooperation, to disrupt drug trafficking by transnational criminal organizations; and protect Canadian communities from the lethal threat of fentanyl and other illicit drugs. Enhancing Canada's AML/ATF regulatory framework to crack down on trade-based financial crime, expand the reporting entity population, and enhance the role played by reporting entities to help detect money laundering and terrorist financing activities through a discrepancy reporting regime and voluntary private-to-private information sharing framework will help Canada to better identify criminals laundering funds derived from the illegal drug trade and deprive them of their profits.

Canada's AML/ATF Regime

Canada's AML/ATF Regime helps to protect the integrity of Canada's financial system and the safety and security of Canadians by detecting, deterring, and disrupting money laundering and terrorist financing, as well as helping to disincentivize the predicate criminal offences, such as drug trafficking, that generate proceeds of crime. Canada's AML/ATF Regime consists of 13 federal departments and agencies, each with their own respective mandates, led by the Department of Finance. The Regime is established by federal statutes, including the PCMLTFA and the *Criminal Code*.

The PCMLTFA, first implemented in 2000, is a key statute in Canada's AML/ATF Regime. Its objectives are to: facilitate the deterrence, detection, investigation and prosecution of money laundering and terrorism financing offences; counter organized crime by providing law enforcement officers with the information they need while putting appropriate privacy safeguards in place; assist in fulfilling Canada's international commitments, including under the FATF, to the global fight against transnational financial crime; and to protect Canada's financial system from misuse. To these ends, the PCMLTFA obligates businesses and professionals regulated by the Act (i.e., "reporting entities") to develop and implement compliance programs to identify clients, monitor business relationships, keep records, and report certain types of financial transactions.

The Act also establishes FINTRAC as Canada's AML/ATF regulator and financial intelligence unit and sets out a role for the CBSA to administer and enforce requirements related to the cross-border movement of currency or monetary instruments valued at $10,000 or more and any associated seizures. The CBSA's mandate under the PCMLTFA was expanded through the *2023 Fall Economic Statement* which introduced a new Part 2.1 to respond to the risk of TBML. The new Part 2.1 includes reporting obligations to the CBSA and a scheme for disclosures from CBSA to law enforcement and regulators, as well as search and seizure powers to help in administering the new reporting requirement. Several regulations support the PCMLTFA.

International Obligations & Regime Reviews

Canada is a founding member of the FATF, the global AML/AFT watchdog. This inter-governmental body sets international standards that aim to prevent money laundering, terrorist financing, and the proliferation of weapons of mass destruction, as well as the harm these illegal activities cause to society. As a FATF member, Canada has committed to implementing the FATF standards, as well as to undergo regular Mutual Evaluations that assess Canada's technical compliance and operational effectiveness. Canada's last Mutual Evaluation in 2016 concluded that Canada had a strong AML/AFT regime which achieves good results in some areas but required further improvements to be fully effective.

The FATF will reassess Canada's regime in 2025 pursuant to revised FATF Standards that capture emerging risks and place greater focus on operational effectiveness. Countries with poor assessment results can be "grey-listed" by the FATF, which can have serious macroeconomic consequences and reputational damages. The Regulatory Amendments will improve Canada's adherence to FATF standards and help position Canada positively for the next FATF mutual evaluation.

Strengthening Canada's AML/ATF Regime

In recent years, the government has made a series of statutory changes and investments to strengthen and modernize the AML/ATF legislative and regulatory framework, including announcements in Budget 2022, Budget 2023, Budget 2024, and the *2023 Fall Economic Statement*. This package of regulations will implement policies that were already approved and announced in various vehicles, including previous Budgets and the *2023 Fall Economic Statement*. More specifically regulations are required to:

- implement enhancements to the CBSA's authorities to combat **trade-based financial crime** *announced in the 2023 Fall Economic Statement and implement the new PCMLTFA Part 2.1 that sets out the CBSA's authorities on Reporting of Goods announced in the Fall Economic Statement Implementation Act, 2023;*
- implement measures to enable reporting entities **to share information** with each other to detect and deter money laundering, terrorist financing, and sanctions evasion, while maintaining privacy protections for personal information, including an oversight role for the Office of the Privacy Commissioner of Canada, as announced in Budget 2024, and bring into force sections 11.01(1), 11.01(2), 11.01(3) and 73(1)(i.1) of the PCMLTFA through Budget Implementation Act 2024, No. 1;
- establish a framework for **reporting discrepancies** between information provided to reporting entities and the newly created beneficial ownership registry announced in Budget 2022 and Budget 2023, as provided for by the regulatory-making authority under paragraph 73(1)(c) of the PCMLTFA; and
- extend AML/ATF obligations to **factoring companies, cheque cashing businesses** and **financing and leasing companies** announced in Budget 2024, and bring into force Amendments made to paragraphs 5(h)(iii) and 5(h.1)(iii) of the PCMLTFA through Budget Implementation Act 2024, No. 1.

Objective

The objective of the Regulatory Amendments is to strengthen Canada's AML/ATF framework, enhance Canada's border security and effectiveness in combatting organized crime, fentanyl trafficking, and money laundering, respond to findings of the Cullen Commission, address recommendations from the 2018 Parliamentary Review of the PCMLTFA, and improve Canada's compliance with international standards ahead of Canada's FATF Mutual Evaluation in 2025.

Description

Trade-based financial crime: The Regulatory Amendments will implement new PCMLTFA Part 2.1 on the *Reporting of Goods*. This new regulatory title will require traders (e.g., persons and entities) to declare whether their imported or exported goods are proceeds of crime or are related to money laundering, terrorist financing, or sanctions evasion, and attest that the goods are in fact being imported or exported in order to combat phantom shipments. Traders will also be required to retain records consistent with the records they already have to maintain for customs and tax purposes and truthfully answer questions related to the import or export of goods when asked by a CBSA border services officer. This could include questions related to the nature, origin, quantity, and value of the goods being imported or exported. The new regulations will also outline alternative reporting options (e.g., reporting via telephone) for individuals who are entering Canada where no-physical customs office is available.

The Regulatory Amendments will also include seizure and forfeiture rules. Under the framework the CBSA will have powers to seize and forfeit goods when they have reasonable grounds to believe that the goods are proceeds of crime or related to money laundering, terrorist financing, or sanctions evasion.

In addition, the regulations will establish an administrative monetary penalty scheme to promote compliance with the PCMLTFA Part 2.1. Under this approach, contraventions related to reporting, duty to answer, record keeping, and the obligation to provide accurate information will be subject to monetary penalties. The range of penalties, where the person or entity has made full disclosure of the facts when they are made aware of the violation and there is no reasonable ground to believe that the violation was

intentionally committed, is from $150 to $500. In any other case, the penalty will be equal to the value of the goods in question, or value of the financial transaction purporting to pay for the goods.

The Regulatory Amendments replicate existing portions of the *Customs Act* and associated regulations. Although the language of the Regulatory Amendments for trade-related financial crime have been modernized to reflect current drafting conventions, the meaning and intent of the customs laws and regulations that have been replicated are unchanged.

Information Sharing: The Regulatory Amendments will implement Budget 2024 legislative amendments made to the PCMLTFA and Canada's privacy legislation, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), to enable reporting entities to share information with each other to detect and deter money laundering, terrorist financing, and sanctions evasion, while maintaining privacy protections. The regulations will prescribe an oversight role for FINTRAC and the OPC in a proposed information sharing framework for entities regulated under the PCMLTFA.

The Regulatory Amendments will set out the processes on how to share information in a manner that provides for the protection of personal information. The ability to share and exchange information for private entities will be voluntary. The regulations will not direct reporting entities to share information as a requirement under the PCMLTFA. Reporting entities that choose to make use of the information sharing provision under the PCMLTFA will be required to develop Codes of Practice explaining how the provision will be applied. The Regulatory Amendments will specify that the Codes of Practice must contain the following elements:

a. Participants in the Codes,
b. Intended use of the information to be disclosed,
c. Personal information to be disclosed,
d. How the information may be disclosed,
e. How records of the information may be kept, and
f. An explanation of how the information complies with the requirements of the PCMLTFA, and how the Codes of Practice provide for substantially the same or greater protection of personal information as is provided under PIPEDA, other than is allowed by the PCMLTFA.

Reporting entities will be required to provide the Codes of Practice to the OPC for approval and to FINTRAC for comment in advance of use. The Regulatory Amendments will also permit the OPC to request further information from reporting entities as needed to support its assessment of the Code. The OPC will have a prescribed period of 120 calendar days to approve a Code of Practice, notify the applicant in writing of the decision, and, in the case where approval is not granted, provide reasons for the decision. The OPC will be able to extend the prescribed period by 15 days. If the OPC does not notify the applicant of its decision within the prescribed deadline, the Code of Practice will be deemed to be approved. FINTRAC, upon receiving Codes of Practice from reporting entities, will be able to provide comments to the entities and to the OPC, which must consider the comments in its decision.

The Regulatory Amendments will also include procedures for reporting entities to modify the Code of Practice, which will recommence the OPC approval and FINTRAC review processes if the changes are material. Reporting entities will be required to re-submit their Codes of Practice to the OPC for approval and to FINTRAC for comment every five years, regardless of whether any changes were made. Information shared under the Code will be subject to existing processes under privacy law (i.e. PIPEDA).

Discrepancy Reporting: Under the PCMLTFA, reporting entities are already required to obtain and confirm corporate beneficial ownership information when they verify the identity of an entity. For instance, this is required when a company seeks to open an account or conduct certain transactions, such as large cash or large virtual currency transactions, or large electronic funds transfers. The discrepancy reporting

obligation will expand on this provision by requiring reporting entities to report or resolve 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 within 30 days of the discrepancy being identified. This requirement will only apply when a reporting entity determines that there is a high risk of a money laundering or terrorist financing offence, but not if the discrepancy is resolved. This obligation is in line with existing enhanced due diligence requirements applicable to reporting entities in high-risk situations under the PCMLTFA. Reporting entities that identify a material discrepancy in their regular course of business, even where there is no high-risk of a money laundering or terrorist financing offence, may also report this discrepancy to Corporations Canada. Reporting entities are encouraged to report discrepancies in such a scenario, although there is no obligation to do so.

Corresponding penalties for non-compliance with these obligations will be introduced in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*. The violation penalties for obligations specific to discrepancy reporting are classified as minor, with a penalty range from $1 to $1,000 per violation.

Factoring companies: Regulatory Amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* will prescribe factoring companies as reporting entities under Canada's AML/ATF Regime. Factoring companies will be required to fulfill record keeping, client due diligence, and transaction reporting requirements (when in receipt of cash or virtual currency valued at $10,000 or more, as well as in cases where the factoring company has reasonable grounds to believe that the transaction is related to the commission or attempted commission of a money laundering, terrorist financing or sanctions evasion offence), as well as establish a compliance program. Financial entities (e.g. Banks) will also be subject to factoring-specific obligations where they are engaged in the business of providing factoring services. These new requirements are intended to better position FINTRAC and law enforcement to effectively identify the clients of factoring companies to combat financial crime, including money laundering, terrorist financing, and sanctions evasion.

Obligations specific to factoring companies will be introduced in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations.* This includes new requirements to verify the identity of every party with which a factoring company enters into a factoring agreement and keep associated records. Factoring companies will also need to keep a record of payment made by the factoring company to a client for the purchase of an invoice and keep a receipt of funds record for each payment of $3,000 or more received from the payer of a factored invoice. The $3,000 threshold triggering these obligations is consistent with the risk-based approach maintained by Canada's AML/ATF regulatory framework and creates a level playing field within the regulations by aligning with the monetary threshold used for functionally similar obligations in the Regulations that represent a similar money laundering risk. For greater certainty, the receipt of funds record is not a reporting requirement. The Regulatory Amendments will include an exemption from the requirement to verify identity and keep records for invoices paid by very large, publicly traded corporations, given the low money laundering and terrorist financing risks associated with these companies.

Corresponding penalties for non-compliance with these obligations will be introduced in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*. These violations are categorized by degree of importance, from minor, to serious and very serious, and assign corresponding penalty ranges from a maximum of $1,000 per minor violation, to $500,000 per very serious violation committed by an entity. For example, this will include a very serious violation for the failure to comply with a Ministerial Directive, or to report a suspicious transaction report to FINTRAC in the case where a factoring company has reasonable grounds to suspect that a transaction is related to the commission or attempted commission of a money laundering offence. The violation penalties for obligations specific to factoring activities, such as requirements to verify identity and keep records for

prescribed factoring transactions, are all classified as minor with a penalty range from $1 to $1,000 per violation.

Cheque cashing businesses: Persons and entities that provide cheque cashing services will be regulated as money services businesses under the PCMLTFA and subject to registration requirements as set out in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Registration Regulations*. The full suite of money services business obligations will apply to this sector, including requirements to keep prescribed records, conduct client due diligence, report specified transactions, and establish a compliance program. Obligations specific to cheque cashing as a service will be introduced to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*. This will include a new requirement to verify the identity of a client that cashes a cheque valued at $3,000 or more and to keep associated records regarding the transaction. The $3,000 threshold triggering these obligations is consistent with the risk-based approach maintained by Canada's AML/ATF regulatory framework and creates a level playing field within the regulations by aligning with the monetary threshold used for functionally similar obligations in the Regulations that represent a similar money laundering risk. For greater clarity, the new obligations specific to cheque cashing as a service will only apply to the money services business sector and not to any other type of PCMLTFA reporting entity, including financial entities, which already have obligations associated with the cashing of cheques or other monetary instruments.

Corresponding penalties for non-compliance with these obligations will be introduced in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*. These violations are categorized by degree of importance, from minor, to serious and very serious, and assign corresponding penalty ranges from a maximum of $1,000 per minor violation, to $500,000 per very serious violation committed by an entity. For example, this will include a very serious violation for the failure to comply with a Ministerial Directive, or to report a suspicious transaction report to FINTRAC in the case where a cheque cashing business has reasonable grounds to suspect that a transaction is related to the commission or attempted commission of a money laundering offence. The violation penalties for obligations specific to the activity of cheque cashing, such as requirements to verify client identity and keep records for prescribed cheque cashing transactions, are all classified as minor with a penalty range from $1 to $1,000 per violation.

Financing and leasing companies: Regulatory Amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* will prescribe financing and leasing companies as reporting entities under Canada's AML/ATF Regime. In order to maintain a risk-based approach to the regulation of this sector, obligations will be scoped to exclude financing and leasing services for low value consumer products (i.e., rent-to-own furniture, personal electronics, etc.) which are assessed as posing a low risk of money laundering. However, financing and leasing arrangements for business purposes, for all motor vehicles, and for consumer goods valued above $100,000 will be included given the high money laundering risk in these subsectors. The $100,000 trigger to incorporate high-value consumer goods is consistent with the risk-based approach maintained by Canada's AML/ATF regulatory framework and seeks to mitigate the high money laundering risks associated with the financing and leasing of high value and luxury consumer products. This threshold also reflects feedback from members of the financing and leasing sector which identified $100,000 as a suitable triggering threshold for AML/ATF obligations. Financial entities (e.g. Banks) that provide similar financing and leasing services will also be subject to financing and leasing specific obligations for these services.

Financing or leasing companies will be required to fulfill record keeping, client due diligence, and transaction reporting requirements (when in receipt of cash or virtual currency valued at $10,000 or more, as well as in cases where the financing or leasing company has reasonable grounds to believe that the transaction is related to the commission or attempted commission of a money laundering, terrorist financing or sanctions evasion offence), as well as establish a compliance program. These new

requirements are intended to better position FINTRAC and law enforcement to effectively identify the clients of financing and leasing companies to combat financial crime, including money laundering, terrorist financing, and sanctions evasion.

Obligations specific to financing and leasing companies will be introduced in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*. This will include new requirements to verify the identity of every party with which a financing and leasing company enters into a financing or leasing arrangement and keep associated records. Financing and leasing companies will also need to keep a record of every payment received in service of the financing or leasing agreement from a client. The Regulatory Amendments will include an exemption from the requirement to verify identity and keep records for certain payments made by public bodies and very large, publicly traded corporations, given the low money laundering and terrorist financing risks associated with these entities.

Corresponding penalties for non-compliance with these obligations will be introduced in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations.* These violations are categorized by degree of importance, from minor, to serious and very serious, and assign corresponding penalty ranges from a maximum of $1,000 per minor violation, to $500,000 per very serious violation committed by an entity. For example, this will include a very serious violation for the failure to comply with a Ministerial Directive, or to report a suspicious transaction report to FINTRAC in the case where a financing and leasing company has reasonable grounds to suspect that a transaction is related to the commission or attempted commission of a money laundering offence. The violation penalties for obligations specific to financing and leasing companies, such as requirements to verify identity and keep records for prescribed financing and leasing transactions, are all classified as minor with a penalty range from $1 to $1,000 per violation.

Regulatory development

Consultation

Regulatory Development

The Department of Finance undertook various consultations informing the development of the six measures included in the Regulatory Amendments. Details on the initial consultations informing the regulatory policy for each of these measures are set out below:

Trade-based financial crime: In June 2023, the Department of Finance launched a public *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime*. The topic of the CBSA's role in addressing trade-based financial crime was included in the public consultation. While no stakeholder provided extensive comments on this portion of the consultation paper, an individual stakeholder expressed general support stating that Canada's Regime needs to be expansive in its scope to capture and address different risks and to not be siloed in its approach as methods of laundering money and moving value are often layered and complex.

Information Sharing: In June 2023, the Department of Finance launched a public *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime.* The consultation posed specific questions on information sharing, including what information would be most valuable to share amongst reporting entities to support Canada's AML/ATF Regime. This consultation resulted in 38 submissions related to this topic from academia, consulting firms, professionals, and government regulators and agencies, as well as from industry associations representing sectors regulated under the PCMLTFA, such as banks, life insurance companies, securities dealers, credit unions, casinos, and

money services businesses. Overall, submissions by reporting entity sectors on this issue supported actions to enhance their ability to share information to better detect and deter financial crimes, while recognizing the need for guardrails to protect privacy. Specifically, submissions advocated for a new legislated authority to share information for AML/ATF purposes without consent from individuals, and with limits to liability for entities sharing this information in good faith ("safe harbour"), and guardrails around the use of the information to protect privacy rights.

The OPC also made a submission highlighting that privacy protection should be treated as foundational to the AML/ATF Regime, the importance of proportionality and oversight, and noting that Canada can learn from the models in the United States and the United Kingdom.[1]

This regulatory proposal was also developed in consultation with private sector stakeholders, including representatives from the banking and casino sectors, as well as through engagement with the Advisory Committee on Money Laundering and Terrorist Financing, the government's public-private discussion forum on AML/ATF issues consisting of representatives from all PCMLTFA regulated sectors. Targeted stakeholder engagement was also undertaken, including meetings with representatives from reporting sectors.

Discrepancy Reporting: The Department of Finance sought stakeholder feedback on beneficial ownership transparency through its 2023 *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime*. In response, all stakeholders who commented on corporate transparency, including reporting entity sector representatives, consultants, academics, not-for-profit organizations, and provincial government agencies, expressed support for a public, searchable beneficial ownership registry of corporations. Stakeholders also expressed the view that mechanisms should be in place to ensure that the registry information is adequate, accurate, and up to date.

In addition to taking into account feedback from the 2023 public consultation, the development of this regulatory proposal included direct engagement with private sector stakeholders, including with the Advisory Committee on Money Laundering and Terrorist Financing. Consultation meetings were held with members of this committee, from December 2023 to May 2024, during which options were presented that involved different scopes of reporting and levels of compliance burden.

Factoring companies: The development of this proposal was informed by consultations with Canadian factoring companies, as well as members of the banking sector, between April and July 2024. This included engagement with two industry associations that represent the sector, the Canadian Chapter of the International Factoring Association, as well as the Canadian Lenders Association, which has factoring companies among its membership.

Stakeholders were generally receptive to the extension of AML/ATF regulations to factoring companies and noted AML/ATF requirements are often informally implemented by the sector by virtue of their business dealings with federally regulated banks. Some stakeholders welcomed this proposal as it will mitigate known money laundering and terrorist financing risks posed by the sector and create a more

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[1] Announcement: OPC posts submission to government's consultation on strengthening Canada's anti-money laundering and anti-terrorist financing regime - Office of the Privacy Commissioner of Canada

level playing field across industry. Members of the sector, however, noted the need for government produced guidance and risk typologies to assist in fulfilling regulatory requirements. The sector also noted that a large proportion of the payers of factored invoices are very large, publicly traded corporations. Taking into account stakeholder feedback, the government is introducing an exemption from the client due diligence and record keeping requirements for very large corporations, given the low money laundering risks posed by these businesses. This exemption will reduce regulatory burden for the sector and align with Canada's risk-based approach to AML/ATF regulation.

Expanding the coverage of the federal AML/ATF framework to factoring companies was also included in the Department of Finance's 2023 *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* and 2018 public consultation paper entitled *Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime*. The 2023 consultation received three stakeholder submissions in response to this proposal, including from a financial sector industry association, a large consulting firm, and from a member of law enforcement. Submissions noted that factoring companies should be brought under the PCMLTFA, potentially as a category of money service business or as a new reporting entity type. Another submission suggested that, instead of factoring companies becoming reporting entities under the PCMLTFA, they could be required to register with FINTRAC without reporting obligations. It was suggested that such an approach could minimize burden while providing screening criteria to prevent the criminal operation of companies operating in this sector. This proposed approach was not pursued as such requirements would not mitigate the specific money laundering and terrorist financing vulnerabilities posed by this sector under Canada's risk based regulatory framework.

Six submissions were received from various stakeholders in 2018 regarding a proposal to make factoring, financing and leasing companies reporting entities under the PCMLTFA. This included submissions from members of the banking, credit union, money services business, and financing and leasing sectors. While several stakeholders expressed support or qualified support for the proposal, most did not mention factoring companies specifically, commenting instead on financing and leasing companies. No stakeholders expressed opposition to the proposal.

Cheque cashing businesses: The development of this proposal was informed by consultations with Canadian cheque cashing companies, as well as members of the banking sector, between April and July 2024. This included engagement with the Canadian Money Servies Business Association, which represents various businesses regulated under the PCMLTFA for other activities and that also conduct cheque cashing services, as well as the Canadian Consumer Finance Association. The Canadian Bankers Association was also consulted on this initiative.

Some stakeholders noted the known money laundering vulnerabilities associated with cheque cashing and welcomed new regulations to help mitigate these risks and to align Canada's AML/ATF framework with that of other jurisdictions. One stakeholder noted that a registration scheme for this sector would be beneficial. It was also noted that some AML/ATF related risk controls are already imposed by members of the sector, but that application is uneven. Stakeholders noted that a proportion of the sector's clientele includes members from vulnerable populations and that any proposed obligations would need to weigh this as a consideration.

While not expressly included in the Department of Finance's 2023 *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime*, one response submitted by a financial sector industry association suggested that the government consider adding cheque cashing as a new reporting entity type. The submission noted that while the cheque cashing sector is not currently covered under the PCMLTFA, cheque cashing is considered a money services business activity under provincial legislation in Quebec.

Taking into account stakeholder feedback, the government will regulate cheque cashing services as a money service business activity, which will require registration with FINTRAC as a regulatory requirement. Moreover, identification verification and record keeping requirements will be required for the cashing of cheques valued at $3,000 or above. This threshold will reduce regulatory burden for the sector and align with Canada's risk-based approach to AML/ATF regulation by ensuring that obligations are targeted to higher risk, higher value transactions, rather than the lower risk, lower value transactions often conducted by members of vulnerable populations.

Financing and leasing companies: The development of this proposal was informed by consultation with Canadian financing and leasing companies, as well as members of the banking sector, between April and July 2024. This included engagement with the two largest industry associations representing the financing and leasing sector, the Canadian Financing and Leasing Association and the Canadian Lenders Association. The Canadian Bankers Association was also consulted.

Stakeholders were generally open to the extension of AML/ATF regulations to this sector. Several stakeholders noted that some AML/ATF related risk controls are already imposed by members of the sector by virtue of their business dealings with federally regulated banks, but that application is uneven. These stakeholders thus welcomed the introduction of an AML/ATF regulatory scheme for this sector as it will contribute to a more level playing field across industry. However, several stakeholders cautioned that the introduction of regulations will have an outsized impact on small and medium businesses and noted that any regulations will need to be mindful of industry-specific features and circumstances.

Taking into account stakeholder feedback, the government is introducing targeted obligations to the highest risk activities offered by the sector. Regulatory obligations will be scoped to exclude financing and leasing services for most consumer products which are assessed as posing a low risk of money laundering. However, coverage of financing and leasing arrangements for all consumer automobiles as well as other consumer products valued at $100,000 or more will be included given the high money laundering risk in these subsectors in the Canadian context.

Prior to this targeted engagement, more general feedback was solicited from the public on this topic in 2018. The Department of Finance's 2018 public consultation paper *Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* included a proposal to make factoring, financing and leasing companies reporting entities under the PCMLTFA. Six submissions were received in response to this proposal from various stakeholders, including from PCMLTFA regulated businesses, as well as from members of the financing and leasing sectors. Four stakeholders expressed support or qualified support for the proposal, with one stakeholder noting that the financing and leasing of high-value equipment poses a higher risk for money laundering. Other submissions suggested that the sector is low risk for the placement stage of money laundering as cash is not often accepted and encouraged the government to engage industry directly prior to introducing regulations. The government responded to these comments by engaging industry directly in the development of the regulatory policy informing these Regulatory Amendments and by targeting the Regulatory Amendments to the financing and leasing activities of greatest risk to money laundering and terrorist financing.

Pre-Publication in the *Canada Gazette, Part I*

The Regulatory Amendments were pre-published in the *Canada Gazette*, *Part I*, on November 30, 2024, followed by a 30-day comment period that ended on December 30, 2024.

In total, the Department of Finance received comments from 31 stakeholders, including 17 which provided comments through the Online Regulatory Consultative Program (ORCS), and 14 by e-mail. 28 stakeholders provided feedback pertaining to proposed Amendments set out in the *Regulations Amending the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* and the

Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations. Seven stakeholders provided feedback pertaining to proposed Amendments set out in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Reporting of Goods Regulations*. Altogether, feedback was received from 17 from industry associations and councils, five from individuals, five from private businesses, and four from provincial governments or regulatory bodies.

Overall, stakeholders expressed support for strengthening Canada's AML/ATF framework. Some stakeholders expressed concerns with respect to the application of new obligations for financing and leasing entities, the coming-into-force dates, administrative burden, and the potential for negative impacts to Canadian consumers. These comments are outlined below.

Industry engagement through the pre-publication consultation enabled the Department of Finance, as the policy lead responsible the PCMLTFA and its Regulations, to better understand the practical implications of the Regulatory Amendments. The Department of Finance, in collaboration with the CBSA, FINTRAC, the OPC, and Corporations Canada, as the implementing agencies for these regulatory measures, evaluated each stakeholder submission received throughout the *Canada Gazette, Part I* consultation process and the Department of Finance made adjustments to the Regulatory Amendments where required. Stakeholder feedback that resulted in adjustments to the Regulatory Amendments, as well as the nature of the adjustments, are set out below. Justifications for stakeholder feedback that did not result in a change to the Regulatory Amendments in advance of final publication in *Canada Gazette, Part II* are also noted.

On February 4, 2025, following the conclusion of the pre-publication consultation on the Regulatory Amendments, the Prime Minister issued the Directive on Transnational Crime and Border Security. This Directive acknowledged the urgent threats that the international and domestic drug trade and drug trafficking pose to the livelihoods and safety of Canadians, as well as the role that organized crime groups and money laundering play in exacerbating these threats. The Directive also acknowledged the United States as Canada's most essential partner in efforts to reduce and disrupt transnational criminal activity and drug trafficking in North America.

The Regulatory Amendments included in this package were identified as key measures to support this Directive, including the urgency of disrupting the financial profits laundered by transnational organized crime groups who have become major enablers in accelerating the fentanyl crisis. In response, the government has advanced the coming into force date to April 1, 2025 for the trade-related financial crime, factoring, cheque cashing, and financing and leasing measures included in this Regulatory package. Accelerating the coming into force date from October 1, 2025 will allow the government of Canada to advance its efforts to tackle this urgent crisis six months sooner.

The Department of Finance, in partnership with the CBSA and FINTRAC, has informed impacted industry of the acceleration of this coming into force date and has committed to working with regulated persons and businesses to ease the implementation process along this accelerated and exceptional timeline. FINTRAC supervisory activities related to these measures intend to place emphasis on engagement and outreach in the first calendar year following coming into force to improve awareness and understanding of compliance obligations under the PCMLTFA and its Regulations.

Trade-based financial crime: Seven stakeholders submitted feedback on the *Reporting of Goods Regulations* including four industry associations, one provincial body, and two individuals.

Feedback resulting in changes to the Regulatory Amendments following pre-publication:

- *Request to align the Reporting of Goods Administrative Monetary Penalties with the Financial Administration Act*

One industry association suggested that the base amount of $1 for penalties set out in s. 14(1) of the *Reporting of Goods Regulations* be changed to align with the *Low-Value Amount Regulations* under the *Financial Administration Act.* The Department of Finance agrees with this reasonable proposal and has made the requested change. The CBSA also applies financial penalties at the border, with penalties starting at $100. In order to align with the *Financial Administration Act* and the CBSA's current administrative monetary penalty scheme, the Department of Finance has revised the Regulatory Amendments to raise the base administrative penalty from $1 to $150.

Other feedback that did not result in changes to the Regulatory Amendments following pre-publication:

- Requests for clearer guidance and practical implementation details

Three stakeholders, two industry associations and one individual, requested additional information on how declarations will be made, the specific responsibilities being placed on businesses (particularly small and medium-sized businesses), the implications for partners involved in the supply chain, and details on how the seizures of perishable goods will be handled. Two industry associations emphasized the importance of protecting sensitive business information and minimizing reputational risks associated with regulatory compliance. These stakeholder requests fall outside of the regulatory scope and will be addressed by the CBSA through guidance and implementation.

- The need for enhanced government collaboration and utilization of different tools

One individual stakeholder suggested that the government enhance collaboration between regulatory bodies to address trade-based financial crime and that the CBSA make use of artificial intelligence (AI) based tools to efficiently detect anomalies within trade data. The same stakeholder also suggested enhanced due diligence measures for clients involved in trade transactions, and specialized training programs for border service officers. Regarding collaboration, the Department of Finance continues to work closely with the CBSA to support implementation plans. Regarding enhanced due diligence and incorporating AI-driven tools to detect data anomalies indicative of trade fraud; the Government of Canada is open to considering the use of any tool that assist in addressing financial crime at our borders while respecting *Canadian Charter of Rights and Freedoms* protections. Currently, these comments fall outside of our regulatory scope but may be considered in the future.

- Request to expand scope of documentation and to align with international best practices

One individual stakeholder recommended widening the scope of the Regulatory Amendments to require the maintenance of documents beyond customs documents in order to cover all indicators of commercial fraud identified by United Nations Commission of International Trade Law (UNCITRAL). The Department of Finance agrees with this statement. For this reason the record keeping requirements set out in the *Reporting of Goods Regulations* require importers, exporters, producers, suppliers, distributors and consumers to maintain *all* records relating to, among other things, the origin, making, purchase, payment, sale and disposal of the goods. Additionally, the Regulatory Amendments incorporate by reference relevant sections of the *Customs Act* and s.230 of the *Income Tax Act*. Taken together, the Regulatory Amendments already provide broad basis of documentation that the CBSA can request when looking into a regulatory violation beyond just customs documents. This approach was already included in the regulatory framework and therefore does not require a change to the Regulatory Amendments.

The report *Recognizing and Preventing Commercial Fraud Indicators of Commercial Fraud Prepared by the UNCITRAL Secretariat* by UNCITRAL in 2013 identifies irregular documents, failing to provide necessary information and frustration of due diligence when processing a transaction as key indicators of trade fraud. The new Part 2.1 of the PCMLTFA addresses these three indicators and others by requiring

persons or entities captured under the Regulatory Amendments to provide accurate and complete information, answer any questions posed by an officer, and then requiring persons and entities to maintain all documents associated with the goods in question, allowing the CBSA to address any indicators regarding irregular documents. The regulations also build on Canada's ability to collaborate with international allies by allowing the CBSA to enter into information sharing agreements with foreign governments in order to exchange trade data and identify leads, meeting one of UNCITRAL's best practices in addressing trade-based financial crime.

Information Sharing: Eleven stakeholders submitted comments on the Regulatory Amendments related to the implementation of an information sharing framework. These stakeholders include the OPC, five industry associations, two private businesses, two provincial bodies, and one anonymous stakeholder. All stakeholders supported the government's intent behind the information sharing framework and several suggested improvements to the Regulatory Amendments, some of which were adopted.

Feedback resulting in changes to the Regulatory Amendments following pre-publication:

Specifying the personal information to be exchanged

The OPC suggested that the regulations should specify that Codes of Practice shall describe the personal information of an individual that may be disclosed, collected or used without their knowledge or consent, rather than the "types" of personal information. The Department of Finance agrees with this change to improve the specificity of what personal information is to be disclosed under a Code of Practice and to facilitate the OPC's assessment that such information is necessary to the objective of the framework to combat money laundering and terrorist financing.

Redundancy of additional information to be provided to the OPC

One industry association commented that the requirement for Codes of Practice to include "any other information necessary for the assessment of the code by the Commissioner" (paragraph 161(g) of the proposed regulations) was redundant given that subsection 162(3) of the draft regulations allowed the OPC to request any additional information necessary for the OPC to determine approval of a Code. Additionally, the stakeholder commented that the requirement of 161(g) could create uncertainty for reporting entities in its potential to create a scenario whereby information requested by the OPC goes beyond what was intended to be covered in regulations. To remove the redundancy and reduce uncertainty for industry, the Department of Finance has removed former paragraph 161(g) from the Regulatory Amendments.

Extend OPC approval timeline

The OPC commented that the approval timeline for Codes of Practice should be lengthened to provide sufficient time for review and approval. The Department of Finance's intent is to set an approval timeline that provides an efficient service standard to allow reporting entities to implement information sharing in a timely fashion, while respecting the need for OPC's thorough review to ensure robust privacy protections. The Department of Finance recognizes that there is some uncertainty inherent to the estimates as to how long it will take the OPC to review a Code of Practice and how many will be submitted by industry to the OPC for review. Given these factors, the OPC approval timeline is changed to 120 calendar days, up from the proposed 90 days. The OPC will continue to have the ability to extend the deadline by an additional 15 days, provided it provides notice to the reporting entities.

Removal of complaints provision

The proposed Regulatory Amendments included a complaints provision (section 160) that would allow individuals to file complaints with the OPC if they believe that a reporting entity has not complied with an approved Code of Practice. This complaints process was intended to replicate Division 2 of Part 1 of PIPEDA. Four stakeholders commented that the complaints provision in the proposed Regulations was redundant given that the complaints process under PIPEDA would apply to reporting entities subject to

PIPEDA that are using the information sharing framework. There was also concern that the complaints provision in the proposed Regulations could potentially be abused by bad faith actors lodging spurious complaints with the OPC to disrupt the lawful information sharing framework and/or to seek to learn about the limits and nature of a Code of Practice with a goal of avoiding detection. This could have a chilling effect on the adoption of the information sharing framework, which is voluntary. The Department of Finance's original policy intent was to clarify that for businesses subject to PIPEDA, the existing complaints process under PIPEDA applied to the PCMLTFA information sharing framework. PIPEDA also stipulates that the OPC may discontinue an investigation of a complaint if it is "trivial, frivolous or vexatious or is made in bad faith", to help ensure the provision is not abused. The Department agrees that the complaints provision included in the proposed Regulations was redundant and unnecessary to achieve the policy objective; it has therefore been removed.

Other feedback that did not result in changes to the Regulatory Amendments following pre-publication:

Regulatory burden and guidance

One stakeholder raised concerns about the complexity and regulatory burden of developing Codes of Practice for approval by the OPC, and its potential to duplicate existing efforts for businesses already compliant with PIPEDA. The Department of Finance recognizes that businesses should already be complying with privacy legislation; however, Codes of Practice are an additional layer of privacy protection that ensure only necessary information is being exchanged for AML/ATF purposes and done in a manner that protects data and privacy. Approval by the OPC is important to ensure the Codes of Practice are robust and provide sufficient privacy protections.

In a similar vein, three stakeholders requested that FINTRAC and the OPC publish clear guidance on the information sharing framework, which could include standardized templates for Codes of Practice. This would help clarify obligations, ease administrative burden and facilitate implementation and use of the voluntary framework. As this is a request for guidance, it did not result in any changes to the regulations. The Department of Finance is undertaking discussions with stakeholders regarding the potential for guidance or other compliance supports that could assist with the implementation of these regulations.

Scope of personal information to be exchanged

One industry association suggested explicitly defining the scope of personal information that could be exchanged under the framework. The Department of Finance took a more flexible approach that allows businesses developing a Code of Practice to jointly agree what information they will exchange, recognizing that businesses are best suited to define their needs. Additionally, approval by the OPC in consultation with FINTRAC ensures that only necessary information is included.

Centralized platform for information sharing

Two stakeholders suggested creating a centralized platform to facilitate information sharing for all reporting entities. The Department of Finance is concerned this would create undue privacy risks as it could expose personal information to more parties, including some reporting entities who may not have a legitimate need to access such information. The current voluntary framework allows for reporting entities to decide which information to share and with whom. This approach is consistent with the need-to-know principle of privacy, i.e. information should be shared among parties that have a vested interest in the information at hand.

Provincial privacy legislation

Several stakeholders requested clarification on the interplay between the information sharing framework

in the PCMLTFA and provincial privacy legislation. The Department of Finance designed the framework not to conflict with or supersede provincial privacy legislation. Businesses must ensure they are complying with applicable privacy legislation, whether it is federal (i.e., PIPEDA) or provincial.

Additional powers for OPC

One industry association suggested the OPC should play a role in monitoring businesses' ongoing compliance with information sharing, and the OPC requested greater remedial powers to promote more meaningful oversight. The policy intent for the information sharing framework is to have the OPC review and approve Codes of Practice at the outset and every 5 years or whenever there is a significant change, but not to prescribe an ongoing supervisory role for the OPC to monitor adherence with Codes of Practice. The OPC approval process provides a gatekeeper function to ensure that reporting entities have robust Codes of Practice to protect personal information exchanged under the framework and provides greater certainty to industry to share information under approved Codes of Practice with fixed triggers for subsequent OPC approval. Furthermore, the OPC has certain remedial and audit powers under PIPEDA to enforce compliance that would apply to reporting entities subject to PIPEDA that are using the information sharing framework. The Regulatory Amendments do not grant the OPC additional supervisory powers beyond what is already provided in PIPEDA.

Increase transparency

The OPC suggested that the regulations increase the transparency of the information sharing framework, for example by requiring businesses to publish privacy assessment reports on their adherence to Codes of Practice and privacy laws or to submit such reports to the OPC or FINTRAC. The Department of Finance seeks to balance the principles of privacy protections and transparency with the need to combat AML/ATF and is concerned that additional transparency mechanisms could allow bad faith actors to avoid reporting entities that are known to share information with each other for AML/ATF purposes, or otherwise learn how to adapt and exploit information sharing practices, which would undermine the purpose of the framework.

Other comments

Several stakeholders raised some suggestions for minor clarifications to the Regulatory Amendments. However, the Department of Finance assessed that such clarifications were unnecessary to achieve the policy intent. Finally, one stakeholder suggested edits to the descriptive text in the RIAS that were not adopted as the text already provides substantially similar elements.

Discrepancy Reporting:

Ten stakeholders submitted comments to the Regulatory Amendments introducing the discrepancy reporting requirement. This included comments from seven industry associations, one financial institution, one provincial body, and one anonymous stakeholder. These comments, some of which were adopted, are outlined below:

Feedback resulting in changes to the Regulatory Amendments following pre-publication:

- Request to increase the reporting deadline

Five stakeholders, including three industry associations, one financial institution and one anonymous stakeholder, requested an increase in the 15-day deadline to report a discrepancy once identified in order to provide reporting entities with sufficient time to assess the materiality of any discrepancy and try to

resolve it instead of reporting. As a result, the Department of Finance increased the reporting deadline from 15 to 30 days.

Other feedback that did not result in changes to the Regulatory Amendments following pre-publication:

- Support for the regulatory approach.

Four industry associations expressed support for the risk-based approach.

- Concerns about the burden associated with the obligation to report.

Three stakeholders, including two industry associations and one financial institution, submitted comments related to regulatory burden associated with the obligation to report beneficial ownership discrepancies. The financial institution suggested, instead of the reporting obligation, to strengthen the provisions under the *Canada Business Corporations Act* allowing Corporations Canada to enforce the requirement on corporations to file beneficial ownership information and to validate the information. One industry association suggested that the reporting obligation apply only to financial institutions, at least initially, as they have more resources to comply with these requirements. Another industry association raised the concern that the Regulatory Amendments could require going back to the client after onboarding has already been completed, which could lead to significant client friction. Finally, a different industry association noted that the compliance burden on reporting entities must be proportionate and manageable The Department of Finance determined that no change was needed as, given that the requirement is risk based, reporting will only be required in limited circumstances. FINTRAC and Corporations Canada will also issue guidance to support reporting entities' compliance with the obligations.

- Request to strengthen confidentiality provision

One industry association stakeholder expressed concern that the content of discrepancy reports could be disclosed to members of the public as a result of a request under the *Privacy Act* or the *Access to Information Act*, allowing the requestor to know that a person or entity was flagged as high risk. The Department of Finance is of the view that the risk is well mitigated by the fact that reporting entities and members of the public can report discrepancies on a voluntary basis in relation to persons or entities that have not been assessed as high risk, as well as by existing safeguards under these statutes.

- Request for change in the wording

Two industry associations suggested changes in the wording of the regulations to clarify the risk-based trigger of the obligation to report. The Department of Finance determined that no change was needed as, the current wording for the discrepancy reporting requirement is consistent with the existing wording applicable to other risk-based obligations under the PCMLTFA.

- Request for clear guidance

Four industry association stakeholders requested that the Government issue clear guidance to assist industry in operationalizing the forthcoming Regulatory Amendments, including when reporting is required and by clarifying what constitutes a material discrepancy and by providing examples. Of these, one also requested that consultations be held by Corporations Canada on the development of the form and method of reporting. In response, FINTRAC will provide guidance on the reporting requirements and Corporations Canada is consulting reporting entities in developing the reporting system.

- *Requests to extend the coming into force period for the obligations*

Four industry associations requested that the Department of Finance delay the proposed October 1, 2025 coming into force date of the PCMLTFA obligations to provide industry with additional time to prepare for implementation. Of these, one industry association requested that it not be brought into force until Corporations Canada deems the federal beneficial ownership registry to be completely populated. However, due to Canada's international obligations under the FATF, the coming-into-force date of October 1, 2025, cannot be extended. Furthermore, Corporations Canada expects that the registry to be fully populated by October 1, 2025.

- *Requests for changes in the RIAS*

One industry association requested that the RIAS be updated to clarify that the discrepancy reporting framework is not intended to be the sole means for ensuring registry integrity and that Corporations Canada will undertake its own compliance and verification activities. The "Issues" section of this RIAS was updated to clarify that this is the intent of the framework. Another industry association requested a change in the RIAS stating that reporting entities should utilize the beneficial ownership registry to support their risk assessment, but no such obligation exists under the regulations.

Factoring companies: Six stakeholders submitted comments to the Regulatory Amendments introducing requirements for factoring companies. This included comments from four industry associations, one law firm, and one large financial entity. Given the nature of the comments submitted, no changes were made to the Regulations based on feedback received during the *Canada Gazette, Part I* consultation. These comments are outlined below:

Other feedback that did not result in changes to the Regulatory Amendments following pre-publication:

- *Requests to extend the coming into force period for the obligations*

Three stakeholders, including two industry associations and one law firm, requested that the Department of Finance delay the coming into force of PCMLTFA obligations for factoring companies up to 18 months from the date of final publication. Due to the urgency of combatting the transnational organized crime groups who have become major enablers in accelerating the fentanyl crisis, the coming-into-force date has been expedited to April 1, 2025. It is recognized that, with shorter coming into force timelines, reporting entities previously not subject to obligations under the PCMLTFA may require some time to become compliant with their obligations and establish an effective compliance program to support the regime in combatting money laundering and terrorist financing. In the first year following the coming into force date, FINTRAC will, in the context of its risk-based approach, put emphasis on engagement, outreach and guidance activities related to new regulatory obligations for factoring activities in order to foster greater awareness and understanding among new reporting entities. This will include industry consultation to develop guidance such that new reporting entities will be well positioned to implement and mature their compliance programs following the coming into force.

- *Requests to clarify whether obligations associated with factoring activity apply to financial entities*

Three stakeholders, including two industry associations representing the financial sector, and one large financial entity, noted that while the RIAS was clear that financial entities will also be subject to factoring-specific obligations where they are engaged in the business of providing factoring services, this was not explicit in Regulatory Amendments. The two industry association stakeholders suggested that the Regulatory Amendments and RIAS be updated to exempt financial entities from this requirement, while the financial entity stakeholder requested that the obligations be made more overt in the Regulatory Amendments. No change was made in response to these comments as there is no exclusion for financial entities in the definition of "factor" set out in the Regulatory Amendments. The absence of the exclusion

makes clear that the definition applies to all entities engaged in the business of factoring (including financial entities). Moreover, the Department of Finance did not change the Regulatory Amendments to introduce such an exclusion as the policy intent is to address money laundering and terrorist financing risks posed by all entities in engaged in the business of factoring and to ensure a level regulatory playing field between those entities.

- *Request to exempt non-cash transactions and transactions routed through Schedule I banks from regulatory requirements*

Two stakeholders, an industry association representing the factoring sector and one law firm, requested that all non-cash transactions, as well as those routed through any Schedule I Canadian bank, be exempted from regulatory requirements. It was suggested that non-cash transactions do not present a money laundering risk and that any record keeping or reporting of transactions routed through Schedule I banks would be burdensome and duplicative. The Department of Finance considered this request and weighed the benefit of reduced burden with implementing a comprehensive AML/ATF framework for the factoring sector that would result in increased actionable financial intelligence produced by FINTRAC. In line with the findings of Canada's *Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing*, non-cash factoring transactions present an inherent vulnerability to money laundering and terrorist financing which require mitigating measures. Moreover, it was determined that transactions routed through Schedule I banks should not be exempted as the factoring companies directly involved in the transaction have a unique line of sight into their client's business activities which is valuable to Canada's AML/ATF Regime. This perspective, combined with their industry knowledge and AML/ATF programs once in place, will position factoring companies to detect behaviours and transactional patterns that appear inconsistent with legitimate business activity. These patterns, once detected, could give rise to reasonable grounds to suspect that a money laundering, terrorist financing, or sanctions evasion offence has taken place or been attempted.

- *Request to limit identity verification requirements*

One stakeholder, a large financial entity, suggested that businesses engaged in factoring activity should only be required to verify the identity of the persons or entities with whom they enter into a factoring agreement. This would exempt factoring companies from having to verify the identity of a person or entity from whom it receives payments on factored invoices. The Department of Finance considered the burden reducing elements of this suggestion and weighed it against the risks posed by those seeking to place illicit funds into the formal financial system through payments made on factored invoices. The Department determined that no change was needed as the current requirement is already sufficiently risk based and burden reducing as very large, publicly traded corporations, which pay most factored invoices, and which pose a low risk of money laundering are already exempt from the identity verification requirement. Moreover, the Regulations include a burden reducing measure whereby once a reporting entity has verified the identity of a person or entity it is not required to do so again unless the regulated entity has doubts about the information that was previously provided to them for identity verification purposes.

- *Requests pertaining to receipt of funds records*

Two stakeholders, one industry association representing the financial sector and one law firm, submitted feedback regarding the requirement to keep a receipt of funds record for every payment received valued at $3,000 or more. The industry association requested that an exemption be created to remove the requirement to keep a record of the nature of business of the entity from which the funds are received as a financial entity involved in factoring activity may not have access to this information. The Department of Finance weighed this suggestion with the money laundering risks associated with those seeking to place proceeds of crime into the formal financial system through payments to factored invoices and determined that no changes are necessary. For instance, this sector can be exploited by bad actors to obscure the nature of their criminal activities. Ensuring that the reporting entity has information on the nature of business of the payer of a factored invoice helps to mitigate this risk and to better identify suspicious

transactions that may be associated with a money laundering or terrorist financing offence. The other comment submitted by the law firm requested that all reporting thresholds be at the $10,000 threshold and erroneously identified the receipt of funds record keeping requirement for transactions of $3,000 or more as a reporting requirement, rather than as a record that must be kept. The Department of Finance therefore determined that no changes were necessary to the Regulatory Amendments. The "Description" section of the RIAS has been updated to reflect clearly that the receipt of funds requirement is a record keeping requirement only and to clarify that threshold reporting requirements only apply when a factoring entity is in receipt of cash or virtual currency valued at $10,000 or more.

- *Request for clear guidance*

Four stakeholders, including three industry associations and one large financial institution, requested that a definition of "factoring" be provided for industry. One industry association also requested that the term "assignor" be defined. As "factoring" and "assignor" are commonly understood industry terms, it was determined that a definition of these terms would be best addressed through FINTRAC guidance. Additionally, one industry association stakeholder requested that FINTRAC issue clear guidance to assist industry in operationalizing the forthcoming Regulatory Amendments for factoring activities. FINTRAC will issue new guidance on its website and undertake outreach to factoring companies and financial entities engaged in the business of factoring prior to the coming into force of the Regulatory Amendments.

Cheque cashing businesses: Two industry association stakeholders submitted comments to the Regulatory Amendments introducing obligations for cheque cashing businesses. Given the nature of the comments submitted, no changes were made to the Regulations based on feedback received during the *Canada Gazette, Part I* consultation.

Other feedback that did not result in changes to the Regulatory Amendments following pre-publication:

- *Requests to extend the coming into force period for the obligations*

One industry association stakeholder requested that the Department of Finance delay the coming into force of PCMLTFA obligations for cheque cashing businesses beyond the initial proposed October 1, 2025, coming into force date. Due to the urgency of combatting the transnational organized crime groups who have become major enablers in accelerating the fentanyl crisis, the coming-into-force date has been expedited to April 1, 2025. It is recognized that, with shorter coming into force timelines, reporting entities previously not subject to obligations under the PCMLTFA may require some time to become compliant with their obligations and establish an effective compliance program to support the regime in combatting money laundering and terrorist financing. In the first year following the coming into force date, FINTRAC will, in the context of its risk-based approach, put emphasis on engagement, outreach and guidance activities related to new regulatory obligations for cheque cashing activities in order to foster greater awareness and understanding among new reporting entities. This will include industry consultation to develop guidance such that new reporting entities will be well positioned to implement and mature their compliance programs following the coming into force.

- *Comments resulting in updates to the RIAS*

Two industry association stakeholders submitted comments that required updates to the RIAS. One industry association requested that the RIAS be updated to clarify that pay day lending activity is not subject to AML/ATF regulation under the PCMLTFR. This clarification was added to the "Issues" section of this RIAS. The other industry association noted that the $3,000 threshold for identity verification aligns with existing AML/ATF frameworks in Canada, promoting consistency, but that the associated record keeping requirements may create regulatory burden for credit unions. In response to this comment the Department of Finance has updated the "Description" section of this RIAS to clarify that the Regulatory Amendments creating PCMLTFA regulatory obligations for cheque cashing businesses would only

pertain to money services businesses and not to other PCMLTFA reporting entity types, including credit unions.

- *Request for clear guidance*

One industry association stakeholder requested that information be provided regarding whether the cheque cashing sector would be required to submit large cash transaction reports when in receipt of $10,000 or more in cash from an armoured car company in the regular course of business operations, as well as specific interpretive issues related to the cashing of cheques. These comments were communicated to FINTRAC to incorporate into their outreach efforts to assist industry in preparing for the implementation of these requirements as this question is related to a matter of regulatory interpretation by FINTRAC as the supervisor.

Financing and leasing companies: Eleven stakeholders submitted comments pertaining to the Regulatory Amendments introducing requirements for financing and leasing companies. This included comments from seven industry associations (including two representing the financing and leasing industry, two representing the automotive industry, two representing financial entities, and one representing the electronic transactions industry), two automobile companies, one large financial entity, and one individual. The Department received comments that resulted in changes to the Regulatory Amendments, as well as those that did not result in changes. These comments are outlined below:

Feedback resulting in changes to the Regulatory Amendments following pre-publication:

- Requests to clarify the scope of industry activities subject to regulation

Two industry associations recommended clarifying the scope of the definition to ensure regulatory obligations apply only to activities described in the definition, such as high-risk financing and leasing, rather than to all activities conducted by a business. This would avoid creating obligations for financing and leasing activities that are less vulnerable to exploitation for money laundering and terrorist financing purposes. The Department of Finance agrees that this is the intent of the obligations. To make this more overtly clear the Regulatory Amendments were changed to scope in the coverage of financing or leasing entities under PCMLTFA paragraph 5(j) which applies to persons and entities engaged in a prescribed business or activity, *while carrying out a prescribed activity*. This was changed from the previous reference to PCMLTFA paragraph 5(i) which applies to persons and entities engaged in a prescribed business, profession or activity – but not necessarily when carrying out a prescribed activity. This change will ensure that lower risk financing or leasing activities, such as those associated with low value consumer goods, do not trigger regulatory obligations in cases where an entity engaged in these activities also provides financing or leasing arrangements for commercial purposes, motor vehicles, or other goods valued at $100,000 or more.

- Requests to fix typos in the Regulatory Amendments

Two stakeholders, one industry association representing the financial sector and one large financial entity, identified drafting errors in the Regulatory Amendments related to identity verification and business relationship requirements. The Department of Finance is appreciative of industry identifying these issues and has updated the Regulatory Amendments to fix the errors and clarify that financing or leasing entities enter into a business relationship with those clients with whom they enter into a financing or leasing arrangement.

Other feedback that did not result in changes to the Regulatory Amendments following pre-publication:

- *Requests to extend the coming into force period for the obligations*

Seven stakeholders, including five industry associations, one large financial entity, and one car dealership, requested that the Department of Finance delay the coming into force of PCMLTFA obligations for financing and leasing companies up to 18 months from the date of final publication. Due to the urgency of combatting the transnational organized crime groups who have become major enablers in accelerating the fentanyl crisis, the coming-into-force date has been expedited to April 1, 2025. It is recognized that, with shorter coming into force timelines, reporting entities previously not subject to obligations under the PCMLTFA may require some time to become compliant with their obligations and establish an effective compliance program to support the regime in combatting money laundering and terrorist financing. In the first year following the coming into force date, FINTRAC will, in the context of its risk-based approach, put emphasis on engagement, outreach and guidance activities related to new regulatory obligations for financing and leasing activities in order to foster greater awareness and understanding among new reporting entities. This will include industry consultation to develop guidance such that new reporting entities will be well positioned to implement and mature their compliance programs following the coming into force.

- *Requests to clarify whether obligations associated with factoring activity apply to financial entities.*

Three stakeholders, including two industry associations representing the financial sector, and one large financial entity, noted that while the RIAS was clear that financial entities will also be subject to financing and leasing-specific obligations when they are engaged in the business of providing financing and leasing services, the Regulatory Amendments themselves were not clear on this point. The two industry association stakeholders suggested that the Regulatory Amendments and RIAS be updated to exempt financial entities from this requirement, while the financial entity stakeholder requested that the obligations be made more overt in the Regulatory Amendments. No change was made in response to these comments as there is no exclusion for financial entities in the definition of “financial or leasing entity” set out in the Regulatory Amendments. The absence of the exclusion clarifies that the definition applies to all entities engaged in the business of financing or leasing (including financial entities). Moreover, the Department of Finance did not change the Regulatory Amendments to introduce such an exclusion as the policy intent is to address money laundering and terrorist financing risks posed by all entities engaged in the business of financing or leasing and to ensure a level regulatory playing field between those entities.

- *Requests to apply the $100,000 threshold to the leasing or financing value rather than the value of the underlying asset*

Two industry associations suggested that the $100,000 threshold for financing or leasing arrangements for consumer goods be applied to the financing or leasing amount, rather than the value of the property being financed or leased in order to better align with standard industry practices. The Department of Finance considered this request and weighed the implementation considerations of this suggestion with money laundering and terrorist financing vulnerabilities that the policy seeks to address. Ultimately, it was determined that assigning the threshold amount of the financing or leasing amount rather than the value of the underlying asset would introduce a greater risk of structuring to evade regulatory requirements, whereby criminals would provide large downpayments to decrease the lease or financing amount below the threshold value. Tying the threshold to the value of the underlying asset reduces this risk.

- *Request to raise the $100,000 threshold*

Two stakeholders, including one industry association and one car dealership, noted that the $100,000 threshold is too low and should be raised to $250,000 as such a threshold would be more equitable, simpler to comply with and to enforce. The Department of Finance considered the burden reducing elements of this request, but ultimately determined that $250,000 is too high and would undermine the

risk basis of the policy by exempting a very large volume of financing and leasing activity in Canada. The $100,000 threshold is well aligned with Canada's money laundering and terrorist financing risk landscape as it captures the luxury goods market in Canada which is known to poser higher vulnerabilities to be being exploited for money laundering and terrorist financing purposes.

- *Request to apply the $100,000 threshold to all financing and leasing arrangements covered by the Regulatory Amendments*

Three stakeholders, one industry association, one large financial entity, and one car dealership, suggested that the $100,000 threshold be applied to all financing and leasing arrangements covered by the Regulatory Amendments. Under this scenario, financing and leasing arrangements for motor vehicles and commercial goods would also only be subject to regulation when associated with an underlying asset valued at $100,000 or more, similar to the approach for high value consumer products.. The Department of Finance considered this request and weighed the proposed approach to reduce burden on industry with the need to comply with FATF international standards, as well as the higher money laundering and terrorist financing vulnerabilities posed by motor vehicle and commercial financing and leasing arrangements. Ultimately, it was determined that no change would be made. As a FATF member, Canada is committed to fully implementing the FATF standards which require all commercial financing and leasing arrangements to be subject to AML/ATF requirements to address risk. The regulatory policy is also intended to be risk based to target the financing and leasing arrangements that pose the greatest vulnerability to abuse by criminals. For instance, there are various well substantiated cases of criminals exploiting the financing and leasing of motor vehicles to launder funds obtained in the illicit drug market or via fraud schemes. Corporate structures are also assessed to pose a higher vulnerability to exploitation to money laundering and terrorist financing given their ability to obscure beneficial ownership – a feature that is exacerbated when commercial entities enter into financing or leasing arrangements.

- *Request to periodically review the $100,000 threshold*

One industry association representing financial entities noted that the $100,000 threshold for the financing and leasing of consumer products and exclusion of low-value consumer products (e.g., rent-to-own items) is a reasonable, risk-based decision. This stakeholder suggested that the threshold could pose some implementation difficulties for financial entities offering "mid-range" financing and leasing arrangements and noted that the threshold should be periodically reviewed or adjusted for inflation. The Department of Finance welcomes this suggestion and will subject the threshold to a periodic review in the regular course of its ongoing AML/ATF policy work.

- *Request to exempt motor vehicle financing and leasing from the Regulatory Amendments or to focus on larger entities*

Four stakeholders, including one industry association representing the motor vehicle sector, two large motor vehicle companies, and one individual, requested that Regulatory Amendments extending regulatory obligations to financing and leasing companies offering arrangements for motor vehicles be removed or be rescoped to focus only on larger entities. These requests were not implemented as assessments informing the 2023 *Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* indicate that financing and leasing arrangements associated with motor vehicles pose higher ML/TF risks in Canada. FINTRAC will focus on outreach to financing and leasing entities operating in these markets to educate them of their obligations, as well as heightened the ML/TF vulnerabilities exhibited by this subsector and provide ML/TF typologies and indicators.

- *Request to exempt financing or leasing entities from administrative monetary penalties*

One automobile dealership requested that financing or leasing entities be exempt from administrative monetary penalties. The dealership raised concerns about due process, understanding the penalty framework and how these penalties will be applied. The Department of Finance considered this request and determined that no changes were necessary. All persons and entities regulated by the PCMLTFA are subject the administrative monetary penalty regime and it would be contrary to the policy intent to exempt

financing or leasing entities and create an unfair and uneven playing field across regulated entities. FINTRAC has published extensive guidance on its website outlining the penalty process, the violations, the potential penalty amounts, and avenues for recourse.

- *Request for clear guidance*

Two industry association stakeholders requested that FINTRAC issue clear guidance to assist industry in operationalizing the forthcoming Regulatory Amendments for financing and leasing activities. One industry association stakeholder noted particular interpretive questions pertaining to the regulations, such as those pertaining to very specific business and payment scenarios which could be addressed by FINTRAC in forthcoming guidance and industry outreach. FINTRAC will issue new guidance on its website and undertake outreach to financing and leasing companies and financial entities engaged in the business of financing or leasing prior to the coming into force of the Regulatory Amendments.

Modern treaty obligations and Indigenous engagement and consultation

An assessment of modern treaty implications did not identify any adverse impacts on potential or established Aboriginal or treaty rights, which are recognized and affirmed in section 35 of the *Constitution Act, 1982*.

Instrument choice

Trade-based financial crime: Regulations are required to prescribe reporting and record keeping obligations established in the PCMLTFA Part 2.1, as well as to establish an administrative monetary penalty scheme to promote compliance. Non-regulatory options were not considered as these regulations are required to operationalize legislation that has received Royal Assent. To minimize incremental regulatory burden on traders, reporting and record keeping obligations will be consistent with existing obligations under the *Customs Act* and *Income Tax Act*. Under the status quo scenario, traders would still be required to sign customs declarations and retain records under the *Customs Act* and *Income Tax Act*.

Information Sharing: Regulations are required to operationalize legislation that permits private-to-private information sharing under Canada’s AML/ATF legislative framework and that has received Royal Assent. Non-regulatory options were therefore not considered. Regulatory tools for private-to-private information sharing allow for alignment with evolving privacy statutes. The Amendments prescribe administrative processes to be followed by reporting entities and government entities, including FINTRAC and the OPC.

Discrepancy Reporting: The Regulatory Amendments will provide a mechanism to keep federal beneficial ownership information accurate and up to date. The status quo would deprive Corporations Canada of a useful tool to ensure the accuracy of the beneficial ownership information in the federal registry, which would not be in line with the FATF standard.

The Regulatory Amendments build on existing regulatory requirements related to the identification of beneficial owners and measures to apply in high-risk situations, and only constitute an incremental increase in requirements for reporting entities. As such, non-regulatory options were not considered. However, other regulatory options were considered that involved a wider scope of reporting and associated compliance burden. These options were not pursued due to industry concerns about cost and complexity of implementation.

Other jurisdictions that established a beneficial ownership registry, such as the United Kingdom and members of the European Union, have implemented discrepancy reporting requirements through legislation or regulations. This proposal reflects the risk-based approach adopted by the United Kingdom.

Factoring companies, cheque cashing businesses, and financing and leasing companies: The Regulatory Amendments will address money laundering and terrorist financing risks associated with companies operating in the factoring, financing and leasing, and cheque cashing sectors.

Allowing the status quo to continue would compromise the AML/ATF Regime's effectiveness, increase the likelihood of criminal activity, and compromise the integrity of Canada's financial system. This has the potential to cause serious reputational harm to Canada's financial sector and subject Canadian financial institutions to increased regulatory burden when dealing with foreign counterparts or when doing business overseas.

Internationally, addressing risks related to factoring companies, cheque cashing businesses, and financing and leasing companies is a nondiscretionary requirement set by the FATF. As per the international standard, requirements must be set out in law or enforceable means, such as regulations, include sanctions for non-compliance, and be issued or approved by a competent authority. The legal authority to issue regulations for factoring companies, cheque cashing businesses, and financing and leasing companies is already set out in the PCMLTFA, though specific requirements for these sectors must be set out in regulation in order to incorporate these sectors under the Canadian AML/ATF framework. The introduction of new regulatory Amendments for these sectors is thus required for Canada to meet its international obligations under the FATF. The FATF has identified the lack of AML regulatory requirements for these sectors as a gap in Canada's AML/ATF Regime. For this reason, no other instruments were considered.

Regulatory analysis

Benefits and costs

The impacts of the Regulatory Amendments have been assessed in accordance with the Treasury Board Secretariat (TBS) Canadian Cost-Benefit Analysis Guide. Benefits and costs associated with the Regulatory Amendments are determined by comparing the baseline scenario against the regulatory scenario. The baseline scenario depicts what is likely to happen in the future if the regulatory amendments are not implemented. The regulatory scenario describes the changes that will occur due to the Regulatory Amendments.

The total present value (TPV) cost of the Regulatory Amendments is $74.3M (or $10.5M annualized) in 2021 dollars. Unless otherwise stated, all monetary values are expressed in 2021 dollars, discounted to 2024 using a discount rate of 7 percent over a 10-year period (2025 to 2034). The benefits of the Regulatory Amendments are described qualitatively due to the difficulty associated with quantifying the benefits of activities outside the formal and legal economy; primarily the quantification of the benefits to society of proceeds of crime that are not laundered nor used for terrorist financing.

A full cost-benefit report with more details on the methodology and assumptions employed is available upon request.[2]

Baseline and Regulatory Scenarios

Trade-based financial crime: Under the baseline scenario, Canada's trade system continues to be vulnerable to bad actors looking to launder proceeds of crime through manipulating trade transactions and Canada continues to suffer economic and reputational harm. Under the regulatory scenario, the CBSA can collect data on goods and lawfully share instances of suspected criminality to law enforcement for prosecution and develop improved solutions to safeguard the trade system. Regulatory costs are mitigated as the new regulatory requirements for reporting goods are consistent with reporting processes currently within the *Customs Act* and record keeping provisions in the *Customs Act*, and the *Income Tax Act.*

Information Sharing: Under the baseline scenario, reporting entities would not be able to disclose and collect information with each other for the purpose of detecting and deterring money laundering, terrorist financing, and sanctions evasion. As a result, reporting entities would face more difficulty assessing customer risks and potential suspicious activity. Under the regulatory scenario, reporting entities will be able to use information disclosed to them by other reporting entities under the PCMLTFA provision to identify these risks. This will allow for higher quality reporting to FINTRAC, and a reduction in the volume of low value reporting. Regulatory costs are mitigated by the fact that it is voluntary for reporting entities to make use of the information sharing provisions. Further, many of the administrative requirements will likely be undertaken by reporting entities in the absence of a specific AML/ATF regulatory requirement, in order for them to be able to demonstrate compliance with existing privacy law. The requirements with respect to oversight by the OPC and FINTRAC are necessary guardrails for privacy protection.

Discrepancy Reporting: Under the baseline scenario, reporting entities would not be required to report discrepancies in beneficial ownership information to the federal registry. While Corporations Canada would have some tools to support the accuracy of the beneficial ownership registry information, they would be missing the contribution that reporting entities can bring given the knowledge of their corporate clients. Under the regulatory scenario, reporting entities will be required to report discrepancies in cases where there is a high risk of money laundering and terrorist financing and hence further support Corporation Canada's registry information validation efforts. Regulatory costs are mitigated by the fact that the proposed requirements build on exiting obligations to obtain beneficial ownership information and to apply risk-based enhanced due diligence measures.

Factoring Companies, cheque cashing businesses, and financing and leasing companies: Under the baseline scenario, factoring companies, cheque cashing businesses, and financing and leasing companies would continue to be unsupervised for AML/ATF purposes and the money laundering and terrorist financing vulnerabilities faced by these sectors would continue to be unmitigated. Under the regulatory scenario, factoring companies, cheque cashing businesses, and financing and leasing companies will be required to fulfill AML/ATF obligations (e.g., develop a compliance program, apply customer due diligence measures, keep records, report specified transactions, including suspicious

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[2] No changes were made to the cost benefit analysis in this Regulatory Impact Analysis Statement between pre-publication in *Canada Gazette, Part I,* and final publication in *Canada Gazette, Part II.*

transactions, and follow ministerial directives). Cheque cashing businesses will also be required to register with FINTRAC as money services businesses. Regulatory costs are mitigated by the fact that many of the administrative and compliance requirements are already performed by companies operating in these sectors in the course of their regular business practices.

Benefits

The benefits of the Regulatory Amendments while likely significant, are not monetized due to the lack of available or reliable data to accurately measure the changes to the reputation of Canada's financial system and the reduction in risk that will result from the implementation of the Regulatory Amendments. In addition, quantification of these benefits would require significant information on both the degree to which these activities are currently occurring, which by their nature is clandestine, and how much the measures will be able to decrease money laundering and terrorist financing activities.

Money laundering and terrorist activity financing have criminal and economic effects and contribute to facilitating and perpetuating criminal activity. Money laundering and terrorist financing harm the integrity and stability of the financial sector and the broader economy and threaten the quality of life of Canadians. Money laundering damages the financial institutions that are critical to economic growth (through internal corruption and reputational damage) and causes economic distortions by impairing legitimate private sector activities. It also reduces productivity by diverting resources and encouraging crime and corruption and distorts the economy's international trade and capital flows (through reputational damage and market distortions) to the detriment of long-term economic development. Finally, money laundering can also reduce tax revenue as it becomes more difficult for municipal, provincial, and federal governments to collect revenue from related transactions which frequently take place in the underground economy.

A strengthened AML/ATF framework helps to combat money laundering and terrorist activity financing threats while protecting Canadians, the integrity of markets and the global financial system, and increases the investment attractiveness and competitiveness of Canada. The Regulatory Amendments will support the security, stability, utility, and efficiency of the financial sector framework by strengthening the AML/ATF framework to combat financial crime. The Regulatory Amendments will also support Canada's collaborative efforts with the United States to reduce and disrupt transnational criminal activity and drug trafficking in North America, including the deadly impacts of the unprecedented fentanyl crisis, by helping to deprive criminals of their illicit profits. All Canadians will benefit from a safe, stable, efficient, and competitive financial sector that services and drives economic growth. They will also benefit from enhanced border security and collaborative efforts with the United States, Canada's ally and closest trading partner.

The Regulatory Amendments will strengthen Canada's AML/ATF framework and improve its effectiveness by addressing trade-based money laundering risks, facilitating information sharing among regulated private sector entities to improve their detection of money laundering, resulting in more targeted reporting to FINTRAC and higher quality financial intelligence to law enforcement and intelligence agencies, improving corporate beneficial ownership transparency, and broadening the scope of reporting entities to include factoring companies, cheque cashing businesses, and financing and leasing companies.

The Regulatory Amendments regarding trade-related financial crimes, information sharing, discrepancy reporting, financing and leasing companies, factoring companies, and cheque cashing businesses will improve Canada's compliance with FATF international standards. Meeting these standards will improve the integrity of the global AML/ATF framework, positively impacting Canada's international reputation, and may lead to regulatory efficiencies with other countries' AML/ATF regimes, making it easier for Canadian businesses to operate internationally. Furthermore, meeting these standards will help ensure Canada is not flagged as a jurisdiction of concern by the FATF for lack of action to address key AML/ATF

deficiencies and ultimately prevent other countries from levying sanctions on Canada. Such reputational, economic, and national security impacts are important, but difficult to quantify.

More specifically, the Regulatory Amendments will result in the following qualitative benefits:

Trade-based financial crime: The Regulatory Amendments will enable the CBSA to implement expanded authorities to combat illicit financial activity in trade and reinforce its ability to address emerging threats at our borders. The additional attestation added to existing customs forms will allow the CBSA to gather and analyse customs and trade data for the purpose of detecting and deterring money laundering, terrorist financing, and sanctions evasion. These amendments will allow the CBSA to act on that intelligence by investigating instances of regulatory non-compliance by asking questions, compelling records, and sharing instances of criminality with law enforcement. These amendments will allow Canada to address a longstanding gap in the regime identified by both the FATF and the Cullen Commission and protect Canada's economy and trade system from bad actors, including transnational organized crime groups.

Information Sharing: The Regulatory Amendments allowing private sector entities to share information will help better detect, deter, and disrupt money laundering (including money laundering associated with transnational organized crime and the trafficking of fentanyl) and terrorist financing, while maintaining appropriate privacy protections for the disclosure of personal information. Currently, criminals can take advantage of a lack of information sharing between reporting entities and may attempt to engage with multiple institutions to facilitate illicit activities, where each institution only has a limited and partial view of transactions. Reporting entities are thus limited in their ability to identify and report potential money laundering or terrorist financing activities. Enhanced private-to-private information sharing will help reporting entities more accurately assess customer risks or identify potential suspicious activity.

Discrepancy Reporting: The Regulatory Amendments requiring discrepancy reporting will help ensure the accuracy of the information available in the federal corporate beneficial ownership registry. This will ensure that law enforcement and other competent authorities have access to reliable information on the beneficial owners of corporations, mitigating the ML/TF risks associated with the use of corporations to conduct these criminal activities.

Factoring companies, cheque cashing businesses, and financing and leasing companies: Expanding the federal AML/ATF regulatory regime to include factoring companies, cheque cashing businesses, and financing and leasing companies will mitigate known money laundering risks that can be exploited by criminals and create a more level regulatory playing field across businesses in Canada that provide financial services. These Regulatory Amendments will also bring Canada into compliance with FATF standards, which require each of these sectors to be subject to AML/ATF controls.

Costs

As a result of the Regulatory Amendments, businesses and government are expected to incur an estimated total present value (TPV) of $74.3M over ten years (or $10.5M annualized). This includes an estimated TPV of $52.3M in compliance costs and $22M in administrative costs for an estimated total of $74.3M in costs over a 10-year period (or $10.5M annually) to be incurred by businesses and government.

Affected businesses include approximately 25,497 existing reporting entities (financial entities, money services businesses, casinos, accountants, life insurers, real estate brokers or sales representatives and developers, securities dealers, and BC notaries); 865 new reporting entities (including members of the

factoring, cheque cashing, and financing and leasing sectors; and 272,060 importers and exporters, customs service providers and carriers).

Impacted government entities include the CBSA, FINTRAC, Corporations Canada, and the OPC. The CBSA will incur an estimated TPV of $505k in costs over a 10-year period (or $72k annually) to administer and ensure compliance with the Regulatory Amendments. FINTRAC will incur an estimated TPV of $3.3M in costs over a 10-year period (or $475k annually) to administer and ensure compliance with the Regulatory Amendments. Corporations Canada will incur an estimated $2.7M over a 10-year period (or $388k annualized). The OPC will incur an estimated TPV cost of $3k over a 10-year period (or $445 annually). A summary of affected stakeholders by regulatory measure is below.

Summary of Affected Stakeholders by Measure

Measure	Stakeholder	Stakeholder type	Number of stakeholders
Trade based financial crime	Traders, Carriers, Sufferance Warehouses and Customs Service Providers	Business	272,060
Trade based financial crime	CBSA	Government	1
Information sharing	Various*	Business	25,831
Information sharing	Office of the Privacy Commissioner of Canada, FINTRAC	Government	2
Discrepancy reporting	Various*	Business	25,831
Discrepancy reporting	Corporations Canada	Government	1
Factoring companies	Factoring companies	Business	65
Cheque cashing businesses	Cheque cashing businesses	Business	600
Financing and leasing companies	Financing and leasing companies	Business	200
Information sharing, discrepancy reporting, factoring, cheque cashing, financing and leasing	FINTRAC	Government	1

*Various includes the following approximate breakdown: financial entities (556), money service businesses (2,566), casinos (18), accountants (5,214), dealers in precious metals and stones (4,187), life insurers (3,766), real estate

brokers or sales representatives and developers (7,676), security dealers (1,424), and British Columbia notaries (197).

Summary of Key Assumptions per Measure

The costs set out in this Regulatory Impact Analysis Statement are informed by a series of assumptions regarding the ongoing and upfront capital and labour costs associated with implementing each regulatory measure. In general, the assumptions were informed by consultations with the affected industry sectors and implicated government agencies, including CBSA, FINTRAC, and Corporations Canada, as well as previous Regulatory Impact Analysis Statements. Additional details on assumptions and sources are included in the full cost-benefit analysis, available on request.

Measure	Assumption
Trade based financial crime	• Less than 1% of stakeholders impacted by the trade-based financial crime regulations are required to provide records to CBSA over the course of 5-10 years. This assumption is informed by how often the CBSA currently requests records for customs purposes **(ongoing).** • 30 seconds for traders, carriers, and customs service providers to read the required section for compliance under the PCMLTFA **(ongoing)**. • $0 additional cost to maintain records as requirement is consistent with existing Customs Act and Income Tax Act obligations **(ongoing).** • $254,000 to train CBSA agents affected by the new requirement **(one time).** • $200,000 for CBSA to update IT equipment **(one time)**. • $20,000 for CBSA to maintain IT equipment **(ongoing).** • 40 hours over the course of one year for CBSA to develop and guidance for stakeholders **(one time).** • 80 hours for CBSA to complete internal consultations to inform IT system updates **(one time).** • Assume that majority of carriers and sufferance warehouses meet small business definition, with plans to request input from stakeholders during pre-publication.
Information sharing	• Assume that only three reporting entity sectors will participate in the information sharing framework in the 10-year costing period, as it is voluntary. This assumption is reflected by referring to Reporting Sectors 1, 2, and 3. • Assume that Reporting Sectors 1, 2 and 3 will participate in the information sharing framework with other reporting entities operating in the same sector, and that groups of participants will join the framework at different times.

	• Assume that Reporting Sectors 1, 2 and 3, respectively, develop and update Codes of Practice for their members electing to participate in the information sharing framework. • 100 hours for Reporting Sector 1 to develop a Code of Practice **(one-time)**. • 100 hours for Reporting Sector 2 to develop a Code of Practice **(one-time)**. • 100 hours for Reporting Sector 3 to develop a Code of Practice **(one-time)**. • 10 hours for Reporting Sector 1 to review the Code of Practice **(one-time)**. • 5 hours for Reporting Sector 2 to review the Code of Practice **(ongoing).** • 30 minutes for Reporting Sector 3 to review the Code of Practice **(ongoing).** • 5-10 minutes for participating reporting entities, to submit their Codes of Practice to FINTRAC and the Office of the Privacy Commissioner. • 25 hours for FINTRAC to review the Codes of Practice **(one-time)**. • 50 hours for the Office of the Privacy Commissioner to review and approve the Codes of Practice **(one-time)**. • $100,000 for Reporting Sectors 1, 2 and 3, respectively, to build IT infrastructure required to engage in code-compliant information sharing **(one-time)**. • $10,000 for Reporting Sectors 1, 2 and 3, respectively, to maintain IT infrastructure including for record keeping **(ongoing)**. • 15 minutes for participating reporting entities to request and provide information under the voluntary information sharing framework **(ongoing)**. • 30 minutes for participating reporting entities to keep information sharing records **(ongoing).** • 15 minutes for participating reporting entities to save records **(ongoing).** • 10 hours for participating reporting sectors to make changes to their Codes of Practice, as necessary **(ongoing).** • 5-10 minutes for participating reporting sectors, to submit changes to their Codes of Practice to the Office of the Privacy Commissioner and FINTRAC **(ongoing).** • 1 hour for FINTRAC to review changes to the Code of Practice **(ongoing).** • 1 hour for the Office of the Privacy Commissioner to review changes to the Code of Practice **(ongoing).**

	• 5-10 minutes for a reporting sector, to re-submit their Codes of Practice to FINTRAC and the Office of the Privacy Commissioner for review every 5 years **(ongoing).** • 10 hours for a reporting sector to review its Codes of Practice prior to submitting them for the 5-year review **(ongoing).** • 3 hours for the Office of the Privacy Commissioner and FINTRAC to review the Code of Practice as required every 5 years **(ongoing).**
Discrepancy reporting	• 75 hours for reporting entities to modify compliance program for medium and large businesses **(one-time).** • 5 hours for reporting entities to modify compliance program **(one-time).** • $500 to maintain and store receipts for medium and large businesses **(ongoing).** • $50 to maintain and store receipts for small businesses **(ongoing).** • 6 minutes to save records related to discrepancy reporting **(ongoing).** • 75 hours for IT set up to submit reports to Corporation Canada for medium and large businesses **(one-time)**. • 5 hours for IT set up to submit reports to Corporation Canada for small businesses **(one-time)**. • $550,000 for IT set up for Corporation Canada **(one-time)**. • $33,347 for Corporations Canada for maintaining IT infrastructure **(ongoing).** • 15 minutes for submitting discrepancy reporting for small, medium and large businesses **(ongoing).** • 4 hours for audit preparation for FINTRAC for medium and large businesses **(ongoing).** • 2 hours for audit preparation for FINTRAC small businesses **(ongoing).** • 32 hours for new employees at Corporation Canada to address new discrepancy reports **(ongoing).**
Factoring companies, cheque cashing businesses, financing and leasing companies	• 20 hours to develop an internal compliance program **(one-time)**. • 48 hours to maintain the compliance program **(ongoing)**. • 15 minutes to complete and send required reports to FINTRAC **(ongoing)**. • 4 hours to update client intake forms **(one-time)**. • 32 hours for medium and large firms and 16 hours for small firms to set up IT systems for reporting to FINTRAC **(one-time)**. • $10,000 for large businesses, and $2,500 for small businesses to invest in storage capacity required for record keeping **(one-time)**.

	• 32 hours for large businesses, and 16 hours for small businesses to prepare and comply with FINTRAC audit **(ongoing)**. • $134,000 for FINTRAC to administer and ensure compliance for Financing and Leasing and Factoring companies **(ongoing).** • 1 hour to save all required documentation **(ongoing)**.
Cheque cashing businesses	• 30 minutes to register as a money service business with FINTRAC (including re-registration every 2 years) **(ongoing)**. • $296,000 for FINTRAC to administer and ensure compliance for Cheque Cashing companies **(ongoing)**

Note that the below numbers may not sum perfectly due to rounding.

Trade based financial crime

The TPV of costs associated with implementing the new regulations on *Reporting of Goods* is $11.1M over 10 years (or $1.5M annualized). Costs arise from the following:

- Ongoing cost for traders, carriers, and customs service providers to attest to PCMLTFA compliance (TPV: $0)
- One-time upfront updates to IT equipment for the CBSA (TPV: $168.4k)
- One-time upfront internal consultations for IT updates within the CBSA (TPV: $4k)
- Ongoing costs for maintaining IT equipment for the CBSA (TPV: $118k)
- Upfront costs for training CBSA staff on new regulatory authorities (TPV: $214k)
- Ongoing cost of providing records to the CBSA upon request (TPV: $10.6M).
- Upfront cost for the CBSA to develop guidance for stakeholders on their new reporting obligations (i.e., developing departmental memoranda) (TPV: $1.3k)
- The ongoing cost of maintaining records related to goods (TPV: $0).

Information sharing

The TPV of costs associated with implementing the voluntary information sharing framework for reporting entities is $2M over 10 years (or $281k annualized). Costs arise from the following:

- One-time upfront cost to Reporting Sectors 1, 2, and 3 to develop a Code of Practice (TPV: $10k);
- One-time upfront cost to Reporting Sector 1 to review the Code of Practice development (TPV: $16.6k)
- One-time upfront cost to review the Code of Practice by FINTRAC (TPV: $1.1k)
- One-time upfront cost to review and approve of the Code of Practice by the OPC (TPV: $2.3k)
- One-time upfront cost to build the IT infrastructure required to engage in code-compliant information sharing for Reporting Sectors 1, 2 and 3: (TPV: $204k)

- Ongoing costs for maintaining information sharing IT infrastructure for Reporting Sectors 1, 2, and 3 (TPV: $108k)
- Ongoing costs for Reporting Sector 1 potentially participating in information sharing (TPV: $472k)
- Ongoing cost for FINTRAC in the event that they have to review any updates to a Code of Practice made by a reporting entity or reporting sector (TPV: $738)
- Ongoing costs for OPC in the event that they have to review any updates to a Code of Practice made by a reporting entity or reporting sector (TPV: $ 738)
- Ongoing costs if Reporting Sector 2 participates in information sharing (TPV: $ 69,685)
- Ongoing costs if Reporting Sector 3 participates in information sharing (TPV: $165,825)
- One-time upfront costs for Reporting Sector 3 to review the Code of Practice (TPV: $ 10.5k)
- One-time upfront costs for Reporting Sector 2 to review the Code of Practice (TPV: $ 4.4k)
- Ongoing costs for Reporting Sectors 1, 2 and 3 for record keeping (TPV: $ 762k)
- Ongoing costs for Reporting Sectors 1, 2, and 3 for the process of saving records (TPV: $ 146k)
- Ongoing costs for Reporting Sectors 1, 2 and 3 if they provide updates to the regulator on the Code of Practice (TPV: 2.4k)
- Ongoing costs to Reporting Sectors 1, 2, and 3 when they submit changes to the OPC (TPV: $24)
- Ongoing costs to Reporting Sectors 1, 2, and 3 when they submit changes to FINTRAC (TPV: $24)
- Ongoing costs for Reporting Sectors developing input for mandatory resubmission to OPC and FINTRAC for 5-year review (TPV: $948)
- Ongoing cost for FINTRAC to review the Code of Practice every 5 years (TPV: $52)
- Ongoing cost for OPC to review and approval the Code of Practice every 5 years (TPV: $52)
- Ongoing cost for Reporting Sectors 1, 2 and 3 to submit the Code of Practice for review to the OPC and FINTRAC every 5 years (TPV: $9)

Discrepancy reporting

The TPV of costs associated with implementing the new obligations on discrepancy reporting is $40M over 10 years (or $5.6M annualized). Costs arise from the following:

- One-time upfront cost for all reporting entities under the PCMLTFA to modify compliance program for Discrepancy Reporting (TPV: $7.3M)
- Ongoing cost for maintaining and storing discrepancy reporting receipts (TPV: $9.5M)
- Ongoing cost for saving records related to discrepancy reporting (TPV: $6.1M)
- One-time upfront cost to build IT infrastructure to submit report to Corporations Canada (TPV: $7.3M)
- Ongoing cost to maintaining IT infrastructure for Corporations Canada (TPV: $197k);
- One-time upfront cost for Corporations Canada IT set up (TPV: $463k)
- Ongoing cost for submitting discrepancy reports to Corporations Canada (TPV: $6.1M)

- Ongoing cost for all reporting entities under the PCMLTFA for FINTRAC audit preparation (TPV: $740k)
- Ongoing cost for additional employees at Corporations Canada to address discrepancy reports (TPV: $2M).

Factoring companies, cheque cashing businesses, and financing and leasing companies

The TPV of costs associated with implementing the new obligations for factoring companies, cheque cashing businesses, and financing and leasing companies is $21.2M over 10 years (or $3M annualized). Costs arise from the following:

- One-time upfront cost for factoring companies, cheque cashing businesses, and financing and leasing companies to develop an internal compliance program (TPV: $711k)
- Ongoing cost for factoring companies, cheque cashing businesses, and financing and leasing companies for maintaining a compliance program, including training (TPV: $12M)
- Ongoing cost for factoring companies, cheque cashing businesses, and financing and leasing companies to complete and send required reports to FINTRAC (TPV: $577k)
- Ongoing cost for factoring companies, cheque cashing businesses, and financing and leasing companies to update client forms (TPV: $998k)
- One-time upfront cost for factoring companies, cheque cashing businesses, and financing and leasing companies to set up IT infrastructure to submit reports to FINTRAC (TPV: $637k)
- Upfront cost for factoring companies, cheque cashing businesses, and financing and leasing companies to purchase storage capacity for record keeping (TPV: $2.4M)
- Ongoing cost for factoring companies, cheque cashing businesses, and financing and leasing companies for preparation for FINTRAC audit (TPV: $216k)
- Ongoing cost, every two years for cheque cashing businesses to register with FINTRAC (TPV: $42k)
- Ongoing cost for FINTRAC to administer and ensure compliance (TPV: $3.3M)
- Ongoing cost to save all required documentation relating to new AML/ATF requirements (TPV: $250k)

Qualitative Impacts

Positive Impacts

- A strong and effective AML/ATF Regime acts as a deterrent to crime and therefore improves the safety of Canadians and the integrity of Canada's financial system. In turn, this increases confidence in Canada's financial system, making it an attractive place to invest and do business.
- Enhanced AML/ATF measures support Canada's efforts to combat organized crime, the domestic and international drug trade, including fentanyl trafficking, and money laundering, and strengthen border security, which are identified as joint priorities of Canada and the United States.
- Investors seek investment opportunities in locations that have a relatively low crime environment and that are politically and economically stable, among other factors.

- A strong reputation with regards to an effective AML/ATF Regime helps Canadian financial institutions avoid burdensome regulatory hurdles and additional costs when dealing with their foreign counterparts or doing business internationally.
- The Regulatory Amendments regarding discrepancy reporting, factoring companies, cheque cashing businesses, and financing and leasing companies will improve Canada's compliance with FATF international standards, positively impacting Canada's international reputation, and may lead to regulatory efficiencies with other countries' AML/ATF regimes.
- The Regulatory Amendments regarding trade-based financial crime will close a longstanding gap in Canada's AML/ATF regime identified by the FATF and the Cullen Commission. Addressing trade-based financial crime will safeguard Canada's economy and trade system from bad actors and enhance Canada's international reputation.
- The Regulatory Amendments regarding private-to-private information sharing will improve risk mitigation by reporting entities, promote higher quality reporting to FINTRAC, and allow for better intelligence in support of investigations and prosecutions.

Negative impacts

- Storage costs for certain small documents, such as transaction records, are assumed to be accommodated without additional new investments in information technology storage capacity. These costs are expected to be negligible.

Distributional Analysis

Businesses are by far the most affected stakeholder by the Regulatory Amendments accounting for approximately 91% of all costs (TPV of costs for businesses: $67.7M / TPV of costs for all stakeholders: $74.3M). The distributional analysis focuses on the different impacts on across all stakeholders.

Summary of costs for impacted stakeholders.

Numbers may not sum perfectly due to rounding.

Provision	Group	Total (present value)	Annualized value
Trade-related financial crime	Traders	$8,470,642	$1,206,029
Trade-related financial crime	Customs Service Providers	$124,564	$17,735
Trade-related financial crime	Carriers	$2,051,932	$292,149
Trade-related financial crime	Sufferance Warehouses	$36,639	$5,217
Trade-related financial crime	CBSA	$506,377	$72,097

Information Sharing	Reporting Sector 1	$1,241,008	$176,692
Information Sharing	Reporting Sector 2	$149,187	$21,241
Information Sharing	Reporting Sector 3	$252,933	$36,012
Information Sharing	FINTRAC	$1,960	$279
Information Sharing	Office of the Privacy Commissioner	$3,129	$445
Information Sharing	Reporting Sector Body 1	$148,442	$21,277
Information Sharing	Reporting Sector Body 2	$88,807	$12,644
Information Sharing	Reporting Sector Body 3	$88,316	$12,574
Discrepancy Reporting	All reporting entities under the PCMLTFA	$37,182,609	$5,293,967
Discrepancy Reporting	Corporations Canada	$2,731,172	$388,857
Discrepancy Reporting	FINTRAC	$0	$0
New Sectors	Cheque Cashing Businesses	$11,882,230	$1,691,762
New Sectors	Factoring Companies	$1,312,937	$186,933
New Sectors	Finance and Leasing Companies	$4,702,495	$669,529
New Sectors	FINTRAC	$3,340,226	$475,573
Sub-total – All businesses	***All businesses***	***$67,733,741***	***$9,643,761***
Sub-total – Government	***All government***	***$6,582,864***	***$937,251***
Total	**All stakeholders**	**$74.3M**	**$10.5M**

Uncertainty and Sensitivity Analysis

The cost-benefit analysis relies on a number of assumptions, including assumptions regarding the labour cost and/or time it takes to complete certain required activities, as well as the number of incidents of certain requirements. These assumptions are based on consultations with industry and implicated government agencies, including FINTRAC, the CBSA, and Corporations Canada, previous cost-benefit analyses on AML/ATF measures, and other sources. The sensitivity analysis takes the assumptions related to the highest cost for each measure and then determines what the impact will be were these

assumptions to be halved (i.e. ‘low scenario’) or doubled (i.e. ‘high scenario’). The specific assumptions subject to sensitivity analysis are:

- The frequency of persons and entities who import or export goods, or who cause goods to be imported or exported, to provide records to the CBSA upon request.
- The percentage of stakeholders that maintain and keep records for the purposes of information sharing.
- The hours it takes for reporting entities to modify their compliance program for medium and large businesses (one-time) for discrepancy reporting.
- The hours it takes to maintain the compliance program (ongoing) for cheque cashing, factoring companies and financing and leasing companies.

The single largest cost to stakeholders captured under the Regulatory Amendments for trade-related financial crime is the requirement to provide records to the CBSA upon request. Under the low scenario, it is assumed that 2% of regulated entities will have to provide documents every 7 years and under the high scenario, it is assumed that 2% of regulated entities will have to provide records every 2 years. The medium (most likely) scenario is that 2% importers, exporters, carriers and customs service providers will have to provide documents to the CBSA every 5 years.

For information sharing, should a reporting entity decide to partake in the policy, the greatest cost is the estimate for record keeping. Under the low scenario, as the information sharing framework will be voluntary, it is assumed that no stakeholders will partake in the information sharing option and therefore have no record keeping to undertake, so the cost will be zero. The medium (most likely) scenario estimates that 50% of Reporting Sector 1, 100% of Reporting Sector 2, and 2% of Reporting Sector 3 may participate in the information sharing framework and be subject to record keeping costs. Because these assumptions account for full participation from Reporting Sector 2, there is no change in the numbers for Reporting Sector 2 in the high scenario. The values for Reporting Sector 2 are the same in the high scenario as in the medium (most likely) scenario. Under the high scenario for Reporting Sectors 1 and 3, it is assumed that double the reporting entities in the sample sign up to partake in the information sharing framework (i.e., instead of 50% for Reporting Sector 1, 100% participate in information sharing; and, instead of 2% for Reporting Sector 3, 4% participate in information sharing).

In discrepancy reporting, the greatest cost is the estimated time for medium and large reporting entities to modify their compliance program to account for this new requirement. Under the low scenario, it is assumed that all impacted businesses will take 37.5 hours to modify their compliance program. Under the medium (most likely) scenario, it is assumed that it will take reporting entities 75 hours to modify their compliance program. Under the high scenario, it is assumed that all impacted businesses will take 150 hours to modify their compliance program.

For factoring companies, cheque cashing businesses, and financing and leasing companies the greatest cost is the estimated time for these new reporting entities to maintain their ongoing compliance program for FINTRAC. Under the low scenario, it is assumed that impacted businesses will take approximately 24 hours annually to maintain their compliance program. Under the medium (most likely) scenario, it is assumed that it will take impacted businesses 48 hours to maintain their compliance program. Under the high scenario, it is assumed that impacted businesses will take 96 hours to maintain their compliance program.

Summary of sensitivity analysis – combined total of initiatives

Cost Scenario for all initiatives	Total (present value)	Annualized value
Low	$61,189,833	$8,712,055
Medium (actual case)	$74,312,731	$10,580,460
High	$105,479,406	$15,397,656

Small business lens

It is estimated that 134,363 small businesses will be impacted by this regulatory proposal, including:

- 105,877 by the new obligations for trade-based financial crime
- 2,594 by the new obligations for information sharing
- 25,131 by the new obligations for discrepancy reporting
- 600 by the new obligations for cheque cashing businesses
- 61 by the new obligations for factoring companies
- 100 by the new obligations for financing and leasing companies

The total incremental costs imposed on small businesses is estimated to be $51M (TPV) or $7.2M annualized, which is equivalent to $3,077 annualized per small business impacted (all annualized per small business figures are derived by dividing the annualized value by the number of affected stakeholders). Costs include (note numbers may not sum perfectly due to rounding):

- TPV of $4.1M or $600k annualized in costs for trade based financial crime regulations, which is equivalent to $6 annualized per small business affected.
- TPV of $1.4M or $ $211k annualized in costs for the voluntary information sharing framework, which is equivalent to $81 annualized per small business affected.
- TPV of $30.4M or $4.3M annualized in costs for discrepancy reporting requirements, which is equivalent to $172 annualized per small business affected.
- TPV of $15M or $2.1M annualized in costs for imposing AML/ATF requirements on factoring, cheque cashing, and financing and leasing businesses which is equivalent to $2.8k annualized per small business affected.

Alternative compliance options for small businesses are not possible because the Regulatory Amendments are intended to close potential openings for the illicit movement of funds. The new Amendments related to information sharing represent a voluntary framework that will not be required of businesses of any size, and small businesses can opt out of this framework entirely. Furthermore, the Regulatory Amendments relating to discrepancy reporting, factoring companies, cheque cashing

businesses, and financing and leasing companies are non-discretionary changes required for Canada to meet its obligations under the FATF. The Department of Finance recognizes that businesses, irrespective of size, will require time to implement these changes. The Department of Finance, in partnership with the implementing agencies, will work with regulated persons and businesses to ease the implementation following the coming into force period. Supervisory activities related to factoring, cheque cashing, and financing and leasing, in particular, intend to place emphasis on engagement and outreach in the first calendar year following coming into force to improve awareness and understanding of compliance obligations under the PCMLTFA and its associated Regulations for these new reporting entities. While this does not constitute a special consideration for small businesses alone, impacts on businesses have been considered and balanced against relevant money laundering and terrorist financing risks, when establishing the compliance requirements for reporting entities generally, and for businesses that will be impacted by the Regulatory Amendments.

Small business lens summary

Number of small businesses impacted: 134,363
Number of years: 10 (2025 to 2034)
Price year: 2021
Present -value base year: 2024
Discount rate: 7%

Compliance costs

Numbers may not sum perfectly due to rounding.

Measure	Description of cost	Present value	Annualized value
Information Sharing	Reporting Sector 1 participating in information sharing framework	$436,723	$62,180
Information Sharing	Reporting Sector 2 participating in information sharing framework	$40,344	$5,744
Information Sharing	Reporting Sector 3 participating in information sharing framework	$162,077	$23,076
Information Sharing	Reporting Sector 1 reviewing the Code of Practice	$15,414	$2,195
Information Sharing	Reporting Sector 2 reviewing the Code of Practice	$1,830	$260
Information Sharing	Reporting Sector 3 reviewing the Code of Practice	$7,350	$1,046
Information Sharing	Record Keeping	$684,818	$97,503

Information Sharing	Saving Records (all reporting sectors)	$134,114	$19,095
Discrepancy reporting	Maintaining and Storing Receipts of Discrepancy Reports	$7,434,328	$1,058,481
Discrepancy reporting	IT Set up to submit reports to Corporations Canada	$5,164,773	$735,347
Discrepancy reporting	Submitting a Discrepancy Report	$5,979,526	$851,350
Factoring, cheque cashing, financing and leasing	Developing Internal Compliance Program	$625,585	$89,069
Factoring, cheque cashing, financing and leasing	Maintaining compliance program - Training included	$10,545,228	$1,501,403
Factoring, cheque cashing, financing and leasing	Complete Reports for submission to FINTRAC	$271,219	$38,615
Factoring, cheque cashing, financing and leasing	Client Updates Forms	$878,769	$125,117
Factoring, cheque cashing, financing and leasing	Setting up IT for reporting to FINTRAC	$500,468	$71,255
Factoring, cheque cashing, financing and leasing	Storage Capacity for Record Keeping	$1,602,610	$228,176
Total	**All compliance costs for small businesses**	**$ 39,485,176**	**$4,909,912**

Administrative costs

Numbers may not sum perfectly due to rounding.

Measure	Description of cost	Present value	Annualized value
Trade-based financial crime	Providing Records to CBSA Upon Request	$4,157,782	$591,975
Discrepancy reporting	Saving records related to Discrepancy Reporting	$5,979,526	$851,350
Discrepancy reporting	Audit Preparation for FINTRAC	$700,970	$99,802
Factoring, cheque cashing, financing and leasing	Preparation for FINTRAC Audit	$169,810	$24,177
Cheque cashing	Registering with FINTRAC	$41,839	$5,957
Factoring, cheque cashing, financing and leasing	Saving Records	$219,692	$31,279
Factoring, cheque cashing, financing and leasing	Submit Reports to FINTRAC	$204,181	$29,071
Total	**All administrative costs for small businesses**	**$11,473,800**	**$1,633,611**

Total compliance and administrative costs for small businesses

Totals	Present value	Annualized value
Total cost (all impacted small businesses)	$51,123,749	$7,278,870

Cost per impacted small business	$21,611	$3,077

One-for-one rule

Two sets of regulations are included as part of this regulatory package:

- *Proceeds of Crime (Money Laundering) and Terrorist Financing Reporting of Goods Regulations*
- *Regulations Amending the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations and the Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*

All costing assumptions are explained in the "Cost" section of this Regulatory Impact Analysis Statement. Values reported for the purposes of the one-for-one rule are measured in 2012 price levels; annualized values are discounted to 2012 using a discount rate of 7%, as required by the *Red Tape Reduction Regulations*. Wages used in the calculation of labour costs are 2021 wages converted to 2012 prices as taken from *Statistics Canada: Wages by Occupation, Annual, 1997 to 2022*. Specifically, all labour costs are based on wages for 'Finance, insurance, and related administrative occupations' (with an additional 25% overhead), expect for wages related to the trade based financial crimes requirements, which are based on wages for 'Traders, transport and equipment operators and related occupations' (with an additional 25% overhead) and wages related information sharing between Reporting Sector 2, which are based on wages for 'technical occupations related to natural and applied sciences' (with an additional 25% overhead).

These Regulatory Amendments implement non-discretionary obligations required for all FATF members and are therefore exempt from the requirement to offset administrative burden under the one-for-one rule. As well, one new regulatory title is created, and this is also exempt from the requirement to offset regulatory titles under the one-for-one rule. In addition to setting the international AML/ATF standards, the FATF also monitors countries' progress in implementing the standards and will publicly list countries that do not implement the Standards and have strategic deficiencies in their AML/ATF regime (i.e., the FATF grey list). The Canadian AML/ATF Regime will be subject to a FATF mutual evaluation beginning in 2025. In reviewing the regime against the FATF's 40 recommendations for technical compliance, the assessment team will look at 11 immediate outcomes (IOs), to determine how effective a country's efforts are in addressing their unique risks. If Canada does not implement these standards, Canada could be at risk of being grey listed, which could have negative economic consequences as well as reputational damage. As such, the proposed Amendment is non-discretionary as it is required for Canada to comply with international obligations.

Trade-based financial crime

It is anticipated that the Regulations to implement the requirements to report on goods will result in an annualized increase in administrative costs to all reporting entities of $591K which is equivalent to $6 annualized per business affected.

The specific FATF effectiveness standards that these Regulations relate to are IOs 6, 7 and 8. IO 6 requires countries to ensure that financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations. The CBSA is the most competent authority to detect and deter TBML. IO 7 requires money laundering offences and activities be investigated, and offenders be prosecuted and subject to effective, proportionate and dissuasive sanctions. These Regulations will allow the CBSA to act on that intelligence by investigating

instances of regulatory non-compliance by asking questions, compelling records, and sharing instances of criminality with law enforcement. The Regulations also allow the CBSA to administer administrative monetary penalties to enforce compliance. IO 8 requires that proceeds and instrumentalities of crime are confiscated. These Regulations allow the CBSA to seize and forfeit goods that are proceeds of crime. The Department of Finance has therefore assessed that these Regulations are needed to close this gap in Canada's compliance with FATF obligations.

Information sharing

The Regulatory Amendments to implement a private-to-private information sharing framework do not meet the definition of "administrative burden on business" in the *Red Tape Reduction Act.*

Discrepancy reporting

It is anticipated that the Regulatory Amendments to implement a discrepancy reporting framework will result in an annualized increase in administrative costs to all reporting entities of $4.3M, which is equivalent to $172 annualized per business affected.

The specific FATF Standard that this Regulatory Amendment relates to is Recommendation 24. FATF Recommendation 24 requires countries to ensure that there is adequate, accurate, and up-to-date information on the beneficial ownership and control of legal persons that can be obtained or accessed rapidly and efficiently by competent authorities, through either a register of beneficial ownership or an alternative mechanism. While Canada has recently established a federal beneficial ownership registry, it does not currently have a standardized process built into the AML/ATF framework to ensure that the registry remains accurate and up to date.

This Regulatory Amendment also supports Canada's adherence to FATF's IO 5 which requires effective measures to ensure that legal persons and arrangements are prevented from misuse. This Regulatory Amendment supports this objective by ensuring the integrity of the beneficial ownership registry in Canada by requiring reporting entities to report material discrepancies in high-risk situations, ensuring that the information in the registry is accurate.

The Department of Finance has therefore assessed that Regulatory Amendments are needed to close this gap in Canada's compliance with FATF obligations.

Factoring companies, cheque cashing businesses, and financing and leasing companies

It is anticipated that the Regulatory Amendments will result in an annualized increase in administrative costs to factoring companies, cheque cashing businesses, and financing and leasing companies of $2.1M which is equivalent to $2.8k annualized per business affected.

The Regulatory Amendments to regulate factoring companies, cheque cashing businesses, and financing and leasing companies under the PCMLTFA are non-discretionary, as they are required to bring Canada into compliance with the FATF Standards as they apply to financial institutions. Among other things, the FATF definition of financial institution applies to entities engaged in the business of factoring (with or without recourse), financial leasing, trading in cheques, and money or value transfer services (MVTS).

There are a number of specific FATF Recommendations which prescribe legislative and regulatory requirements, that these Regulatory Amendments will meet. These Amendments also relate to obligations under FATF IO 3, which among other things, assesses how effectively financial institutions implement preventive measures and understand ML/TF risks.

Importantly, FATF Recommendation one requires countries to have obligations in place for financial institutions and designed non-financial businesses and professions. These obligations are to require these entities to assess their money laundering and terrorist financing risks and to take actions to ensure risks are effectively mitigated, including by applying a risk-based approach to ensure measures are commensurate with risks. Other FATF recommendations related to requirements regarding suspicious transaction reporting, customer due diligence, and record keeping (among others).

During the last mutual evaluation of Canada in 2016, the FATF highlighted the lack of AML requirements for factoring companies, cheque cashing businesses, and financing and leasing companies as a gap in Canada's AML/ATF Regime and deficiency in meeting the FATF recommendations referenced above. The Regulatory Amendments will directly address this gap and deficiency.

Regulatory cooperation and alignment

Each of the Regulatory Amendments included in this RIAS are related to international best practices and non-discretionary international obligations under the FATF. These Regulatory Amendments will more closely align with over 200 jurisdictions that have also committed to the FATF Recommendations, noting that each country must apply the Recommendations based on their national circumstances. These jurisdictions include Canada's major trading partners, such as members of the European Union and the United States.

The Regulatory Amendments also respond to Canada's commitment, in partnership with the United States, to reduce and disrupt the shared threats posed by transnational criminal activity and drug trafficking to North America.

Strategic environmental assessment

In accordance with the *Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*, a preliminary scan concluded that a strategic environmental assessment is not required.

Gender-based analysis plus

No specific gender-based analysis plus (GBA+) impacts have been identified for these Regulatory Amendments. More generally, the Regulatory Amendments seek to strengthen Canada's AML/ATF framework, which acts as a deterrent to financial crimes, and helps to protect Canadians, and uphold the security, stability, utility, and efficiency of the Canadian and global financial systems to drive economic growth.

These measures benefit all Canadians by combatting money laundering and terrorist financing, which pose threats to Canadians and the economy. This protects the integrity of our financial system, facilitating the flow of funds domestically and internationally. It also indirectly benefits women, young people, 2SLGBTQI+ people, Indigenous people, persons with disabilities, and seniors who are disproportionately victimized by crime that is supported and perpetuated by money laundering. For example, Indigenous people and persons with disabilities experience higher rates of violent victimization compared to other Canadians, and the Canadian Anti-Fraud Centre reports that seniors and vulnerable Canadians are increasingly being targeted for fraud. Additionally, by contributing to Canada's efforts to combat the laundering of proceeds derived from the trafficking of fentanyl, these measures will also indirectly benefit

males and individuals aged 30 to 39 years who are most directly affected by accidental apparent opioid toxicity deaths. Most of these deaths involve fentanyl.[3]

Implementation, compliance and enforcement, and service standards

Implementation

In order for the Regulatory Amendments to be brought into force, certain amendments to the PCMLTFA made through the *Fall Economic Statement Implementation Act, 2023,* and *Budget Implementation Act 2024, No.* 1 will be brought into force. This includes PCMLTFA amendments made through *Budget Implementation Act, 2024, No. 1* to incorporate the issuing and redeeming of personal cheques as a money service business activity, and amendments that allow for information sharing between reporting entities. It also includes PCMLTFA amendments made through *Fall Economic Statement Implementation Act, 2023* to create new Part 2.1 on *Reporting of Goods*. These will be the subject of separate Governor in Council decisions, which will coordinate with final publication of the proposed regulatory Amendments in the *Canada Gazette, Part II.*

Coming into Force

The Regulations related to trade-based financial crime, and the Regulatory Amendments related to factoring companies, cheque cashing businesses, and financing and leasing companies will come into force on April 1, 2025. This timeline will assist Canada in its response to the urgent threat posed by transnational organized crime groups who have become major enablers of the fentanyl crisis. This expedited timeline will provide the government agencies and departments implementing these regulations with the information they need to more immediately contribute to Canada's transnational crime and border security priorities. In this context, CBSA has committed to working with regulated persons and businesses to ease the implementation process along this accelerated and exceptional timeline. In the first year following the coming into force date, FINTRAC will, in the context of its risk-based approach, put emphasis on engagement, outreach and guidance activities related to new regulatory obligations for factoring companies, cheque cashing businesses, and financing and leasing companies in order to foster greater awareness and understanding among these new reporting entities. This will include industry consultation to develop guidance such that new reporting entities will be well positioned to implement and mature their compliance programs following the coming into force.

The Regulatory Amendments related to discrepancy reporting will come into force on October 1, 2025. This timeline will allow businesses impacted by the changes to have sufficient time to adjust to the new requirements and update their systems and processes to comply with the new obligations. It will also allow Corporations Canada to build the reporting systems needed to implement the discrepancy reporting framework, and FINTRAC to develop guidance in consultation with industry.

The Regulatory Amendments related to information sharing will come into force immediately on publication in the *Canada Gazette, Part II*. Unlike measures coming into force later, these Amendments do not create new obligations, but create a voluntary information sharing framework that PCMLTFA

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[3] Key findings: Opioid- and Stimulant-related Harms in Canada — Canada.ca

reporting entities can make use of at their own discretion. Relevant stakeholders, including PCMLTA reporting entities, FINTRAC and the OPC, have been consulted, are aware of these changes, and have indicated their readiness to implement the required framework and to make use of these regulatory changes, where desirable. FINTRAC and the OPC are prepared to ensure compliance with these changes upon final publication in the *Canada* Gazette, Part II. The Department of Finance is undertaking discussions with stakeholders regarding the potential for guidance or other compliance supports that could assist with the implementation of these regulations.

Compliance and enforcement

The CBSA is the agency responsible for providing integrated border services that support national security and public safety priorities and facilitate the free flow of persons and goods. In fulfilling this role, the CBSA is responsible for the administration of Part 2 of the PCMLTFA, which requires reporting on the cross-border movement of currency or monetary instruments valued at $10,000 or more and any associated seizures. The CBSA will also be responsible for the new Part 2.1 of the PCMLTFA related to the *Reporting of Goods*. In this role, the CBSA will be responsible for ensuring the compliance and enforcement of the proposed Regulations related to trade-based financial crime. CBSA publishes departmental memoranda on its website that outline the legislation, regulations, policies and procedures that the agency uses to administer its customs and travel operations and provide the public with guidelines: Departmental memoranda (cbsa-asfc.gc.ca).The CBSA will update information on its website as soon as possible and raise awareness of the changes with importers and exporters in advance of the coming into force date of the regulations. Once the regulations are brought into force, the CBSA will enforce regulatory compliance related to these provisions at ports of entry. If non-compliance is identified, the CBSA will be able to exercise various enforcement tools, including the issuance of administrative monetary penalties. The CBSA confirmed their ability to implement by April 1, 2025.

The OPC oversees compliance with the *Personal Information Protection and Electronic Documents Act* (PIPEDA), Canada's federal private-sector privacy law. Once the amendments related to the voluntary information sharing framework are brought into force, the OPC will review the Codes of Practice developed by the reporting entities that chose to make use of the framework. If the Code is deemed deficient in terms of privacy protections, the OPC will provide written deficiencies to reporting entities so the Codes can be modified appropriately and resubmitted for approval.

Corporations Canada, which administers the federal beneficial ownership registry, will be the government entity receiving the discrepancy reports once the amendments come into force. Reporting entities will be able to submit discrepancy reports directly on Corporation Canada's website, which will include information and instructions on how to report. Once a report is submitted, Corporations Canada will provide reporting entities with an electronic receipt. Upon receiving a discrepancy report on a specific corporation, Corporations Canada will have the power to follow up directly with the corporation to resolve the discrepancy, including by having the registry information corrected if necessary. Corporations Canada has received funding for this purpose and will be ready to implement this reporting requirement upon coming into force.

FINTRAC is Canada's financial intelligence unit and AML/ATF regulator. In this role, FINTRAC will be responsible for ensuring the compliance and enforcement of the Regulatory Amendments related to information sharing, discrepancy reporting, factoring companies, cheque cashing businesses, and financing and leasing companies. FINTRAC's supervisory function is entirely funded from its assessment of expenses funding model to charge reporting entities for the annual cost of its compliance program. FINTRAC provides guidance and resources for reporting entities on its website: https://fintrac-canafe.canada.ca/guidance-directives/1-eng. This includes both sector-specific guidance, as well as detailed guidance broken down by regulatory requirement. FINTRAC will update this information on its

website as soon as possible and raise awareness of the changes with existing reporting entities prior to the new Amendments coming into force. FINTRAC will issue new guidance on its website and undertake outreach to factoring companies, cheque cashing businesses, and financing and leasing companies, as these will become new reporting entities under the Regulatory Amendments. New reporting sectors will also be able to consult the existing guidance library available on FINTRAC's website prior to the publication of the new tailored guidance. Under the exceptional circumstances requiring the acceleration of coming into force of the obligations for factoring companies, cheque cashing businesses, and financing and leasing companies to April 1, 2025, in the first year following the coming into force date, FINTRAC will, in the context of its risk-based approach, put emphasis on engagement, outreach and guidance activities in order to foster greater awareness and understanding among these new reporting entities. This will include industry consultation to develop guidance such that cheque cashing businesses will be well positioned to implement and mature their compliance programs following the coming into force. After this initial period, FINTRAC will conduct ongoing supervisory activities, including assessments to ensure compliance. If non-compliance is identified, FINTRAC can impose administrative monetary penalties or take other enforcement actions, as necessary. FINTRAC's administrative monetary penalties policy is available on its website.

Contact

Erin Hunt
Director General
Financial Crimes and Security Division
Financial Sector Policy Branch
Department of Finance
90 Elgin Street
Ottawa, Ontario
K1A 0G5
Email: fcs-scf@fin.gc.ca