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Chair

Mr. Brian Pallister

Standing Committee on Finance

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● (1115)

[*English*]

The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)): We are in session.

Welcome, first of all, to our witnesses and committee members.

Pursuant to our order of reference of Tuesday, October 24, 2006, this is Bill C-25, An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act.

Thank you for your patience in waiting for us to get here, witnesses. We have just come from another discussion that was pertinent to this topic.

We will begin with a presentation from the Canadian Bankers Association, Warren Law, senior vice-president.

Welcome, and proceed. Five minutes to you.

Mr. Warren Law (Senior Vice-President, Corporate Operations, and General Counsel, Canadian Bankers Association): Thank you very much, Mr. Chairman.

Honourable members of the committee, I would like to thank you for the opportunity to appear today to provide the views of the banking industry on Bill C-25. My name is Warren Law. I am the senior vice-president and general counsel of the Canadian Bankers Association. With me today is Ron King, who is the chief anti-money-laundering officer at the Bank of Nova Scotia.

I would like to make some introductory comments, and then of course we'd be pleased to answer your questions.

The Canadian banking industry recognizes its key role in combating money laundering and terrorist financing. It has consistently supported the efforts of the Government of Canada in developing an effective regime for these purposes. Indeed, we believe that the enactment of the proposed Proceeds of Crime (Money Laundering) and Terrorist Financing Act provides a solid platform for constructing an effective AML/ATF system.

The banks have invested tens of millions of dollars in the development and implementation of automated systems to meet the regulatory standards placed upon them. The banking industry has been proactive in meeting its obligations. We will continue to take these obligations very seriously, but there is always room for improvement. We recognize that with Bill C-25, the government is planning to implement measures that will address flaws in the current system.

Clearly, one of the most fundamental and vital objectives of AML/ATF measures must be to protect the financial system from criminal activity. We believe this must be done in a balanced way. An AML/ATF regime is unique in that in order to function well, it must interact with a wide range of stakeholders, such as law enforcement agencies, government departments, and financial institutions. We feel that no useful purpose is served, and in fact the effectiveness of the regime itself is diminished, by overburdening any of these entities with too many restrictions, rules, or requirements.

We strongly believe that an AML/ATF measure should be implemented with a risk-based approach. Once amendments are enacted, reporting entities and FINTRAC should be given enough lead time to implement the necessary changes to their systems and to employee training programs. In our view, the efforts to combat money laundering and terrorist financing will be significantly assisted if it is easier for reporting entities to receive more feedback from FINTRAC about their reports and FINTRAC is provided with more latitude to release information. We therefore welcome the enhanced disclosure provisions in Bill C-25.

For several of the measures set out in Bill C-25, we will need to consider the related regulations before we can make a comprehensive response. I would like to make some initial observations about a couple of provisions in the bill. In a short letter to the committee, which we believe has been provided to you, we provide more details about our views on these matters.

We have made recommendations for changes to the bill that will address those matters. For example, there is the issue of the impact on foreign subsidiaries and foreign branches of Canadian banks. Bill C-25 will add a number of new measures to the act, including new requirements on the foreign subsidiaries and foreign branches of Canadian banks. These proposals, particularly the requirement to impose Canadian client identification requirements, could impose extraterritorial legal requirements on Canadian banks. We believe this could cause significant problems for the banking industry.

To the extent permitted by local laws, Canadian banks already apply their internal AML/ATF policies and procedures on their operations in foreign countries. However, imposing specific Canadian regulatory requirements in foreign jurisdictions has the potential to have adverse consequences on the banks. It may place the banks in a disadvantageous competitive position, from a global standpoint. Rather than imposing extraterritorial legal requirements, we believe that a more effective approach would be to make it clear that the requirement to have compliance and risk assessment programs must cover all subsidiaries and branches, regardless of location, to the extent permitted by the local jurisdiction.

We recommend that these measures be enacted.

It's important to note that we are not asking to apply a lower standard to the operations of a foreign branch or subsidiary, only to have it recognized that there are other equally effective ways of achieving what I think we all want to do, and that is to create a balanced, effective deterrence regime.

There is also the issue of correspondent banking. We understand and support the need to enhance requirements relating to the provision of services to foreign correspondent banks. Bill C-25 includes an amendment to the act that sets out a number of specific measures to be followed by Canadian banks before entering into a correspondent banking relationship.

● (1120)

While the banking industry in Canada has already implemented most of these requirements, we do have a concern that the proposed definition of “correspondent banking relationship” in the bill is too broad and could lead to almost all interaction between Canadian banks and a foreign bank being captured by the definition.

The Chair: I'm sorry, I'm going to have to cut you off there. I neglected to mention in my little preamble that I will give you an indication when you have a minute left, and I apologize for not doing that. I must cut you off at five minutes to allow time for exchange with the committee members.

But thank you, sir. I know there'll be time for questions.

Now from the Auditor General's office, Doug Timmins is here. Welcome, sir.

Mr. Douglas Timmins (Assistant Auditor General, Office of the Auditor General of Canada): Thank you, Mr. Chair.

I'm very pleased to be here today to discuss our audit of Canada's regime to combat money laundering and terrorist financing and how it relates to Bill C-25. We completed that audit two years ago.

During our audit we concluded that Canada's anti-money-laundering regime is comprehensive and generally consistent with international standards; however, we also identified a number of factors that impeded the regime's performance. Some factors could be addressed with the existing legal framework; for example, better coordination among the federal agencies responsible for implementing Canada's anti-money-laundering and terrorist policy, and better feedback to reporting agencies on the use of information they supply to FINTRAC.

Other factors involve issues that will likely require changes to legislation.

[*Translation*]

Foremost among these are restrictions on information sharing. To safeguard privacy rights, the existing legislation limits the information that FINTRAC may disclose to so-called “tombstone” data: when and where the transactions took place, the value of the transactions, the account numbers, and the names of the parties involved.

We found that these restrictions limit the value of FINTRAC disclosures to law enforcement and security agencies.

Law enforcement agencies told us that the “tombstone” information they receive is too limited to justify launching investigations. The exception is when a disclosure is related to an on-going investigation in those cases, the information disclosed can help corroborate findings or provide new leads.

An additional limitation on the effectiveness of the National Initiative is the exemption from reporting requirements that lawyers obtained as a result of successful legal challenges to the legislation.

[*English*]

Finally, we found that unregulated reporting entities, including money service businesses and foreign exchange dealers that are not licensed and do not have a formal body overseeing their activities, posed a significant compliance challenge. Indeed, there are no reliable figures on how many such firms are out there, so ensuring compliance with reporting requirements is obviously a difficult task.

Bill C-25 affirms the lawyer's exemption from reporting requirements. Our understanding is that the government is currently discussing with law societies compliance requirements by lawyers. The bill provides for information sharing and enforcing compliance by unregulated reporting entities. It will increase the type of information that FINTRAC can disclose to law enforcement if it suspects money laundering or terrorist financing.

Specifically, the legislation will now allow FINTRAC to disclose the grounds that led it to suspect money laundering or terrorist financing. The bill will also require registration for money service businesses, a recommendation of the Financial Action Task Force on Money Laundering, which is the international standard-setting body for efforts against money laundering and terrorist financing.

Several countries, including the United States and the United Kingdom, already require these businesses to register.

In short, while we have not studied Bill C-25 in detail, it appears to deal with the key findings reported in our audit of November 2004. We cannot say whether the proposed changes will be sufficient or whether they will effectively resolve all issues.

Further, it is not our role to comment on policy decisions contained in this bill.

This, Mr. Chairman, completes my opening statement. I'd be pleased to answer questions when the time comes.

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

We continue now with the Canada Revenue Agency, Elizabeth Tromp, director general of the charities directorate.

Welcome.

● (1125)

Ms. Elizabeth Tromp (Director General, Charities Directorate, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency): Thank you for inviting the Canada Revenue Agency to be here today.

The CRA is impacted by this legislation in two distinct operational areas. As you may know, the CRA plays a part in Canada's anti-terrorism framework through its administration of the Charities Registration (Security Information) Act, CRSIA, which was enacted as part 6 of the Anti-Terrorism Act. That legislation recognizes the contribution the CRA can make to detecting and disrupting support for terrorism because of our responsibility to review the operations of organizations that are registered as charities or applying for such status.

However, our present information-sharing authorities fall short of the FATF standards. As you know, the FATF is the international standard-setting body. Consequently, the focus of these proposals, as they relate to charities, has been on allowing, within clear limits, the sharing of information so that, on the one hand, we will be able to receive information from FINTRAC that will help us administer Income Tax Act provisions relating to charities, and on the other hand, so that we can make available to appropriate investigative authorities information that can then be used to proper advantage in the government's overall efforts to combat terrorism.

These proposals take into consideration that the charities registration system already has a very long—over 30-year—history of drawing a policy distinction between the disclosure rules that apply to charities and the concept of complete tax confidentiality as it applies to other taxpayers. Very importantly, these changes continue to respect privacy concerns by ensuring that donor information would not be subject to these new disclosure provisions.

Turning to the issue of disclosures made to the CRA where there is a suspicion of tax evasion, the CRA has been a partner in the national initiative to combat money laundering since its inception. The PCMLTFA provides that FINTRAC may disclose designated information to CRA once it has determined, first, that the information is relevant to money laundering or terrorist financing activities, and second, that it is relevant to tax evasion or an attempt to evade taxes.

The proposed amendments to the PCMLTFA with respect to disclosures of information from FINTRAC serve to expand the type of designated information that can be disclosed to all recipients of FINTRAC disclosures; clarify that the concept of tax evasion extends to obtaining, or attempting to obtain, a tax rebate, refund, or credit to which the taxpayer is not entitled; and allow the CRA, following receipt of a disclosure from FINTRAC, to apply to the courts for a production order to obtain additional information on a specific disclosure.

Thus, these amendments will, in essence, clarify the forms of tax evasion and facilitate further disclosures to CRA while respecting the dual threshold as established in the legislation. When designated information is provided, it will assist CRA in its determination of the appropriate enforcement actions to be taken.

My colleagues and I would be very happy to answer any further questions you may have regarding the administration aspects of these proposals from the CRA standpoint.

I am the director general of the charities directorate, and I have with me Donna Walsh, who is the director of review and analysis in our charities directorate; and also, Mr. Denis Meunier, director general of enforcement and disclosures directorate in our compliance programs branch.

Thank you very much.

The Chair: Thank you very much for your presentation.

We continue now with Brian Fox from Western Union.

Welcome. You have five minutes. Over to you.

Mr. Brian Fox (Regional Vice-President Canada, Western Union): Thank you, Mr. Chairman, for the opportunity to appear at this committee.

Before I discuss our position on this important legislation, I would like to give you a brief overview of our business, our clients, and the typical way in which Canadians use Western Union's services. Western Union is a global leader in the money transfer business. We operate a network of over 270,000 agent locations in more than 200 countries and territories. We have been operating in Canada for more than 15 years and today have approximately 3,500 agent locations across the country.

We operate a high-volume business with typically very low sums of money. In fact, the average transaction from one person to another in Canada is approximately $320 Canadian. As you might expect, this is not the first time that Western Union has been a partner with government to ensure safeguards for consumers and the financial system as a whole.

Our industry is not familiar to many Canadians, but we do important work by serving as an indispensable lifeline for the financial viability of tens of millions of people and dozens of developing economies worldwide. We have worked with countries and territories all over the globe to educate and guide the efforts of anti-money-laundering regulators and policy-makers worldwide. We take our role and our responsibilities to this end very seriously.

While our average transaction is only $320, there are people who need to transfer larger sums. We require government-issued photo identification for any sum over $1,000. We further require personal interviews with anyone wishing to transfer sums over $7,500. We also have a strong monitoring system that identifies, analyzes, and reports attempts to split large sums of money into smaller amounts to avoid detection.

I want committee members to know that Western Union supports regulations and efforts to prevent abuse of the global financial system. Much of this bill will succeed in that objective. However, there are a couple of elements of the bill, depending on the outcome of the future regulations, that may impede the well-meaning and normal day-to-day money transfers that take place in Canada. In several key areas, this bill may be unworkable, depending upon the future regulations.

As a responsible company with a history of leadership in this area, we currently have tiers of transfers that require more identification and advanced due diligence based on additional potential risks. Clearly, though, more due diligence will increase cost and may ultimately make it difficult for average Canadians to afford the use of this service.

While we agree that thresholds and compliance measures must be in place, we need to balance those requirements with the reality of the potential risks to Canada's financial system. Let's look closely and realistically at the required thresholds. Let's look at the systems in place to avoid splitting larger transfers into smaller ones. But let's not overburden the large number of Canadians, many of whom are new Canadians, who use these services to transfer small sums of money home to family and friends.

We absolutely support the need to track and report transactions between known public and political figures when it involves significant sums of money. But a requirement to do this for each and every transaction would put an unnecessary financial burden on all players, who would have to track small-sum transactions, which are not the ones we should be concerned about.

Western Union recognizes the value of Bill C-25, but urges the committee to recognize the clear difference between the transmission of small sums and the larger sums typically sent through the banking systems, which require greater scrutiny. We completely support the provisions of the bill aimed at creating a registration regime for money transmitters and foreign exchange dealers. Other provisions of the bill, as well as the pending regulations, must reflect the realities of our industry.

l welcome questions from the committee and the opportunity to work with the government to find the right balance and ensure that money sent home to support families abroad will not be unnecessarily burdened. We will be providing the committee members a more detailed submission regarding our concerns, the bill, and the pending regulations.

We would recommend that this committee review the regulations, given that so much of the bill is dependent on them. We welcome the opportunity to work with the committee on making the regulations in such a way as to balance the importance of a strong anti-money-laundering regime with the need for a safe, reliable vehicle for new Canadians to support their families back home.

Thank you.

● (1130)

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

We'll continue now with Jean-Pierre Bernier, from the Canadian Life and Health Insurance Association.

[*Translation*]

Mr. Jean-Pierre Bernier (General Counsel, Canadian Life and Health Insurance Association Inc.): Mr. Chairman and distinguished members of the committee, thank you for your invitation to participate in this study of Bill C-25.

[*English*]

In the interest of time, I will jump to the bottom of page 3 of my written remarks.

The industry welcomes the committee's initiative to review the proposed amendments to Canada's anti-money laundering and anti-terrorist-financing legislation to ensure that its provisions are consistent with the goals publicly stated by the Minister of Finance in the key recommendations of the Senate banking committee report.

The Senate banking committee, in its October 2006 report, recommended, under the heading "Life Insurance Companies", that the federal government, in considering amendments to the act, employ the risk-based approach in determining the level of client identification, record keeping, and reporting requirements for all reporting entities.

The risk-based approach is reflected in clause 8 of the bill, and in our view these provisions are drafted in an appropriate manner. We are encouraged by the fact that the Minister of Finance has stated twice in his backgrounder on Bill C-25 that the legislative amendments are designed for, and I quote, "minimizing the compliance burden".

This well-stated objective is of paramount importance to all reporting entities under the act, including life insurers and life insurance agents and brokers. A risk-based approach is the appropriate way to achieve the goal of minimizing the compliance burden while also achieving the goal of detecting and preventing money laundering and terrorist financing activities.

In essence, a risk-based approach takes into account the risk profile of the regulated entity's products and transactions and ensures that resources are focused efficiently and effectively. While the life and health insurance industry feels that the risk-based approach is appropriately reflected in Bill C-25, it is noteworthy that the word "prescribed", to mean prescribed by regulation yet to come, appears 54 times in the bill. This is a strong indication that a significant number of provisions will be subject to prescriptive rules, to be set in regulation. The use of the risk-based approach in drafting the regulations pursuant to Bill C-25 is crucial. Only a genuine risk-based approach would enable insurers to concentrate on managing the real money laundering risk they face rather than on simply trying to manage regulatory or compliance risk and worrying, as a result, about the details of the regulator's rules.

To make any compliance program effective and efficient, whether it is mandated by law or otherwise, people must think risk, not box-ticking. Overly detailed regulations must be avoided in order to deliver the three key elements of the risk-based approach: proportionality, flexibility, and cost-effectiveness.

With respect to corporate governance, the existing supervisory framework applicable to life insurance companies in Canada does recognize that institutions will adopt individual approaches to the management of reputation risk. Overly detailed regulations will not only be costly to implement but would provide very little flexibility, if any, to accommodate individual company circumstances.

In conclusion, Mr. Chairman, I would like to suggest, on behalf of the industry, two minor changes of a technical nature to minimize the compliance burden and to provide a global perspective.

First, foreign subsidiaries of Canadian financial institutions should not be obliged to comply with the specific Canadian compliance requirements in a country that has adopted the standards of the Financial Action Task Force.

Second, similarly, authorized foreign insurance companies should be exempted from the extraterritorial effect of Canada's anti-money-laundering and anti-terrorist-financing legislation. As is the case for the authorized foreign banks doing business here, I am referring specifically to the new proposed sections 9.7 and 9.8 of the act contained in clause 8 of the bill. I am providing to the committee possible wording for amendments to these two areas.

● (1135)

[*Translation*]

The industry stands ready to provide any further input that the committee would find useful in the context of this review. Thank you.

[*English*]

The Chair: *Merci beaucoup, monsieur.* Thank you all for your presentations.

We move to questions. Mr. Pacetti, you have six minutes.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chairman.

Thank you, witnesses. It's been interesting. Basically, I want to focus my line of questioning on what amendments this bill needs. We didn't have the time to really study it, so we're relying on your expertise.

Mr. Law, I think the CBA suggested two or three amendments, but we don't have your brief. If you can get us your brief as soon as possible, we'd appreciate it.

Mr. Warren Law: Actually, Mr. Bernier has touched upon the one amendment that we would like to see with respect to the application of the bill to foreign branches and foreign subsidiaries of Canadian banks. We have a concern about that. Mr. King, of course, would be able to give you more information on that concern.

Also, with respect to the definition of “correspondent banking” in the bill, we believe it's a bit too broad. We think that, in particular, the inclusion of foreign exchange transactions in the definition would cause problems, and it's really not necessary from an anti-money-laundering standpoint.

Mr. Massimo Pacetti: Fine, but if you could, please send us a brief, because our time is limited. We only have a few minutes to ask questions, and that includes the responses.

One aspect of your brief that I did want to address was something you said about the additional regulatory restrictions being a problem. Could you give me an example of where the legislation is causing you more paperwork? Is that what I should have understood? Because of the additional regulatory restrictions, it's going to cause the banking industry more work, more paperwork.

● (1140)

Mr. Warren Law: Generally speaking, we're quite happy with Bill C-25.

With respect to this issue, which I raised in my opening remarks and which Mr. Bernier mentioned in his opening remarks, it's a question of competitiveness, for one thing. If you look at Bill C-25, in the case of banks in particular, there's a distinction that's made in the legislation between foreign subsidiaries of Canadian banks and foreign branches of Canadian banks. They're treated differently under the legislation with respect to extending client identification requirements to these entities. We have a problem with this, given the fact that it seems to be a bit of an artificial distinction to say that different requirements should apply to branches and different requirements should apply to subsidiaries.

There's also the issue—and I think this is also something Mr. Bernier touched upon—of the fact that in Bill C-25 the requirement is made that the client identification requirements apply to foreign subsidiaries in non-FATF countries—and that's the Financial Action Task Force. We think this is a bit too narrow. Given the fact there are other FATF-affiliated organizations that cover a wide range of countries in the Caribbean, in Africa, in the Middle East, Europe, and Asia—

Mr. Massimo Pacetti: I don't mean to cut you off, but I want to get a question in to Mr. Timmins.

We had the Auditor General here during the last parliamentary session, regarding, I believe, chapter 2, and the tombstone data. FINTRAC could conduct an investigation, and then all of a sudden they can't continue investigating that particular transaction or situation. Prior to this meeting, I spoke to the director of FINTRAC downstairs. I asked him if that's still the case and if the legislation covers that so that they can continue. He said this audit was conducted two years or three years ago and things have changed.

How do you respond to that?

Mr. Douglas Timmins: Mr. Chair, I would certainly agree that the audit, as I pointed out, was done two years ago. We haven't followed up on this audit, so I don't know—

Mr. Massimo Pacetti: But the legislation hasn't changed. It's going to change.

Mr. Douglas Timmins: It's going to change, yes. The issue, as I pointed out, is that it appears it would address the issue of what could be disclosed so that it would be more than tombstone data. As we pointed out, we recommended that it be looked at in terms of what additional information could be disclosed while respecting the issues of privacy. That is what our recommendation was in our chapter.

Mr. Massimo Pacetti: So the amendments to the bill would cover your recommendation?

Mr. Douglas Timmins: It would appear that it gives more latitude to FINTRAC to disclose more information that would provide the context of the basis of their determinations.

Mr. Massimo Pacetti: So your office doesn't have any more problems with the bill in terms of any additional amendments?

Mr. Douglas Timmins: No, we have not studied the bill in detail from the point of view of amendments. We would come back to do follow-up—

Mr. Massimo Pacetti: I see your closing comments, but superficially you don't seem to have a problem with the bill.

Mr. Douglas Timmins: As I said, it appears to address the issues, and it's now a policy choice as to whether those decisions are appropriate.

Mr. Massimo Pacetti: Thank you.

For CRA, I'm not too concerned with the terrorist financing aspect, but mainly the money laundering, and I think you mainly addressed the charities portion. But FINTRAC mainly analyzes large transactions. What I'm concerned about is the small transactions, where CRA is investigating but needs information from FINTRAC. Is this bill going to help the communication between CRA and FINTRAC?

Ms. Elizabeth Tromp: I'm going to ask Denis Meunier to comment on that question.

The Chair: Unfortunately, Mr. Meunier, there is only a short time for a response, to be fair to other members.

Mr. Denis Meunier (Director General, Enforcement and Disclosures Directorate, Compliance Programs Branch, Canada Revenue Agency): In answer to your question, we believe that the bill, by expanding the number of data elements that are providing additional designated information in a disclosure, will be helpful to investigative bodies, including the CRA. And certainly—

Mr. Massimo Pacetti: Do we need to make amendments?

The Chair: No, I'm sorry, you're out of time, Mr. Pacetti.

We continue now with Monsieur Paquette. Six minutes, Monsieur Paquette.

[*Translation*]

Mr. Pierre Paquette (Joliette, BQ): Thank you, Mr. Chairman.

Mr. Timmins, in your statement, you said that unregulated reporting entities, including money service businesses and foreign exchange dealers that are not licensed and do not have a formal body overseeing their activities, posed a significant compliance challenge.

Do you have anything specific to suggest to ensure compliance with the legislation? For example, would you suggest that these businesses be regulated? You raise the problem, but you do not suggest any way of correcting it.

● (1145)

[*English*]

Mr. Douglas Timmins: Mr. Chair, I said that the bill does address that particular issue. The issue you're alluding to is one we raised at the time of our audit. And as I've indicated in point number 12 of my statement, the bill does appear to address that particular issue, to require registration, so from our perspective the matter has been addressed.

[*Translation*]

Mr. Pierre Paquette: Thank you.

Mr. Bernier, if I understand rightly, Canadian companies—whether they be insurance companies or banks—with a branch operating in a country that has already adopted standards that correspond to those of the Financial Action Task Force (FATF), are exempted from providing the information from this branch to FINTRAC.

Mr. Jean-Pierre Bernier: Otherwise, the compliance costs would double.

Mr. Pierre Paquette: Of course. However, what guarantee do we have that the various FATF member countries do a proper job of circulating the information? Even if we have to do it Canada too, that does not represent a major investment.

Mr. Jean-Pierre Bernier: Federally chartered life insurers do business in 20 different countries worldwide. If we were required to follow the laws and regulations of 20 countries with respect to client identification or other legal requirements, it would be costly, especially when things are the same from one country to another.

Mr. Pierre Paquette: You say that the members of your association have activities in how many countries?

Mr. Jean-Pierre Bernier: They are active in 20 countries.

Mr. Pierre Paquette: Are all those countries governed by FATF standards?

Mr. Jean-Pierre Bernier: I couldn't tell you.

FCAC, the Financial Consumer Agency of Canada, is present in 31 countries—at least, that's what its president told me last week in Vancouver. There are about 100 countries that have adopted FATF's standards and norms.

Mr. Pierre Paquette: Mr. Fox, you would like to see small sums excluded from the provisions of the bill. What do you consider to be a small sum? I missed that when you made your presentation.

[*English*]

Mr. Brian Fox: About two and a half years ago, our company instituted a policy for a global requirement for identification at $1,000. This is a recommendation of the Financial Action Task Force on Money Laundering, and so we've taken that to heart and applied it across the globe.

[*Translation*]

Mr. Pierre Paquette: So any sum under $1,000 would be excluded from being reported to FINTRAC, is that right?

[*English*]

Mr. Brian Fox: We keep all of these records and have used them in reporting to law enforcement when requested. However, currently we don't collect identification on transactions below $1,000.

[*Translation*]

Mr. Pierre Paquette: Thank you.

If I still have a bit of time, I would like to ask Mr. Law a more general question. Under Bill C-25, individuals, entities are also required to report suspicious attempted transactions.

What constitutes a suspicious attempted transaction? Do you already have guidelines for determining what constitutes a suspicious attempted transaction, or would this have to be specified?

[*English*]

Mr. Warren Law: I'm going to turn this over to Mr. King for a moment, but I think a very beneficial step has been taken in Bill C-25 in the sense that it's been extended to attempted suspicious transactions. We would certainly support that.

In terms of what is meant by a "suspicious transaction", do you want to give some examples?

Ron King: I think I could answer that question by saying existing legislation, regulation, and guidance provided by FINTRAC provides, from our industry's perspective, adequate guidance on defining what is a suspicious transaction. We've been working with that regime for a number of years and find it quite workable.

● (1150)

The Chair: We continue with Mr. Dykstra, six minutes, sir.

Mr. Rick Dykstra (St. Catharines, CPC): Thank you, Mr. Chair.

I wanted to ask a couple of questions of Mr. Bernier in regard to two recommendations, just for a bit of clarification.

On the point about foreign subsidiaries of Canadian financial institutions not being obliged to comply with the specified Canadian compliance requirements, if a suspicious transaction or a transaction in question were to occur, how would it then be addressed?

Mr. Jean-Pierre Bernier: Outside or inside Canada?

Mr. Rick Dykstra: Well, within the foreign subsidiary of the Canadian financial institution, so I would assume outside Canada, coming into Canada. Is that what you're referring to here?

Mr. Jean-Pierre Bernier: That's correct. Our subsidiaries in foreign lands will simply report suspicious transactions to the equivalent of FINTRAC in those countries.

Mr. Rick Dykstra: What's the difference—you'll have to give me a little history here—between a member being part of the task force and a member not being part of the task force?

Mr. Jean-Pierre Bernier: The difference is in numbers, sir. To the best of my knowledge, there are only 31 countries and two organizations, including the European Union, that are members of the Financial Action Task Force, as opposed to over 100 countries that have adopted the FATF standards.

Mr. Rick Dykstra: I see. Okay, I'm starting to understand here. In other words, if you're registered with the task force and you're complying internationally, those foreign subsidiaries should fall under the same relationship as the Canadian banks themselves?

Mr. Jean-Pierre Bernier: Yes.

Mr. Rick Dykstra: Okay.

Then just quickly, could you expand a bit on the part about the authorized foreign insurance companies being exempt from the extraterritorial effect of Canada's anti-money-laundering and anti-terrorist-financing legislation.

Mr. Jean-Pierre Bernier: That's the other side of the coin. Those are foreign insurers authorized by OSFI to carry on business in Canada. Why would Canadian law apply to operations of a parent company abroad? A branch is an extension of the parent company in Canada.

Most of our foreign-owned insurers come from either the States or Europe. The United States has anti-terrorist legislation, and so do most of the countries in Europe, so they're already subject to the client identification requirements, record keeping, and reporting requirements.

Mr. Rick Dykstra: So the parent company should not be subject to the requirements unless they're doing business in Canada?

Mr. Jean-Pierre Bernier: That's correct. Foreign banks are exempted. We're simply asking for equal treatment for foreign insurers.

Mr. Rick Dykstra: So in other words, the way the bill reads now, it would actually include parent companies. The application of Bill C-25 would in fact mean they would have to comply.

Mr. Jean-Pierre Bernier: Yes.

Mr. Rick Dykstra: All right, thank you.

Ms. Tromp, I have a couple of questions.

One of the commitments we made in our budget with respect to donations is the ability for companies or individuals to donate securities to a charity. I wondered about the impact of what you're suggesting, the overlap of where donations may or may not be subject to a review. I don't know whether you've thought about that, and I don't mean to put you on the spot, but I'm just a bit concerned around that area.

If someone were to make a substantial donation to a university, let's say, or a not-for-profit organization, where do your concerns lie within that sort of donor capacity?

Ms. Elizabeth Tromp: I'll try to answer that question based on what I'm understanding it to be.

I suppose, very generally speaking, to the extent that the changes have led to an increase in giving, we monitor charities through their annual returns and through a risk-based approach to audit, and of course we look at applications for registration. In our course of monitoring charities, where there is something that doesn't look right, whatever that is—

● (1155)

Mr. Rick Dykstra: You're getting at my point on what I think is going to happen, especially from what we've seen early on in this fiscal year. There has been significant uptake and increase in the contributions made. So in some charities you're going to see huge increases in donations that have been made to those, based on what was in the budget.

Ms. Elizabeth Tromp: We will have to take that into account, obviously, in the process of reviewing. That wouldn't be a sole indicator of whether there was something to be pursued. It may or may not be something we need to look at.

Mr. Rick Dykstra: Okay, thanks.

Mr. Fox, I have a quick question, as I'm sure I don't have much time left time.

Dealing with the point you made with respect to bringing regulations back here to the committee, it leads me to ask: were you involved in the earlier consultations of how the bill would actually come forward? How would you suggest that you be involved there or that these regulations come back and you folks have a chance to be involved in that again?

Mr. Brian Fox: Thank you.

We were involved both with FINTRAC and with the Department of Finance in discussion on our industry specifics. Given Mr. Bernier's point, which we noted as well, there were 54 mentions of the prescribed regulations, with no supporting documents to help us understand what they will be. We would really like to be involved in the process of reviewing the regulations and perhaps bringing them back to this committee so that we are all comfortable with them.

The Chair: Thank you.

We'll continue now with Madam Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Thank you, Mr. Chairperson, and thanks to all of you.

I think I'll talk first to Mr. Timmins. It is my understanding from the Auditor General's report of 2003-04 that one of her concerns was whether or not we were getting value for money. We're talking about a $31 million budget annually, yet it didn't seem to be translating into actual information being used for investigation purposes or laying charges. I know that was a few years back, but I don't think there was much change in the information for 2004-05 and 2005-06.

Do you think the legislation will do anything to improve the reporting and the usage of the information so it goes somewhere and actually leads to investigations and charges?

Mr. Douglas Timmins: I think it would be difficult for me to comment without having done additional work. That would require follow-up audit work to see whether it will be effective. But as I've said in my opening statement, we do believe it goes in the direction of providing FINTRAC the ability to provide additional information, which should respond to the issue that we saw or were told at the time of our audit, that they weren't getting the kind of information that would allow them to pursue the investigations.

The issue was that getting the tombstone data was not useful. The fact that they will now get context to those disclosures will allow them to perhaps appreciate the significance or the rationale for why FINTRAC might feel there's something worth pursuing. The argument we heard from the law enforcement agencies was that, with limited resources, all they could really do was continue to do the investigations that they already had under way, and if information helped them do that, that was fine, but to start something fresh on the basis of basically raw data was not very useful.

So I think the issue is that we see that the intent is here to make it work, but it would be inappropriate for me to prejudge whether it will be effective enough or not.

Ms. Judy Wasylycia-Leis: What's the regular cycle for an audit of an organization like FINTRAC, or is there one?

Mr. Douglas Timmins: There isn't one. We would obviously take into account that a period of time would be necessary after the legislation was in place to have some effective period before we would consider, and of course interest expressed by committees of Parliament and so on might have some influence. But it would certainly go into our normal longer-range planning of when would be appropriate to look at it again.

Ms. Judy Wasylycia-Leis: There is one other issue that the Auditor General has raised in the past, which is the removal of lawyers from the reporting requirements. In the 2004 report, she suggested that this means Canada's money laundering system does not fully meet international standards. I know the Senate had a big debate on this, and they actually recommended that some consideration be given to reporting.

I could be reading between the lines, but the issue I'm trying to raise here is that although lawyers are considered to be outside the parameters of this legislation, there should be some way to have some reporting. In fact, the Senate report mentions other countries where there is something that happens—the United States, the United Kingdom, other European countries. I'm just wondering if there isn't a need for us to include something in this legislation to deal with that concern.

● (1200)

Mr. Douglas Timmins: Mr. Chair, certainly the member is right that this is an issue we raised in our chapter in our audit in 2004, and we do confirm, as I said in the opening statement, that this exemption has been reconfirmed with this legislation. We do understand, although we don't know all the details, of the discussions or negotiations between the government and the law societies on putting in something that would complement or substitute for that requirement, so I can't comment on it. I don't know the details, but that might be something the committee would wish to pursue before you consider whether you want to propose an amendment in that area.

Ms. Judy Wasylycia-Leis: I think what we'll want to do is find out why it would appear that they didn't really look at some of the European examples when the legislation was drafted. They may have, but I don't know.

Mr. Douglas Timmins: Mr. Chair, I think they did know about the European examples before. I think the issue, as I mentioned, is that the lawyers obtained a successful legal challenge, and that was the original rationale for their being exempted. I suspect that may have been a factor in the discussions about continuing that exemption.

Ms. Judy Wasylycia-Leis: Brian Fox, I'm not so sure how difficult you will find it to respond to this legislation, in terms of the administrative requirements and the changes in procedures alone, but I would guess that certainly some small credit unions and some small financial services are going to have some difficulty. What kinds of supports do you think should be in place?

The Chair: I'm sorry to have to cut you off. I urge you to work your response into the next question, if you wish.

We'll move to Mr. Savage now for four minutes.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): I may come back to you, Mr. Fox, but I want to ask a question of Mr. Law and/or Mr. King.

You were talking in your opening comment about the correspondent banking, and I think you had talked about the potential for competitive disadvantage for Canadian banks. Can you expand on that a little bit?

Mr. Warren Law: That's an issue of how we define correspondent banking versus how other countries define it. As I mentioned in my opening remarks, there's one area in particular where I think we may be too broad in our definition, and that's with respect to this issue of foreign exchange transactions. As I understand it, under Bill C-25, if a person goes into a bank branch here in Canada and wants to transfer money to a location outside the country, and does not have an account with the bank, you have to have a correspondent banking relationship under Bill C-25. That means that you have to have a formal relationship between the two banks, etc. We think this is going a bit too far. We think that when you look at what other countries have done, this is going too far. We think that as a result, some consideration should be given to amending this legislation to narrow it a little bit, to deleting from the definition the reference to foreign exchange transactions.

Do you have anything to add?

Ron King: I would just like to add one point to that, which is that at a wholesale level, large financial institutions may typically settle their foreign exchange surpluses or shortages on an open-market basis. They might enter into those transactions with an entity that offers the best foreign exchange rate. That entity wouldn't necessarily have a foreign correspondent banking relationship with them, but this legislation would require us to treat them as a correspondent and do all the due diligence. That's the industry concern.

Mr. Michael Savage: You mentioned an amendment. If you think you have specific wording around that, I encourage you to get something in to us, as I think Mr. Pacetti suggested.

● (1205)

Mr. Warren Law: Because of the shortness of time around when this hearing was called, we didn't have an opportunity, but we certainly will.

Mr. Michael Savage: I understand that.

You mentioned also that banks had been very proactive on the AML/ATF file. Can you give me a brief sense of what Canada's banks have been doing on this issue?

Mr. Warren Law: I'm sorry, I didn't hear you.

Mr. Michael Savage: You mentioned in your earlier comments that banks had been very proactive on this file. Can you give me an example of what Canada's banks have been doing?

Mr. Warren Law: I think it's reflected by the amount of capital investments that are being made by the Canadian banking industry in the fight against money laundering and terrorist financing. It's literally in the tens of millions of dollars. Millions of dollars are spent each year to improve systems, and in the education and training area with staff. I think we have taken a leading role in the fight against money laundering and terrorist financing.

Mr. Michael Savage: Mr. Bernier, you've given us some very good specific amendments—and I thank you for that—which will get consideration. If these were not adopted, you would still support the bill. Is that correct?

Mr. Jean-Pierre Bernier: Yes.

Mr. Michael Savage: And Mr. Fox, you're concerned about the regulations, but you support the bill.

Mr. Brian Fox: Yes, absolutely.

Mr. Michael Savage: And that would be the same with the banks. You have issues around what the potential regulations might look like.

Mr. Warren Law: We share that concern. It's difficult to consider legislation when it's obvious that a lot of the meat will be in the regulations themselves, and we've never seen them.

The Chair: We continue with Monsieur St-Cyr.

[*Translation*]

You have four minutes, sir.

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Thank you very much, Mr. Chairman.

I have a general question I would like to ask. Mr. Law has just spoken, among other things, of the efforts made by banks to combat money laundering and terrorist financing, and I know that Mr. Fox and Mr. Bernier have told us about the efforts that have been made from their side.

This is something quite specific to the financial world. We don't ask merchants to check if the money used to pay them comes from crime or a suspicious source. I fully agree that the requirements on financial institutions should be greater, but in purely economic terms, beyond the corporate duty to fight crime, what is the impact of such a requirement? Aren't there only negative repercussions for you? If, for example, you discover that criminals are using your systems for illegal purposes, those are customers you would be losing. So in addition to having to invest money in such efforts, you might also lose customers. The more you do your job, the better you do your job, the greater the chances are of people taking their business elsewhere. Are there any benefits for you business-wise, or are you simply doing it out of a sense of corporate duty?

I would first like to hear Mr. Law, and then Mr. Fox.

[*English*]

Mr. Warren Law: Perhaps I can start, because I think the answer to your question is very simple. It's a very good question and is very insightful. You should be working for a bank.

With respect to financial institutions generally, but particularly banking, there is no question that our success rests on our reputation —on the security of the institution, what people think of us, the confidence that people have in our operations, the reputation of the banking industry. It makes good business sense to fight money laundering, obviously. It makes good sense to work with all the stakeholders involved in this area to make sure Canada as a whole has an effective deterrence program. It simply makes good sense. We could not operate, obviously, if there was any doubt about our institutions being used by the bad guys to launder money.

Mr. Brian Fox: I would have to echo those comments.

Western Union has been involved in this globally in a very large way probably since 2002, but always a component of what we try to offer our consumers is confidence, and we rest on that. Our entire business hinges on that confidence. We don't want illicit activities in our businesses. We just don't want it.

● (1210)

[*Translation*]

Mr. Jean-Pierre Bernier: It's the same thing.

[*English*]

Transacting with professional money orders or *les terroristes financier* is bad business, period, and we have a reputation to protect.

[*Translation*]

Mr. Thierry St-Cyr: So in the end, you feel that your reputation is worth more than the money you invest in fighting these problems.

I have a more specific question to ask of Mr. Bernier. Earlier, you spoke of foreign branches that have to gather information and provide it to FINTRAC…

The Chair: Mr. Del Mastro.

[*English*]

Mr. Dean Del Mastro (Peterborough, CPC): Thank you.

Mr. Timmins, in 2004 the Auditor General tabled a report called "Implementation of the National Initiative to Combat Money Laundering". You've indicated that, superficially at least, it seems that Bill C-25 is taking steps toward what the report was recommending. This wouldn't be before Parliament if we didn't think there was a problem, that there weren't potential loopholes that could be exploited. Is that correct?

Mr. Douglas Timmins: Yes, Mr. Chair, although I believe there was a required legislative review done of the bill anyway, and we did the audit in advance of that. Certainly, it's my view that you're trying to deal with the issues and that's the reason the bill is here.

Mr. Dean Del Mastro: Could you comment a little bit on the title of the report of the Senate Standing Committee on Banking, Trade and Commerce? They titled their report "Stemming the Flow of Illicit Money: A Priority for Canada". Could you comment on that at all?

Mr. Douglas Timmins: No, Mr. Chair. I don't know how to respond to that.

Mr. Dean Del Mastro: Do you think it's an appropriate title, Mr. Law? Do you think Bill C-25 is addressing what may potentially be a big problem in Canada?

Mr. Warren Law: Bill C-25 is certainly useful in making sure that Canada is up to snuff in terms of fighting the good fight. Bill C-25 is very useful with respect to making sure our FATF requirements are met and with respect to what other countries are doing. For example, the fact that we're now addressing attempted suspicious transactions is something that's been done in the G7 countries. I think we need Bill C-25 to continue to fight money laundering and terrorist financing activities.

Mr. Dean Del Mastro: I appreciate that.

Ms. Tromp, would the additional information that you may well receive from FINTRAC help you track...? We've heard a number of presentations here this morning. One thing that wasn't addressed is the potential for tax evasion through the use of tax havens in the Caribbean and so forth. Would this type of information help you track these things and keep a better handle on protecting the integrity of the Canadian tax system?

Mr. Denis Meunier: Perhaps I may answer that.

The information that is proposed in the legislation to expand the context, and particularly a number of elements that are included there, such as the reasons for suspicion, the indicators, additional information with respect to who is involved in regard to the financial transactions, and the ownership of some of the companies, will certainly facilitate tax evasion investigations, criminal investigations. Of course, when we are looking at the use of moneys offshore as well, that information will point us in the right direction. Therefore, the answer is yes.

Mr. Dean Del Mastro: Thank you.

Thank you, Mr. Chair.

The Chair: Thank you very much, sir.

We'll move to three-minute rounds to accommodate everyone. We'll continue with Mr. Pacetti.

Mr. Massimo Pacetti: Thank you, Mr. Chairman.

I will continue along the same line of questioning as Mr. Del Mastro had. I think the question was directed to you, Mr. Meunier, and was basically regarding tax evasion and the way the CRA can work with FINTRAC. I'm not sure if CRA can actually ask FINTRAC for specific transactions. I'll give you an example of somebody earning maybe $20,000 to $25,000 a year but is collecting illegal moneys. FINTRAC wouldn't catch that; it's too small an amount. Would CRA have the ability to ask FINTRAC to take a look and analyze what's going on there?

Mr. Denis Meunier: The way FINTRAC is set up, it's not a query system. For instance, when we pursue a criminal investigation we do have the opportunity to provide to FINTRAC a voluntary information report that would give some outline with respect to criminal investigation. Our legislation, the Income Tax Act, as well as the Excise Act, allows us to do this in very limited circumstances. So we would voluntarily provide that information.

If FINTRAC, through the course of its analysis, can provide some of that information back to us to further our investigation, obviously that would be welcome. Of course, in those cases—

● (1215)

Mr. Massimo Pacetti: You're not answering my question.

The question is that we don't necessarily want the law enforcement agencies involved, because they already have enough work, from what we understand. The idea is to try to make sure people who owe taxes are paying taxes. The CRA is the only agency that's going to do that, let's be realistic.

The CRA can also conduct its investigation more easily than some of the other law enforcement agencies because, with tax, you're guilty and then you have to prove yourself innocent, whereas in law you're innocent and the law has to prove you guilty. Wouldn't it be easier if CRA could ask FINTRAC to provide information on these people and just cut it there instead of perhaps, maybe, could be, what do you think? Wouldn't it work better that way?

Mr. Denis Meunier: A couple of hundred criminal investigations are conducted every year, and obviously we concentrate on the ones that are most egregious to the tax system. There is a difference between audits conducted in a civil environment and criminal investigations.

Mr. Massimo Pacetti: I'm sorry to interrupt, but the time is limited.

Let's take an example where you are conducting an audit and you think there's something more there. Can't you go to FINTRAC and ask them to get you some information on this?

Mr. Denis Meunier: No.

Mr. Massimo Pacetti: You can't, but would you like that to happen?

Mr. Denis Meunier: You suggest in the case of audit, and that's not the purpose of the legislation, to query FINTRAC for civil purposes. In this case, it's specifically in the context of FINTRAC providing us with information, particularly with respect to tax evasion, and in most cases it's something egregious. There are a lot of transactions out there.

Mr. Massimo Pacetti: I understand that.

Thank you.

The Chair: We'll continue with Mr. Wallace now.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chairman.

Thank you, panellists, for coming this morning.

My questions aren't that difficult, and my cheering for my friend across the way was because he was asking one of my questions.

First of all, I want to thank Mr. Meunier for the report. As somebody on the committee, I think that when you have actual changes—and I know some are coming—providing them in writing would be much more efficient. We could debate that in future and have an understanding of what that involves.

I have a question for Mr. Fox. The question I've been dealing with regarding FINTRAC thus far has been about the new regulations, fines, and so on. At present it's only criminal offences, but now they're going to add some administrative offences. You've indicated support for the bill. Could you comment on the registration system, how you think it should work? What's your organization's position on that?

Mr. Brian Fox: We are onside to have registration for money services businesses like ours. I think it was Mr. Law, or maybe Mr. Timmins, who commented on the number of organizations being very hard to track, and that's true.

We are completely in favour of a registration system. In our earlier discussions with the Department of Finance, we leaned toward a registration system that allows the Government of Canada to keep track of these organizations, always looking to make sure we are not encumbering people. There's always the potential of driving some of this activity underground. This is the balance we're looking to see. There are many other jurisdictions we can look to around the globe to see examples of something that's appropriate.

Does that help you?

Mr. Mike Wallace: Your concern is that through a registration system, a one-person operation that may be breaking the law now won't register anyway. You're concerned there's no action able to be taken against that person if they're not registered.

Mr. Brian Fox: That's part of the equation. Also, if the process of registration is extremely expensive or onerous, it may cause, not necessarily one-person operations, but other types of operations in Canada to slip underground.

● (1220)

Mr. Mike Wallace: I wanted to be clear that at present for any of these organizations, and we've got a fairly extensive list, right down to real estate sales representatives—I didn't realize that this morning—the government doesn't provide them with support to help them with the costs of meeting the regulations we've put in place. Is that an accurate statement?

Mr. Brian Fox: Since our industry is not regulated, there is no support whatsoever.

The Chair: Thank you, Mr. Wallace.

We'll continue now with Mr. McCallum.

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair.

Thank you to the witnesses.

My apologies, I had to be absent a lot, so I haven't done justice to your presentations. Because of that, Mr. Chair, I'd now like to raise a point of order regarding the scheduling and the GST visitors' rebate program. I want to make sure we get that on the agenda, as we ought to. I'll leave it to you.

The Chair: Mr. McCallum, we'll leave that to discuss later on after the panel is done. How about that, before we break, between the two panels? That way we can get some questions in.

Hon. John McCallum: Okay, great.

And thank you again to the panel. I'll leave it at that.

The Chair: Madam Ablonczy is not here. Who is asking the next question?

Okay, Madam Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I just want to come back and follow up. Mike touched on it a bit but I don't think we really dealt with the question of the added new obligations on the part of all of these different institutions. I'd like to hear from both Mr. Bernier and Mr. Fox, to start with.

What do you think this will mean to institutions that you work with, and what do you think you will need to meet all the obligations under this new legislation?

Mr. Jean-Pierre Bernier: We have many small and mid-sized life-insuring institutions in Canada, and this point has been considered. Obviously the risk of a large financial institution doing business in many countries is different from the risk of a small insurer doing business in one province or in one region of a province. Having said that, it will be of paramount importance that the regulation to come be principle-based as opposed to rule-based.

Let me give you an illustration of this from a small institution's perspective. If the legal requirement is for me to have a bathroom in my house, the size of that bathroom should not be imposed upon me. So if it's only my wife and I living in the house, I will have a smaller bathroom. If I have a lot of guests, a big family, uncles and cousins, I may need two or three bathrooms. It will be up to me, depending on my risk. It would be very costly if the regulation were to impose on me what colours I should have on the walls, what kinds of fixtures I should have, or the kind of garbage can I should place in my bathroom—plastic, ceramic, it doesn't matter as long as I have one.

That would be the right approach to take; in short, a risk-based approach combined with a principle-based regulation.

Mr. Brian Fox: From our perspective, our business globally works with an agent relationship and our to-date response to this need for tighter anti-money-laundering control has been to simply create the infrastructure within our organization to allow our agents to comply with jurisdictions everywhere that we do business. So it has been a serious line item of expense for our business, but as I said earlier, we agree with this type of legislation and accept it as a cost of doing business.

That being said, Mr. Bernier's point is exactly how we feel. The nature of the regulations that we keep alluding to but haven't seen is the real crux of the matter in terms of determining how onerous it will be for a business to comply with the bill and still maintain a profitable business.

Ms. Judy Wasylycia-Leis: Do you get any sense from anyone that there may be a training course provided for all institutions to adapt to the legislation, that there might be some software given, that there might be some supports provided?

Mr. Brian Fox: We currently do those things now at our own expense completely. It's an interesting question. I have never given any thought, in all honesty, to what types of government support would be appropriate for this.

● (1225)

Ms. Judy Wasylycia-Leis: There are some very small institutions like—

The Chair: Thank you very much, Madam Wasylycia-Leis.

Thank you very much to our panel for your participation. The time you've taken to be with us today is much appreciated and you are excused.

We will have a point of order, and then we'll invite the panel to come forward in a few minutes' time, I expect.

I believe, Mr. McCallum, you had a point of order.

Hon. John McCallum: Thank you, Mr. Chair.

You and I had a brief discussion about the presentation that was agreed to in a resolution we passed for the panel on the GST visitors' rebate program. We'd agreed in that resolution to have that within a certain number of days, and my concern is that by linking it to the timing of the report, it's put that into question.

So I'd like to make sure that this is held—whatever we do with the report—in a timely fashion, before the end of November, and if necessary, before we conclude the report. I just want to put that on the table to make sure it doesn't get lost somehow.

The Chair: It shall be noted.

Hon. John McCallum: We're not asking for a great deal of time.

The Chair: First of all, it's not a point of order. But I will put it on the record that I am committing to the committee to fulfill the resolution they passed. Every attempt will be made to have that debate and discussion prior to December 2. So that's on the record.

Hon. John McCallum: It's on?

The Chair: Yes. So we'll recess. We will reconvene a few minutes from now.

● (1227)

(Pause)

● (1237)

The Chair: We are reconvened.

Welcome to our panel members. Thank you for being here.

We are continuing our testimony and discussion on Bill C-25, An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act.

I welcome you. I will give you an indication when you have one minute remaining. I don't like to have to cut you off, but of course I take special joy in doing so, and will. It will allow time for exchange with committee members thereafter.

We'll begin with OSFI, the Office of the Superintendent of Financial Institutions Canada. Nicolas Burbidge is here.

Welcome, sir. Five minutes to you.

Mr. Nicolas Burbidge (Senior Director, Compliance Division, Office of the Superintendent of Financial Institutions Canada): Thank you, Mr. Chairman.

I'd like to thank the committee for this opportunity to appear before it as part of your consideration of Bill C-25.

I am the head of the group at OSFI responsible for our anti-money-laundering and anti-terrorist-financing program.

We do not have a legislated role with respect to this bill, but like many other regulators around the world, we are members of international bodies that develop standards to which we must adhere for the supervision of financial institutions. That includes adequate "know your client" standards.

I'm moving very quickly through my prepared remarks, which you will have in writing, because I want to add a couple of comments to what you heard at the earlier session.

The FATF, which you've heard about, sets international AML/ATF standards and uses a peer review system to evaluate implementation in member countries. I have participated in this process personally and I can tell you that I know the importance that will be attached to the contents of Bill C-25 in Canada's evaluation next year.

A good review will be important to make sure that the perception is reinforced that Canada is a safe place for financial transactions and investments. Strong AML/ATF programs are an important component of a safe and sound financial system. We therefore strongly support the passage of Bill C-25.

I want to emphasize that we have a very close working relationship with FINTRAC, from which you heard earlier. We operate on their behalf in assessing our financial institutions for money laundering—and I'll come back to that in a second.

We're allowed to share the results of our work with our institutions fully with FINTRAC and to receive information about our institutions from FINTRAC. We also work very closely with the Department of Finance and other key government departments on the regime generally and on the financial institutions' role in it.

This legislation raises the bar significantly on AML/ATF standards in Canada and will require more effort and resources by the financial sector to implement it. However, our banks and other regulated entities are already allocating significant dollar and people resources, as you heard earlier, to the fight against money laundering and terrorist financing.

Most of the financial institutions we have assessed have assigned a very high level of importance to getting AML/ATF right. A few institutions have needed more specific guidance and we have been proactive in providing that guidance, both by interventions and by undertaking an extensive program of outreach to the financial sector on money laundering and terrorist financing issues.

I'd like to add a couple of quick comments to the exchanges and subjects you heard from the earlier panel.

First of all, there have been comments from the private sector with respect to the fact that they have not yet seen draft regulations, which will be coming out following the initial legislation. It's true that those regulations have not yet been finalized, because of course there have been extensive consultations. I hope I'm not speaking out of turn when I say that the Department of Finance, with which we work very closely, has been consulting on those regulations for many months. The private sector organizations have all been part of those consultations.

Secondly, with respect to membership in the FATF and the discussion that was held earlier on that part of it, there is a big difference between the standards that are in place in FATF member countries and standards that are in place in countries that are members of these so-called FATF-style regional bodies, which are subsidiaries of the FATF around the world. Those standards are not necessarily as good as the standards in the FATF itself.

Finally, on the issues with respect to extending these requirements to foreign branches and foreign subsidiaries, the bill makes an appropriate distinction between foreign subsidiaries, which are creatures of foreign countries' jurisdictions and of foreign legislation, and branches of Canadian financial institutions, which are Canadian entities. In that regard, we believe we've looked very carefully at the wording in the bill, and as Canada's banking and life insurance regulator we are quite happy with the wording in the legislation as it now stands, because it talks about standards for foreign subsidiaries and does not actually impose any direct Canadian legal requirements.

I believe that Bill C-25, when enacted, will result in Canada's being viewed internationally as having a strong anti-money-laundering and anti-terrorist regime.

● (1240)

Finally, Chairman, thanks again for the opportunity. I will be pleased to respond to any questions the committee may have.

Thank you.

The Chair: Very good, sir. Thank you.

We continue with the Federation of Law Societies of Canada and James Varro, policy counsel.

Welcome, sir. It's over to you.

Mr. James Varro (Policy Counsel, Anti-Money Laundering Committee, Federation of Law Societies of Canada): Thank you very much, Mr. Chair and honourable committee members.

The federation appreciates the opportunity to address this committee on the subject of Bill C-25. I should say at the outset that normally the president of the federation, or at least the chair of our anti-money-laundering committee, would be before you today, but the entire federation council, including the chair, is in Vancouver for a council meeting. I am your representative today, and I'm policy counsel to the federation's anti-money-laundering committee.

The federation is the coordinating body of the 14 law societies in Canada. The member law societies, as you may know, are statutorily charged by legislation in each province and territory with the responsibility of governing the some 88,000 lawyers, and in Quebec the 3,500 notaries, in the public interest.

The federation supports Canada's effort to fight money laundering and terrorist financing. The federation recognizes the importance of the objectives of the money laundering act and concurs with its basic purposes. The initiatives to fight these crimes, which include the fulfillment of Canada's commitment internationally pursuant to the FATF requirement, however, must be accomplished within the framework of the values and the constitutional principles on which Canadian society rests. This includes the rule of law and, within that, the right of an individual to an independent judiciary and independent legal counsel.

My comments today are going to be limited to two aspects of the bill: proposed section 10.1 and proposed section 6.1.

First, proposed section 10.1 is the new section that exempts lawyers from the suspicious transactions and prescribed transactions reporting requirements. The federation is very pleased that this exemption has been provided in this bill. The federation has implemented its own regulation to deal with the issue of suspicious transactions and prescribed transactions reporting requirements.

As you may know, the law society regulations prohibit lawyers from receiving cash or accepting cash of $7,500 or more, with some limited exceptions, from clients and others. It actually goes further than simply requiring lawyers to report transactions; it prevents lawyers from accepting the money that might have required a report.

The federation appreciates the fact that this exemption is in the bill. The reporting requirements initiated, as you may know, the constitutional challenge to the money laundering act back in 2001. The result was injunctive relief, thus suspending the application of the act to lawyers pending the resolution of the constitutional challenge.

The federation's view is that the public interest, in addressing money laundering and terrorist financing as it relates to the legal profession, is best served by having lawyers, through their self-regulatory authority, address the risks their profession presents. In this way, the independence from government is maintained and the core values of the legal profession, for the benefit of the public, are protected. I've already mentioned the no-cash rule by which lawyers are prohibited from accepting $7,500 or more from clients. They are also required to keep a cash transactions record as part of their record-keeping requirements.

I'd like to move now to proposed section 6.1 of the bill, which is an enabling provision for regulations on the client due diligence and identification requirements. This follows from FATF requirements for enhanced customer due diligence and client identification requirements.

The federation acknowledges the importance of Canada's commitment to the FATF standards and as a matter of principle doesn't oppose these methods to fight money laundering. The federation's position, as it has been from the start, is that the law societies, as statutorily authorized regulatory bodies, must regulate the conduct of lawyers. In this respect, the federation has moved to adopt another model rule on client identification and verification standards, which mirrors the FATF requirements. This model rule would respect the threshold between the constitutional and unconstitutional requirements imposed on lawyers when it comes to gathering information from clients.

The federation is working with the Department of Finance on the issues relating to client ID and record-keeping compliance procedures for legal counsel and is looking forward to a resolution of these issues.

● (1245)

To sum up, the federation's view is this. The no cash rule and the client ID model rule will accomplish three goals. They will impose on lawyers a more rigorous standard than the requirements under the act. The rules will address the activities of lawyers as financial intermediaries, but form part of the extensive statutorily authorized regulatory regime for lawyers through law societies. As rules, law societies' regulations will respect the constitutional principles upheld by the legal profession for the benefit of the public.

The federation supports the goal of fighting money laundering and terrorist financing in ensuring the safety and security of Canadians, and any amendments to the current legislative regime must preserve the rights that have long been recognized as fundamental in Canadian society.

I'll be happy to answer any questions of the committee.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Varro.

From l'Association du Barreau canadien, we have Mr. Skolrood.

Mr. Ron Skolrood (Chair, National Constitutional and Human Rights Law Section, Canadian Bar Association): Mr. Chair, Ms. Thomson will begin with a quick overview of the involvement of the CBA, and then I will add some comments.

The Vice-Chair (Mr. Massimo Pacetti): No problem, but please keep your comments to about five minutes. Thank you.

Mr. Ron Skolrood: Yes, we will. Thank you.

Ms. Tamra Thomson (Director, Legislation and Law Reform, Canadian Bar Association): Thank you, Mr. Chair. The Canadian Bar Association is very pleased to have been able to accept the committee's invitation to appear today on Bill C-25.

I'd like to start by telling the committee members about the distinction between the Federation of Law Societies and the Canadian Bar Association, so that you understand the difference between our organizations.

As the body representing the independent regulators of the legal profession, the Federation of Law Societies is the primary party that is negotiating with the government around the application of the money laundering regime as it affects lawyers. The Canadian Bar Association, on the other hand, is the national professional association of lawyers across Canada. As such, our mandate is to assist the government in crafting the best possible law while protecting the rule of law and the rights of all Canadians with respect to their legal rights.

I'm now going to ask Mr. Skolrood, who is chair of the national constitutional and human rights law section of the Canadian Bar Association, to address a couple of issues in the bill.

● (1250)

Mr. Ron Skolrood: Thank you.

I'd also like to thank the committee for the opportunity to appear here today. I expect I will echo much of what Mr. Varro has said on behalf of the federation.

I'd like to make two points, if I may, concerning the proposed legislation. The first concerns the special considerations that apply when including the legal profession in the fight against money laundering. Second, I'll address briefly the proposed expansion of information sharing with international authorities.

To begin, let me say that the Canadian Bar Association supports the objectives of Bill C-25 insofar as the bill aims to protect society against the threat and impact of money laundering. Indeed, as Mr. Varro has touched upon, the legal profession, through the various governing law societies that regulate it, has voluntarily and proactively adopted regulations to prohibit lawyers from accepting large amounts of cash. This is specifically to address those rare occasions when lawyers might unwittingly be drawn into an illegal scheme. In addition, the law societies are now considering ways to address the government's goal of having a client identification scheme.

Clearly, lawyers have shown their willingness to aid the government to fight money laundering. However, given the importance of an independent bar in the administration of justice, and given the fundamental significance of solicitor-client privilege, we believe the proper approach to ensuring lawyers' compliance is within the sphere of self-regulation. We therefore strongly support and indeed commend the government for recognizing the importance of solicitor-client privilege by explicitly removing legal counsel and legal firms from the reporting requirements of the legislation.

We are also pleased that the recent Senate committee report recommended that negotiations between the federation and the federal government continue, and that it recognized the proactive efforts of the profession to address concerns about money laundering through lawyers by self-regulatory mechanisms. However, one aspect of the Senate committee report that we do take issue with is the suggestion that lawyers are a major problem in the fight against money laundering. The report suggested that lawyers either knowingly participate in money laundering activities or are innocent pawns used by criminals in money laundering schemes. Frankly, we disagree with that assessment.

The overwhelming majority of lawyers in Canada adhere to the highest legal and ethical standards. Like all citizens, lawyers are bound by the Criminal Code and other statutes, and they are rightly exposed to criminal prosecution for any violation of the law. Lawyers are also subject to demanding professional codes of conduct and other law society requirements, and as we have heard, efforts are ongoing to strengthen those requirements.

Briefly, with respect to the information sharing issue, Bill C-25 proposes a significantly expanded regime for information sharing in proposed section 38.1, including sharing information with foreign governments based on a reasonable suspicion of involvement in money laundering. Recent experience has shown that unchecked information sharing can lead to gross violations of the human rights of innocent Canadian citizens. This experience highlights the need for effective independent oversight and the accountability of all Canadian security forces. Our point simply is that there should not be expanded information sharing until effective independent oversight and accountability are in place.

Again, thank you for the opportunity to address the committee. I, too, would be pleased to answer questions.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Skolrood.

From the Investment Dealers Association of Canada, Mr. Boyce.

Mr. Lawrence Boyce (Vice-President, Sales Compliance and Registration, Investment Dealers Association of Canada): Thank you, Mr. Chairman. On behalf of the association, I'd like to thank the committee for the opportunity to comment on Bill C-25. The Investment Dealers Association is the national self-regulatory organization for full-service investment dealers. As part of our function we have commented extensively on Canadian money laundering law and regulations. We also audit and supervise our members in respect of their compliance with the current regulations. We have an information-sharing agreement with FINTRAC, and we share information with them on the results of those audits.

I also represent the association on the International Council of Securities Associations working group on anti-money-laundering procedures. As part of that, we have been involved in a project by FATF called the electronic advisory group on the risk-based method. It started with a meeting in Brussels last year to examine the application of risk-based approaches in the anti-money-laundering regimes.

We support the legislation. We believe that all of the issues it addresses are important and that it will significantly enhance the anti-money-laundering regime in Canada. I'll speak only about our reservations on a couple of issues. These are broader than the legislation itself, and they reflect our long-standing concern with some of the approaches in the current regulations.

I would like to focus first on proposed subsection 9.6(2). This is the beginning of a risk-based approach to anti-money-laundering provisions. Unfortunately, there is some difficulty with it. Proposed subsection 9.6(3) suggests that financial institutions should assess the risk of specific clients. In the event that they find these clients to be high risk, the institutions are required to take certain measures in dealing with them.

A risk-based approach should in fact work up and down the line. A full risk-based approach, which is what the FATF group is working at delineating, suggests not only that additional measures should be directed at high-risk customers and high-risk transactions, but also, on the other side, that there should be the opportunity to use less rigorous approaches toward lower-risk transactions and clients. In our current regime, the prescriptive nature of the measures that must be taken, particularly on the due diligence front, has resulted in a significant amount of resources being devoted to low-risk transactions or customers. They are considered by many in the industry to be largely a waste of time and resources. They bring about a checklist mentality, which deters financial institutions from bringing their expertise to bear and from placing resources where they would be most properly directed, namely, at higher-risk customers and transactions.

We are concerned about the prescriptive nature of this approach, not only in the legislation itself but also, prospectively, in the regulations. They prescribe procedures or activities that are a continuation of this approach. It will not enable Canada to compete with other countries, many of which are establishing a full risk-based approach to preventing money laundering. We already encounter frequent situations in which Canadian financial institutions, particularly those dealing with institutional customers and foreign dealers, are at a considerable competitive disadvantage. These institutions are required to undertake procedures that are not required in other countries and that in fact prevent them from doing business, simply because the customers in these countries consider procedures of this kind to be unnecessary and frequently intrusive. For example, consider the part of the bill dealing with PEP, politically exposed persons, proposed subsection 9.3(3). It outlines a number of positions that would be required to be approved in dealing with these kinds of clients.

● (1255)

By “senior management” of the financial institution, it's unclear exactly how senior that might be, but for example, if a retired or even a currently functioning family court judge in Buffalo decided they wanted to open an account at a Canadian bank because they have a cottage there and want to pay their utility bills, they would be forced, under these regulations, to meet whatever these prescribed account opening and also monitoring provisions might be, including the specific requirement to have the account approved by some senior management at the bank. One can wonder whether a risk-based look at who the customer was and what they intended to do wouldn't suggest that this was somewhat overboard.

I'll conclude my remarks at this point and welcome any questions.

● (1300)

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Boyce.

I have the pleasure to have you here, Mr. Grafstein. It's my first experience having a senator testify before a committee, and I've only been here four years. So, welcome. You have five minutes.

Thank you.

Hon. Jerahmiel Grafstein (Chairman, Standing Committee on Banking, Trade and Commerce, Senate): Mr. Chairman, thank you very much, and thank you to all members of the committee for inviting me.

As chairman of the Senate banking, trade, and commerce committee, I have looked at this question. We have issued an interim report. The interim report was tabled shortly before the government introduced its legislation. I do not want in my comments today to pre-empt your review or prejudge what the Senate might do as a result of the deliberations in the House of Commons. The views that I'm expressing are my own, based on the findings in our report, which I think are very important. I'll touch on them very briefly and then open to the floor for any questions.

First of all, we were surprised by the scope of the problem in Canada. We were not able to put numbers around the scope of illicit funds or money laundering either for terrorists or from criminal activities, but we know the amount is in the billions. I know this from other information I received overseas at the OSCE. I'm an active member at the OSCE, the second senior officer there, and we discovered in Europe that worldwide illicit funds from criminal activities such as money laundering and illicit financing of terrorist activities are probably two of the largest growth industries in the world.

The size and the scope worldwide is larger than some countries' GDP and it's growing by leaps and bounds. The whole idea here was how we could, in a modest way, try to examine the loopholes in our regulatory oversight, which is FINTRAC, and how we might be able to plug those loopholes, but we're not naive. All of the members of our committee were not naive in understanding that these are very agile criminal minds with huge resources and talents, and it's big business—bigger, as they say, than some of the provinces of Canada. Therefore, whenever a loophole is closed, we know another loophole will be opened. We committed at the Senate that we would not only do the interim report, but we would then review very carefully the legislation when it comes from this place to us. In addition to that, we'll maintain an ongoing surveillance of it.

I want to pause by mentioning a couple of specific things. One thing we felt was important is parliamentary oversight of this activity. There are a number of questions that have been raised in Europe and elsewhere about the nature and the laws and the privacy of this oversight. We're concerned in that we don't want to have illegal activity undermine our constitutional rights of our charter. We also felt very strongly that there should be an oversight of FINTRAC itself. I haven't examined the legislation in detail. It's my understanding that the provision we made.... It's recommendation 14, because I think the real question here is not only what the law can do, but how we can maintain an oversight. We all know that parliamentary oversight is very weak. We have parliamentary officers, but essentially Parliament doesn't work very well in terms of key areas of oversight, whether it's privacy, bilingualism, and so on. Our system is there, but it doesn't operate as effectively as we would like.

We felt that one of the things we would recommend, and I would urge you to at least think about this, is whether you should establish another oversight committee. An annual review with a report to Parliament of FINTRAC's activities would be made by the Security Intelligence Review Committee, which is an oversight committee of CSIS. The reason we suggested that is because we felt that in Parliament itself we speak a good game, but we don't really do the hard work to provide ongoing oversight of activities that are under our purview on both sides. We felt that CSIS had done a very good job in terms of oversight with respect to security intelligence, and therefore we felt that was one. I'll just touch on two or three more and then leave on.

With respect to the lawyers, I'm a lawyer, a QC, a member of the bar in good standing in Ontario. Lawyers have a responsibility as officers of the court to fulfill their due responsibilities with respect to solicitor-client privilege. That's on the one hand, but by the same token, there's a national interest to make sure criminal activity doesn't carry on. What we were suggesting is that the lawyers should get at the negotiation with the government to come up with a formula that would preserve, on the one hand, the national interest of the country and, on the other hand, the solicitor-client privilege. We just said, get on with the work, and there was a delay on that.

There are a couple of other topics here that we felt were important.

I'll just conclude by saying I would propose that your staff look at the report. We circulated it. It has a number of recommendations. Some have been included; some have not. It's up to you to decide which of those recommendations commend themselves to you.

I'm ready for any questions.

● (1305)

The Chair: Thank you very much, Senator.

Thank you all for your comments today.

As a quick item of housekeeping, committee members, have your amendments to Bill C-25 to the clerk by five o'clock on Monday, *s'il vous plaît.* The meeting will be on Tuesday, with clause-by-clause from 12:30 to 1:30 on Bill C-25, but we'll precede that with an appearance by finance officials in regard to the pre-budget consultations. That will begin at 10 o'clock and go until 12:30.

Very good. We'll continue now with questions.

You have six minutes, Mr. McCallum, to commence.

Hon. John McCallum: Thank you, Mr. Chair, and thank you to all the witnesses.

I'd like to address the issue of parliamentary oversight. I think we'd all agree that we always have to strike a balance between security needs versus privacy concerns. We were told, I believe, by the Department of Finance that this current bill extends the reach of FINTRAC vis-à-vis security but does nothing to improve concerns about privacy. So if the balance had been struck carefully in the original bill, maybe it's tilted now in beefing up the security side but not the privacy.

I remember from being Minister of Defence that with CSE we had an oversight committee headed by Antonio Lamer, and I think CSIS is similar.

Mr. Burbidge, is there anything similar—I believe there isn't—for FINTRAC?

Mr. Nicolas Burbidge: Thanks for the question.

I don't work for FINTRAC and I wouldn't presume to speak for them, but I'm fairly familiar with how the system works. My understanding is that FINTRAC is a body that is organized under its own act of Parliament—namely, this legislation—and that it is responsible to Parliament through the Minister of Finance. So its oversight, in terms of parliamentary oversight, is very similar indeed to that with which my office, the Office of the Superintendent of Financial Institutions, is overseen by Parliament. It's in a similar structure.

Hon. John McCallum: Thank you.

Perhaps I could ask Senator Grafstein this. You've done quite a lot of work on this and you've been around the place for quite a while. Do you agree that I am right to be concerned? I think the damage to individuals who are potentially innocent until proven guilty can be very substantial, and I don't really see why the degree of oversight should be so radically less for FINTRAC than for these other agencies.

If you agree with me in principle, are there options other than your specific one, or how do you think we should proceed?

Hon. Jerahmiel Grafstein: I think that was one of the issues we spent a lot of time looking at. Our concern was that we felt there were adequate protections with respect to privacy within Canada because the law pertains. We do have privacy laws. We do have a privacy commissioner. There are, we think, reasonable questions of privacy in Canada. But that isn't the concern we had. This has a farther reach than Canada.

What happens if information obtained in Canada is then transferred to agencies outside of Canada to deal with the problem? That was, to my mind, a major gap in the legislation. Our committee came to the same conclusion, and we proposed in recommendation 13 that information from Canadian sources be given to foreign intelligence units where privacy legislation that is consistent with the Privacy Act in Canada pertains.

The reason I say that is that it would then allow a Canadian citizen not only access to his rights under the Privacy Act and the provisions here, but he would also have a consistent right to go against another country if information based on his privacy was breached.

I don' t think we've come to a good answer to this, but that was the best we could do. When the legislation comes back to us, I can tell you, we'll be looking at this question again.

● (1310)

Hon. John McCallum: Thank you. I did ask that question at an earlier meeting, and there were certain safeguards, but I don't think to the degree of saying we would only share information with people with privacy laws equivalent to our own.

Hon. Jerahmiel Grafstein: I don't believe it's in this legislation.

Hon. John McCallum: Do you know, Senator Grafstein, or anyone else on the panel, the rules under which FINTRAC decides whether to share information with the RCMP?

Mr. Nicolas Burbidge: We are not competent to answer that question, Mr. McCallum.

Hon. John McCallum: I know FINTRAC is not here, so I'll leave it at that, Mr. Chair. Thank you very much.

The Chair: Thank you, Mr. McCallum.

We'll continue.

[*Translation*]

We'll continue with Mr. St-Cyr.

You have six minutes, sir.

Mr. Thierry St-Cyr: Thank you very much.

My first question is for the senator who made the presentation. You talked about certain recommendations. I interpreted these to be suggestions for amendments to the bill; you spoke of potential amendments or recommendations. One of them had to do with parliamentary supervision in order to provide monitoring, and the other had to do with the specific clause dealing with lawyers.

Do you have a specific recommendation in this regard? I didn't catch it.

[*English*]

Hon. Jerahmiel Grafstein: We had a number of specific recommendations about obvious loopholes, which included the jewellery trade, and then ATM machines, which are not really regulated. There were new issues then. There are gaps. The other gaps we discovered after our inquiry were for the automobile trades and insurance policy trades. There are a number of mechanisms that the agile criminal mind can use to move from one gap to another, and we think these are areas the committee should examine, to see whether the legislation closes these gaps.

I'm telling you, based on our experience, and I'm sure based on your own common sense, that there has to be ongoing surveillance of this, because as we legislate and we close it, hopefully we strengthen what we currently have, which is a prosecution that is not strong. The problem is that it's one thing to have a law, but it's another thing to make sure, in your legislation, that there is strong prosecution so that when you have a prima facie case, the prosecutors can move very quickly and swiftly to prosecute.

We're still not satisfied, based on our findings, that there are enough resources and skills in the prosecutorial part of this, so that even when you find a breach, they'll move swiftly. It's one thing to plug the loopholes; it's another thing to make sure the loopholes are properly plugged with prosecutions.

I would expect that you would look at this question. We did, and we weren't satisfied with the answers.

[*Translation*]

Mr. Thierry St-Cyr: Okay.

I would also like to have your opinion on real estate, because everyone knows that real estate—properties, etc.—is also used for money laundering.

Do you think that this area should be covered by the act and also come under surveillance? Should we create a registry for land transactions, or something of the kind, to try to combat this type of crime?

[*English*]

Hon. Jerahmiel Grafstein: The deep problem we have is that we don't want to set up a whole set of laws that interfere with the free marketplace and the ability of business to do business. We don't want to increase the cost of business to the taxpayer and, ultimately, to the consumer.

But I agree with you that real estate, based on what we heard anecdotally, is a problem. We did not get direct evidence about that. I suggest that if your committee is interested, unless there are time pressures, it take a look at that question. I would take a look at them pillar by pillar. Insurance has nothing to do with automobiles. Automobiles have nothing to do with jewellery. Jewellery has nothing to do with lawyers. Again, I'm not criticizing the lawyers; I'm just saying that we want them to set up a voluntary code to deal with this issue within their solicitor-client relationships.

My point to you is that I think each of them has to be dealt with separately, but there's no question at all, based on the anecdotal evidence and the information we received both during and after our hearings, that these are gaps. The question is how you close the gaps without affecting the free commerce in the country. It's complicated, but it's pillar by pillar.

● (1315)

[*Translation*]

Mr. Thierry St-Cyr: Mr. Skolrood, you spoke briefly about the rules that already exist to limit the cash amounts lawyers can accept. I would like to know if this provision is part of the legislation? Is it a legal obligation, or are these requirements set out in a code or rules of professional conduct?

[*English*]

Mr. Ron Skolrood: Right now the primary requirement in place involves large cash transactions and, as Mr. Varro said, prohibits lawyers from accepting large cash transactions. Those requirements are set out in the professional conduct rules passed by the different law societies. But those rules do have their basis in legislation in that each of the legal profession acts, which set up the self-government regimes in each province, authorized the making of those rules. They have their roots in legislation, but they are found in rules, which have a binding affect on lawyers.

[*Translation*]

Mr. Thierry St-Cyr: Essentially, we're talking about restrictions on professional conduct; that is, a professional society can expel one of its members, it could legally sanction a member who does not comply with these aspects of the code of professional conduct. However, the member would not be subject to criminal prosecution for this type of activity.

[*English*]

Mr. Ron Skolrood: Certainly the law society has the ability to discipline the lawyer, and the ultimate sanction is to expel them from the profession. But it's useful to keep in mind that lawyers are also subject to other laws of general application like the Criminal Code, so if his or her conduct were found to be criminal in nature, the lawyer would certainly be subject to prosecution.

The Chair: Thank you very much, Mr. St-Cyr.

We'll continue with Mr. Wallace.

Mr. Mike Wallace: Thank you, Mr. Chairman. I have a number of questions and I'll just work my way down the aisle.

Mr. Burbidge, I was really interested in your comments. We had some suggested amendments from our previous panel. It sounded to me as if you were in disagreement with those previous amendments. Could you clarify that for me? Is it in your presentation, or is there a way of getting us copies of why you disagree with those amendments?

Mr. Nicolas Burbidge: I wouldn't describe the comments I made as necessarily disagreeing with them, but rather as adding a perspective from my role as head of our AML division at OSFI.

On the request to extend the FATF membership exemption to other countries, that's moving into a territory where I would not feel comfortable. There is a very wide level of disparate standards in those other countries, ranging from fairly good standards to quite underdeveloped standards.

Mr. Mike Wallace: Can you provide that to us in writing, or is that in your presentation? I was listening and not reading.

Mr. Nicolas Burbidge: I have to consider how best to get that information to you.

Mr. Mike Wallace: Okay. I think we need it by next Monday if somebody's going to move a change. I would appreciate it if you could do that for us.

Mr. Nicolas Burbidge: I understand.

You also asked about foreign branches and subsidy. My comment was that the bill adequately and appropriately addresses the difference between the Canadian branch in another country, which is a Canadian entity—as you heard Mr. Bernier say, it's an extension of the legal entity—versus a foreign subsidiary, which is creature of foreign law. It's appropriate to apply a standard, and in our work we do this all the time. We look at offshore operations of our banks and apply standards. We don't necessarily expect Canadian laws to apply, so we apply what we consider to be safe and sound standards of behaviour.

Mr. Mike Wallace: I appreciate that.

As usual, we have three lawyers to give us one message.

I just want to be clear, because there was discussion at committee last week that the legal profession, the law societies, and the law organizations are happy with the exemption that occurs in the present legislation. I just want to get it completely on the record that I understand it correctly.

Mr. James Varro: That's correct.

Mr. Mike Wallace: So you are not recommending any changes to the present bill as it sits in front of us.

● (1320)

Mr. James Varro: The federation is not proposing any changes.

Mr. Mike Wallace: Okay.

Mr. Skolrood, are you proposing any?

Mr. Ron Skolrood: We are not proposing any on that.

Mr. Mike Wallace: I have a question for Mr. Boyce and it has nothing to do with income trusts, thank God.

You talked about risk, which we've heard a little about. You want risk-based regulation. On changing the actual bill—my responsibility here hopefully next week will be clause-by-clause—do we need new wording to reflect risk-based regulations, or is it there already?

Second, do you have a definition of low risk?

Mr. Lawrence Boyce: The general approach to risk-based regulation is to establish standards and procedures. It's very difficult to define because it tends to be contextual, and five or six different factors can be taken into account, such as the country, the nature of the transaction, and the type of customer. An attempt has been made in the current regulations to actually define low risk, and it has picked out a few isolated types of transactions.

The risk-based approach would generally allow financial institutions to bring their knowledge to bear and look at the specific factors on a case-by-case basis. There would be certain minimum standards, but it would also be based on guidance that would presumably come with it.

Mr. Mike Wallace: But that should be done in regulation, not in the bill, is that correct?

Mr. Lawrence Boyce: It can largely be done in regulation, to the extent the bill permits it. My concern is that proposed section 9.6 talks only about adding procedures for high-risk accounts, rather than having leeway to reduce them for low-risk accounts. The regulations thus far have been extremely prescriptive: they do this in this situation, or for this type of client.

Mr. Mike Wallace: I appreciate that.

My final question is for the senator. It's fairly simple. And thank you for coming.

You indicated during a couple of responses that we could study this and study that...there are some other areas. Is it not important for our country to have this law in place before we are reviewed by our international partners in the early winter? If there are other areas for improvement in this legislation, that could be done after we pass Bill C-25. Then we can look at other issues, as a finance committee.

Hon. Jerahmiel Grafstein: I understand the position of the government on this. The government is going to take charge of this international organization that in effect supervises FINTRAC. I don't quarrel with that; I think that's a major step forward. Obviously the government will want to demonstrate to the world that if it's taking leadership, its domestic legislation is in place.

But having said all that, if it takes another day or two, I think that while you have the bill before you, it's important for the committee to tighten it up. There are some obvious things I think you can do. When it comes to us, I can tell you, we will take our time.

My experience has been that this is a hot, important political issue that affects the economy of the country. Far be it from me to say this, but I think the public really wants to know how members of the Commons feel about these issues and how their expertise will bear upon solutions. There has to be strong concurrence on all sides of the House for a piece of legislation like this.

If I were you, I'd take a few more hours and be a little more careful. There are things to do.

I'll point out another issue that I think is important for the economy to work effectively. The general accountants have a concern that they're being called upon to be cops and, in effect, to invite investigations without clear guidelines. That's not fair. I don't understand why there aren't some guidelines, either proposed or otherwise, so that accountants can come within the guidelines without interfering with their relationship with their clients.

This is quite complicated, and I think you should address some of these complications.

Mr. Mike Wallace: Thank you, Mr. Chairman.

Thank you for that.

The Chair: Thank you, Mr. Wallace. Thank you, Mr. Grafstein.

We'll continue now with Madam Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Thank you, Mr. Chairperson, and thanks to all of you on the panel.

I'll start with Senator Grafstein. I've been asking some of the previous witnesses about whether all the recommendations of your report are in the bill. I gather there are some significant differences.

One issue is the question of including dealers in precious metals and stones and jewellery within the law. I think the minister feels satisfied that this is in regulations. Someone this morning—I forget who it was—said the reason is that it's such an undeveloped area for the government to get a handle on that they're not ready to put it in the bill. Do you buy that, or do you think we could have done it?

● (1325)

Hon. Jerahmiel Grafstein: I don't want to prejudge that. We felt this should be legislated. If the government has very good reasons to show it shouldn't be at this time, we'd be open-minded about that. Quite frankly, I think you have to be satisfied about the substance of what they're saying, as opposed to it being just a comment. If in fact you decide not to legislate, but rely on regulation, I would assume you have to be satisfied that what the government is saying does have some merit. I don't have the answer to that. We haven't taken any testimony to understand the difference.

Why isn't it important to wrap your mind around this and send a message to the industry to say—and I'm sure they would welcome this—here are the guidelines? In my view, the guidelines are best at this stage, as a measure in legislation, or at least as an indication that the regulations will be stiff.

We're open-minded about that. We want to know more about it; we don't know much about it. We're bringing a whole scope of activity into a regulatory or legislative net. I'm not suggesting that what the government is saying is right or wrong; we just haven't had any evidence to suggest which way to go.

We concluded that there should be some legislation, but we're open-minded about that. We'll wait to see what you do when it comes to our place.

Ms. Judy Wasylycia-Leis: Thank you.

Let me go to one other area that you touch on, and I would also like the comments from the law societies and the Bar Association, and that's the question of some sort of reporting by lawyers.

I know the Auditor General felt strongly about having something in this whole legislative framework, notwithstanding the court decision and the lawyers' exemption, that there might be some way to have some sort of reporting through this legislation. Do you think that's possible? Do you see that contrary to everything you fought for? Or is there some way to accommodate that concern that we cover ourselves off, some balancing of it?

Let me start with James, Ron, or Tamra.

Mr. James Varro: As you know, lawyers are exempt in this bill from the suspicious and prescribed transaction reporting requirements. What I mentioned in my presentation was that there is a regime in place, however, to deal with the issues that those reports were intended to address, in the federation's view, and that is the no-cash rule, as we call it, which was adopted by the federation and implemented by all the law societies in Canada.

I would like to clarify one thing Mr. Skolrood said. These rules are actually in bylaws and regulations pursuant to the various law society acts in each province in the country. So they're executive legislation, they're not simply rules of conduct, although the concepts are reflected in the rules of conduct of the law societies.

Under these rules, lawyers are prohibited from receiving the cash amount of $7,500 or more from a client or a third party. In this way, the law societies are effectively regulating the flow of cash through lawyers. They are not permitted to take it. So as I said, there is a higher standard actually applicable to the legal profession than simply having them report a large cash transaction of $10,000 or report a suspicious transaction. They cannot take the money.

In our view, there is no need for a reporting regime, certainly with respect to suspicious transactions, for all the reasons that were argued in the constitutional challenge.

Now, there's a second part to this, of course, and that's the client identification verification requirements. We are continuing in our discussions with the Department of Finance on an appropriate regime for lawyers, because we understand that lawyers will be included, or are supposed to be included, as reporting entities under the regulations that are coming forward. So this is the nature of our discussion. We have not yet seen the regulations, but we'll look at them with interest.

Ms. Judy Wasylycia-Leis: Senator Grafstein, do you have anything to add on that?

Hon. Jerahmiel Grafstein: Well, I agree with everything the last witness said. As a QC and a lawyer, I'm subject to those same rules and regulations as well.

I guess my concern—and I can't wrap my mind around how to come up with an accommodation that would be appropriate—is suspicious transactions that lawyers deal with. I think client identification is a very important part of it. Let me give you the example.

A real estate transaction of a large size, which we now understand anecdotally may be the subject matter of a money laundering or terrorist laundering mechanism, takes place. Cash appears, from who knows where, in certified cheques and so on. What responsibility does the lawyer have to go beyond just receiving inordinate amounts of money from sources or places that are unusual? That's a very difficult question. It's super difficult. As a practising lawyer, I'd find that difficult as well, because we tend to just do the transactions and so on.

I don't know the answer to that, I really don't, but I am confident that the lawyers association, when they're pressed to look at these issues....

And I'll give you another one: suspicious life insurance packages. These are all big gaps in the oversight. The question is that some of them flow through lawyers and some of them flow through insurance companies directly.

How do you get at this? I don't know. We know anecdotally that this could be a large gap. And the question is this: how do we do that without interfering with assisting the client? I don't have the magical answer to that, but I would hope the lawyers would look at those questions and see if they can come to grips with it.

● (1330)

The Chair: Thank you very much, Senator.

We'll continue now with four-minute rounds. Mr. Pacetti.

Mr. Massimo Pacetti: Thank you, Mr. Chairman.

Thank you to the witnesses. It was very interesting, of course.

You're here to give us a hand in trying to deal with this. I agree with you, Mr. Grafstein, that we haven't spent enough time on this. We've a little pressure in terms of time delays. So if any types of amendments you would like to provide to us could be done as soon as possible—

Hon. Jerahmiel Grafstein: We won't do that. The Senate will not do that.

Mr. Massimo Pacetti: Not the Senate, but there are other witnesses at the table.

I have a quick question. In terms of what you were discussing, Mr. Varro, you said that the restrictions regarding cash and other restrictions that lawyers have in the legislation are more severe than if we actually included the legal profession in the legislation. But that seems to be contradictory. How does that work? Either you're in or you're not.

Mr. James Varro: Well, the profession is exempt from the reporting requirements by virtue of this bill. What I said was that the lawyers are subject to their own regulatory regime by virtue of their membership in the law societies, which have been granted self-regulatory authority pursuant to provincial law. Under those regulations, they cannot accept cash in the amount of $7,500.

Mr. Massimo Pacetti: But how do you substantiate that? Do you say you're not subject to this piece of legislation, and it's self-governance, and you'll decide at what point you will audit yourself and at what point you'll put in sanctions? How do those self-regulatory conditions that you impose upon yourself help with this type of legislation? We haven't even imposed the legislation, or the amended legislation, and we're already asking for exceptions.

Mr. James Varro: I should remind you, though, that in the constitutional challenge there was a successful injunction relieving lawyers from the obligation to report, for a number of very important constitutional reasons. That is still pending. Against that, the federation, separately from that, promulgated this rule. It's not a case of lawyers not being subject to the legislation per se. They aren't, but the point is that they are subject to a regulatory regime that is in aid of preventing money laundering, and that is the no-cash rule.

Mr. Massimo Pacetti: I'm simply scared that it's going to present a magnet to your profession that will increase the type of abuse that will go on. It's mainly a beware type of concern that I have. I think it will attract more attention than solve.

Mr. Ron Skolrood: Perhaps I can add to this, if I may, Mr. Varro.

I think what Mr. Varro was saying earlier is this. You led with the question, why is this regime stricter than the legislation? As I understand it, and please correct me if I'm wrong. I think the point was that if lawyers were brought under the legislation, they would be permitted to accept large cash transactions but they would have to report it. The lawyers have said they will go one step further and say you simply can't accept the cash. In some sense, it's taking a proactive stance in that way by preventing this—

● (1335)

Mr. Massimo Pacetti: Fine. Our time is limited, so I want to have this discussion.

Let's say you were to find a lawyer who would accept cash. What would happen? How long would it take for you to discover that? I know there are internal mechanisms that the Bar Association has, but that's done every four or five years and certain things are audited or subject to inspection. How is this going to be self-regulated?

Mr. James Varro: Part of the law societies' regulatory regime includes an audit function within every law society, and I can use the Law Society of Upper Canada as an example. We have a department that audits law firms on a rotational basis, so every three or four years every law firm in the province is audited. We have very strict record-keeping requirements. We have an annual report that members are required to file every year, and to attest that they have complied with the no cash rule.

Mr. Massimo Pacetti: That's what I was looking for. Thank you.

The Chair: Thank you very much.

We'll continue on with Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: Thank you, Mr. Chairman. This gives me the opportunity to continue with my questions for Mr. Skolrood.

We were discussing earlier the rules that law societies have for governing the conduct of lawyers. I suppose that they must vary from one province to another, unless they are the same everywhere.

Could you provide some more detail about existing provisions? Earlier, you talked of the cash amounts that a lawyer can accept. I would like you to repeat what you said, because I didn't note all the details. Are there other provisions or is there only one governing cash amounts?

[*English*]

Mr. Ron Skolrood: I wonder if I can defer to Mr. Varro on that who is more familiar with the provincial regulations.

[*Translation*]

Mr. Thierry St-Cyr: If I get my answer, I…

[*English*]

Mr. James Varro: In addition to the rules prohibiting lawyers from receiving large cash amounts, meaning $7,500 or more, we have a requirement that they keep a cash transactions record. As I mentioned, we have an audit regime that will review the books and records of lawyers. Lawyers are subject to extensive bookkeeping and record-keeping requirements. They must file an annual report every year with every law society. They are required to report the misconduct of another lawyer, which could include, for example, notice of criminal activity or other such conduct.

The rules of professional conduct or codes of professional conduct of each law society will govern the ethical behaviour of lawyers. If lawyers breach those codes, they may be subject to disciplinary action, which includes sanctions from a fine up to disbarment. Also, lawyers are prohibited from engaging in advice to clients that would further a criminal act. And they are guarded against becoming the dupes or tools of unscrupulous clients. These are things that are basically verbatim in our rules of conduct, in every law society.

[*Translation*]

Mr. Thierry St-Cyr: You touched on an interesting aspect. I would like to continue on this topic, without meaning to be prejudicial or negative towards lawyers. You do understand, however, that there are members of the public out there who like to think that lawyers might possibly help criminals get around the law or launder money.

I believe that the current legislation prohibits a lawyer from explaining to possible clients how to get around the law, how to not get caught. Are there sanctions in place, if a lawyer should do that, that is, advise someone on how to launder his money? Have lawyers been found guilty of this kind of behaviour?

[*English*]

Mr. James Varro: Yes, there are rules. The rule I mentioned is the rule that says lawyers cannot aid in a criminal act by a client. I'm paraphrasing now, but that's the gist of it, and every law society has that. I can safely say that lawyers who are found in breach of that would be subject to an investigation, likely a discipline hearing, and sanctions. As I said, the sanctions can go up to disbarment, which means they would no longer be a lawyer.

I'm aware of one recent case in Ontario, in which a lawyer was convicted of money laundering.

● (1340)

[*Translation*]

Mr. Thierry St-Cyr: Thank you very much, sir.

[*English*]

The Chair: As we continue, we'll perhaps conclude with Mr. Dykstra.

Mr. Rick Dykstra: I'll do my best to be brief and concise, Mr. Chair.

Mr. Boyce, I caught a comment that you made just at the end, in terms of "risk-based", and you associated that with customers. It was right at the end. I don't know whether you were using written words to speak from, or whether they were off the top of your head. If they were off the top of your head, I apologize, but the comment did catch my attention. I just wondered if you could clarify that.

Mr. Lawrence Boyce: Some types of customers may be at a higher risk. They can be judged, and there can be guidelines and what not as to what type of customers.... A lot will have to do, for example, with the type of business they're in, the size of the transactions they're doing, or country of origin. All these factors can be judged in terms of whether or not this is a customer who presents a high risk of being involved in money laundering transactions.

For example, I presume that if you found a customer whose business was exporting ether to Colombia, you might think they might be a bit of a high-risk customer. You can therefore tailor monitoring. You can get additional customer due diligence on that kind of customer. On the other hand, if your next-door neighbour whom you've known for thirty years comes to open an account with you, then you might consider them to be somewhat of a lower-risk customer and want to put lower kinds of customer due diligence obligations in that case.

Mr. Rick Dykstra: It's interesting, and this seems to parlay into my next question. Senator Grafstein made a comment with respect to putting guidelines into the legislation. I suppose the other lawyers sitting at the table may in fact have a different perspective on that. At least from my perspective, the difficulty I see with putting guidelines into legislation is this.

Whenever you have a court challenge, where it questions the integrity of a piece of legislation and you end up in court, it's much easier from a guideline perspective if the guidelines are within the regulation so as to be able to change the regulation within the context of the ministry. If you enshrine guidelines into legislation, you in fact end up challenging legislation. Therefore, if it's found to be or deemed to be unconstitutional or incorrect, it ends up back in the House of Commons and you have to go through the whole process of revisiting the piece of legislation.

The concern I have, Senator, is that if we are to go down the road you're suggesting, we'd end up passing this bill, it would end up being challenged, and we'd end up back in the House of Commons and in the Senate versus being able to work within the confines of the ministry to change the piece of regulation that may have been deemed to be incorrect within a court of law.

Could either one of you comment?

Hon. Jerahmiel Grafstein: Obviously, from my perspective, I don't want to needlessly put people to court challenges if the legislation falls below a constitutional or other standard. I fully accept what you've argued. Some regulations are easier to change than others.

But the purpose of the law is to establish clear-cut values and principles within the law. I would think that if you can't establish the guidelines, you could have words to indicate that this is the standard you want the regulations to at least meet. It's a more complicated piece of drafting, but I've seen it.

You have to go back to Driedger and the great lawyers who have advised Parliament about drafting. Simplicity is important, but the principles embedded into the legislation are also important. Again, it's the tool you choose to accept.

But I think this is such a horrendous problem, and it's growing, that we need to send a clear-cut message to all Canadians and everybody who is in Canada that this is falling below our standards. I think you can probably accomplish both with clear-cut principles in the legislation, as well as variable regulations to deal with the problems.

The Chair: We'll conclude with Mr. Pacetti.

Mr. Massimo Pacetti: Thank you, Mr. Chairman. I have two quick questions.

One is for Mr. Burbidge. In your brief, you spoke about the government having consulted with a lot of the stakeholders, organizations, or groups, but the problem is that nobody's really sure what's going to be in those regulations. Do you have any information on what's going to be in the regulations? Consulting is one aspect, but what about the actual regulations?

Mr. Nicolas Burbidge: I understand the point you're making. But in the consultations that Finance has been conducting—and we've been participating as a government body in those discussions—my sense is there's a fairly clear sense of the direction the regulations are pointing to. Furthermore, the standards to which the government is working are the standards that everybody's been referring to, which are the standards of the FATF.

In terms of the goal of those regulations, I would say the overall objective of those consultations and the goal of the government is fairly well understood at this point. Although as I confirmed, of course, we are still waiting for some actual drafts, I think it's the end process. The private sector has been engaged in this process for many weeks and months.

● (1345)

Mr. Massimo Pacetti: Thank you.

On that note, Mr. Grafstein, if the government listens to all the consultations and all the stakeholder organizations, are they going to be able to appease you or make you happy? The question is on the pillar aspect, where you were talking about having each pillar, each organization, and each sector addressed separately. If we're talking about the automobile dealers, precious metal dealers, foreign exchange dealers, money services, and pay lenders, in your opinion, will the government be able to achieve this?

Hon. Jerahmiel Grafstein: Well, I think it's up to the government. I don't want to prejudge the government. This is complicated.

Mr. Massimo Pacetti: It won't be the first time.

Hon. Jerahmiel Grafstein: Yes, but I'm a sensitive person. I respect the division of powers between the two Houses. I think the government has to opine and the Commons can then enter its decision. When you are all finished, we will give it sober second thought, and we'll try to do it as quickly and as efficiently as possible.

But this is a complicated piece of legislation, and quite frankly, I'm delighted that we're getting at it. The sooner we get at it the better, but I would take the time. My experience in Ottawa is very simple: when you rush to judgment, you're always wrong—always wrong—and you pick up the pieces later.

Mr. Massimo Pacetti: Thank you, Mr. Grafstein.

Thank you, Mr. Chairman.

The Chair: Thank you, Senator, and I hope that you deliberated on that before you pronounced that judgment.

Hon. Jerahmiel Grafstein: No, I didn't, but I'll try to next time.

The Chair: Okay, thank you, sir.

Thank you to all the members of our panel this afternoon. We very much appreciate your time and your being here. It means a great deal to the people of Canada. Thank you again.

Committee members, we will reconvene Tuesday morning at 10 o'clock, and of course we look forward to that.

We are adjourned.

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