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Chair

The Honourable Wayne Easter

Standing Committee on Finance

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● (0850)

[*English*]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I call the meeting to order.

Welcome, everyone.

Pursuant to the order of reference of Monday, January 29, and section 72 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, the committee is commencing its statutory review of the act. We have the first witnesses for this fifth-year review of the act, which is going to be a fairly major undertaking.

We have, from the Department of Finance, Annette Ryan, associate assistant deputy minister, financial sector policy branch; Ian Wright, director, financial crimes governance and operations; and Maxime Beaupré, director, financial crimes policy.

The floor is yours, Annette. I believe you have an opening statement, and then we'll go from there.

Thank you for coming.

Ms. Annette Ryan (Associate Assistant Deputy Minister, Financial Sector Policy Branch, Department of Finance): Thank you, Mr. Chairman.

It is a sincere pleasure to appear before this committee as you begin your review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. I'll also refer to it by its better-known acronym of PCMLTFA, or more simply, the act.

My intention today is to give you a brief overview of the importance of combatting money laundering and terrorist financing and explain the goals and structure of Canada's anti-money laundering and anti-terrorist financing regime. I'll also review Canada's recent international peer review evaluation and then describe the efforts we've taken with federal and private sector partners to assess and expand this international peer input. With federal partners, we have summarized all of this advice in a policy discussion paper, which we released yesterday. The paper is intended to support your committee's current review, and we hope that the paper will serve as a helpful baseline in your deliberations.

[*Translation*]

Money laundering and terrorist financing are crimes that facilitate and reward the commission of other crimes, such as those perpetrated by organized criminals and terrorists and terrorist groups, as well as the actions of those who engage in tax avoidance and tax evasion.

These financial crimes can be carried out in Canada or elsewhere, but they affect all Canadians. In order to face these threats, Canada's anti-money laundering and anti-terrorist financing regime was established in 2000, with the mandate to combat terrorist financing being added in 2001.

● (0855)

[*English*]

The regime is designed to deter criminals and terrorist financiers from using Canadian financial institutions and other entities for their criminal purposes, and to provide appropriate tools to law enforcement to combat money laundering and terrorist financing, while also respecting the privacy rights of Canadians and minimizing the compliance burden on private sector reporting entities.

Canada has a stable and open economy, an accessible and advanced financial system, and strong democratic institutions. Those seeking to launder proceeds of crime or raise, transfer, and use funds for terrorism purposes try to exploit these strengths.

[*Translation*]

Because they act as a deterrent to financial crime, effective regimes to combat these threats are essential to protect Canadians, the integrity of markets, and the global financial system.

[*English*]

A strong legislative and regulatory framework is required to effectively detect and deter criminal activity. This framework has evolved and matured in recent decades by adopting and adapting international best practices as informed by domestic threat risk assessments and close collaboration among partners. Doing so allows Canada to meet our international commitments in the fight against transnational crime and terrorism, and to bring new intelligence and tools to domestic security efforts.

Canada takes a comprehensive and coordinated approach to combatting money laundering and terrorist financing. This regime involves coordinated action by 13 federal departments and agencies, in addition to law enforcement entities across the country.

The overarching objective of the regime and the act, as I said, is to detect and deter money laundering and terrorist financing, while facilitating the investigation and prosecution of these crimes. The objectives thus place equal emphasis on preventing illicit funds from entering or moving through Canada's financial system and creating a paper trail to assist law enforcement in detecting and prosecuting these crimes.

[*Translation*]

Reporting entities also play a crucial role in achieving those objectives. These financial institutions and designated non-financial businesses and professions are the gatekeepers of the financial system.

Under the act, reporting entities have an obligation to properly identify their clients, keep corresponding records, exercise customer due diligence, monitor transactions on an ongoing basis, and submit mandatory reports.

[*English*]

The Financial Transactions and Reports Analysis Centre, FINTRAC, Canada's financial intelligence unit, receives those reports and analyzes the financial information they contain. In addition, FINTRAC, as a regulator, ensures the compliance of reporting entities with their obligations under the act.

The framework also contains measures that are critical to support law enforcement in pursuing money laundering and terrorist financing. This includes requirements to keep proper documentation which law enforcement can access through court-mandated orders. It includes reports that are provided to FINTRAC when thresholds of suspicion are met.

Once reports are analyzed by FINTRAC, the resulting actionable financial intelligence is disclosed to law enforcement when it meets the threshold of reasonable grounds to suspect that this information would be relevant to the investigation of a money-laundering offence or terrorist financing offence. In turn, law enforcement, national security, and other investigative bodies, supported by FINTRAC's disclosures of financial intelligence, undertake investigations in relation to money laundering, terrorist financing, other profit-oriented crimes, and threats to the security of Canada, in accordance with their individual mandates, in order to disrupt, prosecute, and sanction these criminal activities.

● (0900)

[*Translation*]

In its efforts to protect Canadians through anti-money laundering and anti-terrorist financing measures, the Government of Canada is committed to respecting the constitutional division of powers, the Canadian Charter of Rights and Freedoms, and the privacy rights of Canadians.

Although the act requires businesses to disclose private financial information to FINTRAC, it also sets out strict measures to safeguard charter and privacy rights.

[*English*]

The PCMLTFA prescribes the information that FINTRAC can receive and disclose. It sets out the specific law enforcement and intelligence agencies to which FINTRAC may disclose the financial intelligence. The act also limits the circumstances in which FINTRAC must disclose information to these agencies. FINTRAC must have reasonable grounds to suspect that the information would be relevant to the investigation or prosecution of a money-laundering or terrorist financing offence, or relevant to the investigation of threats to the security of Canada. Unlike other intelligence agencies, FINTRAC does not conduct investigations. This set of safeguards supports FINTRAC's independence from law enforcement agencies.

[*Translation*]

Since the legislation was enacted, in 2000, the regime has undergone two parliamentary reviews, three reviews by the Office of the Privacy Commissioner of Canada, and a number of external evaluations. This scrutiny has led to amendments to the legislative framework in response to evolving threats, in order to better support law enforcement efforts. Over time, the framework has undergone changes to provide for new types of reporting entities and new recipients of FINTRAC information, as well as to strengthen existing obligations and add others.

[*English*]

As I've mentioned, a well-functioning framework is critical to combatting money-laundering and terrorist financing in Canada and globally. These transactions do not stop at national borders, and strong national anti-money laundering and anti-terrorist financing regimes enhance the integrity and stability of the global financial system. Given the interconnectedness of the financial system, the fight against money laundering and terrorist financing can be undermined if there are weak links in the chain of efforts by national authorities.

[*Translation*]

The Financial Action Task Force, or FATF for short, is an intergovernmental body that sets international standards for combatting money laundering and terrorist financing. The FATF monitors the implementation of those standards by states through mutual evaluation and public reporting, to ensure a level playing field for all member countries. Canada is a founding member of the FATF and actively contributes to its work.

[*English*]

The Financial Action Task Force released a mutual evaluation report of Canada in 2016. Overall, the evaluation found that Canada has strong anti-money laundering and anti-terrorist financing legislation and regulations, and that the regime is effective. They did, however, note a number of areas where technical action could be taken to ensure that the framework meets international standards to be even more effective.

The report found that Canada has a good understanding of its money laundering and terrorist financing risks, and that anti-money laundering and anti-terrorist financing co-operation and coordination are generally good at the policy and operational levels. In addition, Canada was assessed as having financial institutions that have a good understanding of their risks and obligations and generally apply adequate mitigating measures. Canada was found to have reporting entities that are generally subject to an appropriate risk-sensitive supervision framework; financial intelligence that is used by law enforcement agencies to aid investigations, prioritize pursuit of terrorist financing activities, and for provision of useful mutual legal assistance and extradition; and a comprehensive sanction regime against Iran and the Democratic People's Republic of Korea.

That said, the mutual evaluation process identified areas for improvement in Canada's regime. Notably, these include a limited availability of accurate, beneficial ownership information to be used by competent authorities; the fact that the legal profession in Canada is not covered by the PCMLTFA; and the fact that other vulnerable sectors are also not covered. This includes finance and leasing companies as well as unregulated mortgage lenders. They found a gap in the application of the act requirements related to politically exposed persons, also known as PEPs, heads of international organizations, and beneficial ownership information requirements for the designated non-financial businesses and professions sector. The international evaluation also noted the need to improve the number of money laundering investigations and prosecutions, in particular for more complex money laundering and terrorist financing schemes such as third-party professional money launderers. I will note that they also assessed that the penalties for violating our laws are neither proportionate nor dissuasive.

The findings of the mutual evaluation are welcome and in many instances align with the views provided by federal partners and private sector stakeholders. Notably, views from federal partners were profiled in the “Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada” report that was publicly released in 2015.

● (0905)

[*Translation*]

In recognition of the upcoming parliamentary review, we worked with our partners to put together a discussion paper highlighting areas of consideration that could lead to improvements in the framework.

[*English*]

The possible legislative directions described in the paper released yesterday draw heavily from the mutual evaluation and are organized around the following five themes. First are legislative and regulatory gaps. Second is enhancing the exchange of information while protecting Canadians' rights. Third is strengthening intelligence capacity and enforcement. Fourth is modernizing the framework and its supervision. And, finally, there are the administrative definitions and provisions.

[*Translation*]

The government has already taken action in response to the broad policy directions set out in the paper. For instance, when they met in December 2017, federal, provincial and territorial finance ministers pledged to work with their fellow ministers on amending current legislation, in order to improve corporate and beneficial ownership transparency, by requiring companies to keep the information on record.

Thanks to these efforts, the appropriate authorities will be able to follow the opaque money trail of suspicious transactions all the way back to the originating client who made the transaction or is benefiting from it.

[*English*]

We anticipate that the committee will hear from civic society and the private sector, and that parties may differ on how to strike the appropriate balance between sometimes conflicting objectives at play in this policy space. A balance must be struck between efforts to minimize the burden on reporting entities that are on the front lines of the fight against money laundering and terrorist financing; how to leverage innovation to find new ways to meet obligations while reducing the burden on the private sector; efforts to counter new and evolving threats, including through new measures and enhanced international standards, to better protect the safety and security of Canadians; and efforts to actively protect the charter and privacy rights of Canadians by being constantly mindful of the limits and constraints that these entail.

As you begin your deliberations, we also offer the perspective that not all regime improvements require legislative changes. In our discussion paper we point to tangible examples that show new ways that public and private sector partners have begun to work together to modernize our efforts and improve effectiveness. One such example is Project Protect. This is a private sector led initiative to combat human trafficking. Partners worked within existing authorities to identify specific transaction patterns typical of human trafficking and sex crimes. This has yielded concrete results for law enforcement agencies. This model has been expanded to other types of criminality, which has led to successful investigations of different types of drug trafficking. In recent weeks FINTRAC issued a new operational alert to identify and target fentanyl trafficking.

● (0910)

[*Translation*]

In conclusion, Canada must remain actively committed to combatting money laundering and terrorist financing. This requires a continually evolving framework in order to ensure an effective and robust regime able to respond to new threats and vulnerabilities, while adhering to international standards.

[*English*]

We sincerely embrace the parliamentary review process. We've worked well and closely with domestic and international partners to assess tangible actions that will address the evolving landscape of financial crime. We have profiled these areas for action in our discussion paper. We look forward to supporting your deliberations, and receiving your assessment of our work and your priorities for action.

I thank you, Mr. Chair, for your attention and look forward to your questions.

The Chair: Thank you, Ms. Ryan.

Before I turn to questions, I do recognize that the paper, "Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime", went on your website yesterday. I don't believe members have had time to go thoroughly through that yet. I do know there's a lot of information in it, so at some point after we have heard from other witnesses, we will likely have to ask you to come back. I think we'd be more appropriately prepared on this particular document then. I know it raises a lot of areas. We'll likely have to do that a little later on.

I would say as well, just keep in mind, members, that the deadline for witnesses is a week from tomorrow.

I'm turning to Mr. Fergus for seven minutes.

Mr. Greg Fergus (Hull—Aylmer, Lib.): Thank you, Mr. Chair.

Thank you, Ms. Ryan. I do appreciate that you've come to help start our discussions on, as you note, the easily referenced PCMLTFA.

Let's start with a larger issue, given what the chair just said about our ability to familiarize ourselves with the discussion paper. It would seem to me, just from a quick overview, that we have a difficult triangle of objectives. We have an obligation with regard to privacy rights; we also feel that we have an obligation to minimize the administrative burden; and yet we also want to combat money laundering and terrorist financing. Can we do all three?

If we can't, given the state of where things are at, how are we going to be most effective in combatting money laundering and terrorist financing? What are the things that we have to do to bring ourselves up to that international level?

Ms. Annette Ryan: Thank you for this question. It really goes to the heart of the questions that confront the regime. We currently do strike a balance between privacy, burden, and results.

I would like to emphasize the considerable effectiveness of the current regime in deterring criminal and terrorist activity using the financial Information that is generated through this system of intelligence. The issues that we've put forward in the discussion paper, and that you'll hear about from your witnesses, speak to strengthening this regime, its legislation, and how the partners work together in a constantly evolving context.

We think there are tangible actions that can help us move forward. At its base, this dynamic environment also gives us opportunities to do things better, for example, using technology. Inherently, financial intelligence is a system of transactions that can be queried, assessed, and we can learn interesting things. In terms of patterns of transactions, that goes to the use of algorithms, that goes to all of the modern techniques that can help us make progress by using information effectively.

The question is to get a consistent and comprehensive base of information that asks the right questions and is structured in the right way so that we have an effective chain of intelligence that we pass on to law enforcement in ways that can subsequently be the basis for successful prosecutions.

We've put forward our best advice and we look forward to hearing from the committee.

● (0915)

Mr. Greg Fergus: Thank you.

The Financial Action Task Force, as you've pointed out, has indicated that yes, Canada is a strong player in having certain elements in place, yet there are some weaknesses or vulnerabilities, I think, is how you put it. Whether or not that is the question of politically exposed persons or the question of beneficial ownership, it strikes me that if we were to increasingly drill down on beneficial ownership, that would butt up against the question of privacy and against what our international practices are and how far we could go without our other partners around the world following in lockstep with us.

Ms. Annette Ryan: That's another excellent question. The international attention to money laundering and terrorist financing is active, robust, thoughtful, and it brings a high standard of excellence to these questions.

The advice that we received from the FATF is geared towards exactly those objectives that you name: the integration of global efforts, and the ability to make sure there aren't weak links in the chain in specific member countries.

The work of the FATF has provided us with tangible advice of where we should put our attention so that we can be consistent with international norms. It has prioritized the areas for action. As you say, it's the question of beneficial ownership, so that essentially bad actors cannot hide behind the corporate structure to move money for their ends. It goes to the question of making sure that there aren't important gaps in our regime.

Subject to a Supreme Court decision in 2015, the legal sector is not currently captured in our regime. It's important for us to be able to see the transactions that are typically used by bad actors from a holistic perspective. The exclusion of lawyers from that regime is an important gap for us, because lawyers do things like establish corporations. They notarize important transactions, and the sense of there being a gap in the system gives a strategic area that criminals and those who want to move money to terrorists can and do exploit.

We have contributed to the development of these international standards. We endorse them on a very profound basis, and our partners have given us advice about where Canada should put our emphasis to be most compliant with international efforts and most effective in our domestic objectives of keeping Canadians safe and secure.

The Chair: Thank you, Greg.

Mr. Albas.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you, Ms. Ryan. I certainly appreciate the work that you and your department do for Canadians. I too am glad that the chair mentioned there will be a thorough review of the document that was posted on the website yesterday. For our purposes today, I think you've done a very good job in just outlining some of the issues.

You rightly raised the point that FINTRAC has a bit of a blind spot when it comes to non-federally regulated mortgages and whatnot. That became very clear in the housing study. Some members may remember that MP Grewal asked a question about how certain transactions are conducted via cash, and you had stats. Both CMHC and OSFI said that we don't have access to that data. There is an agency that does, and that would be FINTRAC, although it's only available on a transaction-by-transaction basis.

While I totally understand the argument about needing to make sure that people's private information is kept confidential, I believe there is a great deal of information that could have public use if it were aggregated. While they're doing the good work they do to ensure that transactions are not terrorist based or organized crime, there is some social value to that aggregated data that would give us a better understanding, particularly in the areas of mortgages that are not currently under the federal regulatory space.

Would you agree there's an opportunity here for us as parliamentarians to review that end?

● (0920)

Ms. Annette Ryan: I agree on many elements of what you put forward. The real-estate sector is a clear area of concern within the regime, although we currently have in place a series of requirements on the real-estate sector.

I would point in the first instance to FINTRAC's efforts to raise compliance with those existing requirements. FINTRAC is actively working with the real-estate sector to make sure it is aware of its responsibilities and is more actively reporting to FINTRAC.

In terms of how that information can better be aggregated and assessed for blind spots and areas of concern, that stems from that first effort to get the information flowing into FINTRAC and ensuring that it's complete. On the completeness side, we know that we don't have the entire real-estate sector covered. To the extent that we can capture all the transactions you've flagged as being of interest, anything to do with cash is especially concerning. That will set us up to have that better aggregation from a better base.

Mr. Dan Albas: Right now, FINTRAC's legislation doesn't allow aggregation of the information it collects. I appreciate your point that we need to be working off of capturing all the information to have an effective regime.

Again, I will quote many of the realtors I've met with, who say FINTRAC is a pain in the you-know-what. They don't like doing the paperwork. They understand why they have to do it. Many people would be glad, or at least would feel better, knowing that information is not only keeping Canadians safe but is actually giving policy decision-makers better information. I really hope you will run that up the flagpole with both FINTRAC and the minister, because there's a real opportunity for us to start utilizing that data.

I agree with your point, though, that it is a serious concern when the court has basically exempted a large area. We have many lawyers who have either come to this committee or.... I'm not sure if we have a lawyer here, but again, they would probably agree that there needs to be a better balance than the one that exists today. I certainly appreciate that.

You mentioned things like beneficial ownership. I'm glad that the government is looking to view this, because I think that's an area of concern. In a recent speech to Transparency International, B.C.'s new Attorney General, Mr. Eby, stated that he had been made aware of serious large-scale transnational laundering of the proceeds of crime in British Columbia's casinos.

To the best of your knowledge, is that true? If so, what's being done to combat it?

Ms. Annette Ryan: We also read the attorney general's speech closely and are quite concerned about the number of challenges that he has set forth. FINTRAC has been working closely with the casino sector and, in particular, in British Columbia to trace through the charges that have been put on what's happening in the province.

I will defer to my FINTRAC colleagues to take you through those efforts. It is a serious area of concern.

● (0925)

Mr. Dan Albas: Is this a B.C.-specific problem, in your view, or do you think this is more of an issue right across the country, or in certain hot spots?

Ms. Annette Ryan: I would say that the sector has been consistently marked as an area of concern and there are efforts to make sure that it's fully compliant with the requirements of the regime, and that appropriate efforts are put in place to follow up on the issue.

Mr. Dan Albas: Okay. I will have some more specific questions at another time, Mr. Chair, but I just want to finish with this. Many Canadians send money abroad. Oftentimes it's to family members in other countries. I just want to know if you would also include that within the current proposal to look at some of our money-laundering, because we have to tighten up our own regime within Canada. I'm not casting aspersions on any one particular group, but a lot of money does leave Canada. I also want to know whether the government is also keen to ensure that we are not facilitating another country's problems, and to ensure that there are some controls on money exiting Canada and not just entering it.

Ms. Annette Ryan: The short answer is absolutely. That speaks to the integration across international efforts to make sure that we have consistent systems, and we put a lot of attention on those types of transactions, both through the formal sector of financial institutions and through the sector of money service businesses. You will see considerable attention to the money service business sector in the various reviews that have been done in our paper. We absolutely think that's a balance that always has to be on the front burner in order to get it right.

The Chair: Thank you, both. With regard to that exchange, FINTRAC is scheduled to be before committee next Wednesday.

Mr. Dan Albas: I just want to make sure they come prepared, Mr. Chair, so that they know that we're going to be asking some questions that perhaps.... To be fair to them, they're only going to say that this is what the law says they can do. These people are going to be making suggestions to the people in those offices, such as the Minister of Finance, regarding what might be reasonable to look at. So I'm taking that opportunity.

The Chair: That was a good exchange.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Mr. Chair.

Thank you for being here for our first meeting on this subject. Precisely because I am a results-oriented person who doesn't like doing work for nothing, my first question has to do with the follow-up on the last two reports that were submitted, in 2006 and 2013. One report set out 18 recommendations, and the other set out 16, if memory serves me correctly.

Do you have any indications as to the progress made on each of those recommendations? Would the committee be able to obtain that information to ascertain whether those reports received any follow-up? We will be spending the next few weeks conducting the same study, so I wouldn't want our efforts to be in vain. Would it be possible to provide the committee with that information, as well as an update on the progress your department has made on the recommendations in the last two reports?

[*English*]

Ms. Annette Ryan: Thank you for the question.

[*Translation*]

To give you as accurate an answer as possible, I am going to switch to English.

[*English*]

I would point to a summary in the discussion paper, which describes recent efforts to evolve the regime. A number of those legislative and regulatory changes responded to the last parliamentary review. The Senate study included a number of recommendations in respect of the operation of the regime as well.

I would say that in many cases, we took on board the objective of that advice. In practice, the implementation of those objectives may have been different for different government realities and so on. I would also say, Mr. Chair, that we are working quite hard to provide the committee with a number of additional background documents, chronologies, and summaries of changes to the regime through time.

[*Translation*]

The information is being provided to support the committee's efforts so that it is not working in vain.

● (0930)

Mr. Pierre-Luc Dusseault: It would be very useful to the committee's work going forward to have more detailed information on the progress made and on the recent changes to the act and regulations.

You mentioned beneficial ownership. Companies must have that information on record in the event of a request from a financial regulator or government agency, information that, unfortunately, is not publicly available.

You also mentioned tax havens. There continue to be jurisdictions around the world that are very secretive about financial transactions or at least extremely opaque jurisdictions from whom it is practically impossible to obtain information. Is that one of the biggest problems when it comes to proceeds of crime, and the effort to tackle money laundering and terrorist financing?

Today, how difficult do you think it would be to access information revealing the true culprit behind the scheme or the organized crime group responsible?

Do you consider that a serious problem the committee should examine as part of its study?

Ms. Annette Ryan: Thank you for the question.

The short answer is yes.

[*English*]

We consider the inability to find out who is behind a corporation as one of the more significant priority areas for action in the Canadian landscape in respect of money laundering, terrorist financing, and tax evasion. This view is evidently shared by all of our provincial and territorial partners. We are very pleased with the dedication and seriousness that our provincial and territorial partners have brought to our working groups, which kicked off with our last budget process and have proceeded over the last number of months. This is evident in the agreement that provinces and territories reached at the finance ministers' table in December, in concert with ministries responsible for corporate statutes, to bring changes to the relevant statutes to make it be the case that corporations must hold that information. They've also agreed to eliminate the bearer shares, which aren't registered, and this is an important issue as well. It speaks to the importance that all jurisdictions attach to these problems and the priority to act on them.

You raise an additional question, which is the availability of this information to be assessed by the public. This is an issue that we will continue to study with our provincial, territorial, and other federal partners. The important first step is to bring harmonization to the requirement that all corporations should keep records as to who is their beneficial owner. We will then continue our discussions and deliberations with our partners on the merits of a registry, the best modality of a registry, and the difficult question of whether it should be made public or accessible by the appropriate law enforcement agencies and CRA.

I offer that and hope it answers your question.

[*Translation*]

Mr. Pierre-Luc Dusseault: Yes, that's very interesting indeed.

I think it would be beneficial to move towards that eventually, given that Canada was recently ranked one of the worst jurisdictions in terms of financial openness and transparency, especially at the corporate level. We, ourselves, have practically become a haven for the registration of corporations thanks to low fees and minimal red tape. That might might be a good thing on one hand, but on the other, the information is shrouded in secrecy. Some provinces have more trouble than others making the information publicly available. Eventually, a registry could help deter companies from setting up here for less than admirable reasons and put an end to their use of Canada as a haven.

I have a bit of time left, so I'd like to talk to you about the administrative monetary penalties imposed by FINTRAC. Is its review of the program expected to produce results soon? Courts have deemed the penalties to be excessive in some cases, not to mention the fact that the penalty-setting process is so obscure that judges felt the need to point out that it made no sense and that the penalties were based on highly suggestive elements.

Could we get an update on those discussions?

● (0935)

[*English*]

Ms. Annette Ryan: That's another excellent question.

The issue of administrative and monetary penalties is under active discussion, especially at FINTRAC, but also with other partners. At its core is a tension between discretion versus rules essentially.

The issue is whether FINTRAC can achieve better success by working with entities towards compliance and the right point at which to apply administrative penalties and with what amount in the appropriate channels with due process followed. These are what I would describe as the key elements in that discussion.

We are seized with getting the balance right, and getting a regime in place that will hit that right balance between effectiveness and transparency and compliance.

The Chair: Thank you, both.

With regard to the recommendations in the Senate report, I asked this of a finance department representative before. I'm told it is hard to respond directly to each recommendation, but on Pierre's question, if you could link as closely as possible what's been done on those recommendation, I think it would be helpful to the committee, so that we're not retilling the same ground, if I could put it that way.

Mr. Sorbara.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

I welcome everyone.

I've been doing preliminary reading, and I think all of us on the committee are going to be doing a lot of reading in the next couple of weeks. The Library of Parliament provided a really good chart of all the agencies, be they federal or provincial. The majority are on the federal side, everybody from CBSA to CSIS, CSE, and CRA—a lot of resources and very large bureaucracies, of course.

It's great to see there are a lot of resources dedicated to the very important issue of money laundering and terrorist financing. It was interesting, because yesterday CMHC came out with a report. It was about 225 pages. I read some of the headlines. Part of the report dealt with foreign purchases of housing here in Canada.

Tiptoeing off what Mr. Albas was saying and the concerns out in B.C. specifically, there were concerns about being able to track and identify when foreign investors purchase homes in Canada and the source of their funds. I'm going to read to you *The Globe and Mail* tidbit from the article that was posted yesterday:

> The Law Society of B.C. told CMHC that much of the information lawyers had on the identity of foreign buyers and the source of funds used for home purchases was covered by privacy laws. Lawyers have also been given an exemption to the requirement to report financial transactions of more than $10,000 to the Financial Transactions and Reports Analysis Centre of Canada, which tracks money laundering.

Despite the large bureaucracy that I referred to, which is using literally tens of millions of taxpayer dollars at a very granular or micro level, we can't even track and identify the source of funds that are being used by foreign investors to purchase real estate in Canada. I love foreign investment, but we don't know where the money is coming from.

Is that a correct statement?

● (0940)

Ms. Annette Ryan: The issues with real estate and the various themes that you put forward are really at the crux of some of the more difficult and important issues that we hope to move forward with in this review and subsequent legislative changes.

If I may say, the issues that you spoke to include the inclusion of lawyers in the regime and the ability to assess the beneficial owners of a corporation. Corporations have been cited in a number of studies of real estate transactions.

On the issue of lawyers, you quite rightly point out that lawyers are responsible for a number of financial types of transactions that in other countries are parsed between the aspect of solicitor-client privilege versus that which is more transactional in nature and covered by FINTRAC and its reporting requirements.

I would agree with the member that these issues relate to serious problems that speak to our deeply held objectives.

In terms of the question of real estate specifically, I would point to efforts by our colleagues at FINTRAC to work closely with the real estate associations and the industry to flag to them their responsibilities to be on the lookout for suspicious transactions that speak to knowing their client—that's a fundamental principle in this space—and looking for suspicious transactions. That speaks to questions like the source of funds, the nature of the transaction, and so on. I would say that these are issues at the core of what the committee has struck for itself as its mandate.

On all fronts, I would say that we agree that the problems are serious. The efforts that are being put to these questions are comprehensive. There are a lot of resources at play. There are additional resources at play in the private sector. The ability to have the most comprehensive and targeted regime to address these problems is, I think, a shared objective of all of us here today.

Mr. Francesco Sorbara: Thank you.

Can I have a follow-up?

The source of funds is very important for my residents. People go to work every morning. They save their money to make a down payment on a home. To me, there seems be something offside with the idea that foreigners, or people coming from other parts of the world, can come here to purchase a house and don't have to disclose the source of their funds, or are protected from doing that, while Canadians work hard and save their money to purchase a home....

With regard to beneficial ownership, I do agree that we need to move forward in a balanced manner between the protection of privacy and disclosure. My personal feeling—and maybe it will change during this study—is that the pertinent authorities should have the right for disclosure, but the general public, in my view, should not.

I would like to hear some brief comments on what other jurisdictions are doing on beneficial ownership in terms of protecting the rights of people who do undertake risk, invest, and create wealth versus their rights to privacy.

Ms. Annette Ryan: The issue of beneficial ownership is an important one. To reiterate, we think that the point of having corporations in the first instance keep basic records in a standardized way that can be used by law enforcement entities or be provided to financial institutions as current requirements *exige*, for those corporations to have access to the financial sector is simply an important first step that will allow us to have that discussion.

I would describe the issue of beneficial ownership internationally as being a quickly evolving field. Many countries are making efforts to increase their requirements to have beneficial ownership provided either to law enforcement agencies or through public registries.

I will turn to my colleague Ian, who is more active in the international space, to speak to which countries. We also can certainly follow up with a summary to the chair.

● (0945)

Mr. Ian Wright (Director, Financial Crimes Governance and Operations, Department of Finance): If you look at the international experience, the U.K. is held up as the gold standard right now. It has a public registry of what it calls “people with significant control”. It's a statutory requirement not only for corporations, but also shareholders, to report their ownership above a certain threshold.

The European Commission has a directive that also requires that its countries have and create registries as well, and are, themselves, moving toward public registries.

As for ours, as Annette pointed out, we're making those steps forward. The Americans are also bringing in similar sorts of moves now to try to create requirements on...advise...and to collect beneficial ownership information.

Internationally, within the FATF, there are 37 countries involved. However, we also have this network of FATF-style regional bodies, which covers some 190 countries. As you're all well aware, some of those international financial centres are where some of the challenges come from. I think that's where the value of the FATF and ourselves as active participants within FATF is: to work with these regional bodies and to apply the type of peer pressure that will enable us to build a good global network and to deal with this. It is a global issue. We know that. We've seen complicated structures within corporations. It requires a good international effort across all of those groups.

The Chair: Thank you both.

We're going to five-minute rounds.

Mr. Albas.

Mr. Dan Albas: Thank you, Mr. Chair.

I just want to continue along the same thrust as the previous member. You mentioned “significant control”. In my mind, there are certain cases where it would be helpful for people in positions of authority or the general public—again, I'm not going to establish which ones should have it right now on the beneficial ownership side.... But then, if you have a case where someone has a lease to operate a particular business, to my knowledge, in Canada there is no formal lease registry. Someone could, for example, own a gas station and then lease it to someone who may be involved in organized crime and may then use that operation.... Is that the kind of situation you're talking about with regard to some sort of registry for significant control?

Ms. Annette Ryan: In the first instance, the efforts are focused on beneficial ownership of a corporation. We have different thresholds and concepts at play in different federal and provincial statutes right now. At the federal level, under the PCMLTFA, the level of control is 25%. That differs by province or territory and under the federal corporations act.

To answer your question about leasing, I would point that there is a range of legal relationships and entities that have been identified as subject to possible manipulation that you name. That could include trusts, and it could include partnerships or any number of other transactions. We are mindful of that wide sweep of relationships and have taken steps in the trust space to build transparency and so on.

In terms of the specific issue of leasing, I think I'll propose that we get back to the committee and that Maxime will answer.

Mr. Maxime Beaupré (Director, Financial Crimes Policy, Department of Finance): To build on an answer that Annette provided previously, I would just add the point that, under the PCMLTFA, reporting entities have obligations to know their customer.

The type of work that is happening on beneficial ownership in this particular instance would be to try to understand who owns the corporation, but as the operator of that particular corporation is establishing a business relationship with a reporting entity, it would be incumbent upon the reporting entity to know its customer and to get a good understanding of what their business is, including who the principals are.

In that sense, in this particular setting, the bank, for example, should have a good understanding of who's involved in the business. It's a bridge further to try to get better information on the beneficial owner—in this case, the owner of the corporation.

● (0950)

Mr. Dan Albas: I know there's a bit of a rabbit hole when we talk about these issues, but again, if someone owns an asset and then issues a lease that is not registered anywhere to someone else, and that someone else is operating that asset in a way that is used to launder money, we're not going to know about that, because there is no formal registry.

I do understand that we are in a world where we are coming to terms with many of these arrangements, that things like beneficial ownership and significant control are relatively scattered terms, and that trying to bring some consistency with international standards is difficult. I do think that it might be one area, perhaps, that the government may be wanting to investigate because, again, if you make a change, then organized crime will make changes to their behaviours to structure their affairs in a way that is compliant but allows them to continue their opportunities.

I'd like to to switch gears. In your consultation paper, you stated that the FATF report “notes that making the penalties for violating these [anti-money laundering] laws more proportionate and dissuasive would assist in the deterrence of money laundering and terrorist financing”. What stronger penalties do you think would be appropriate in this regard?

Ms. Annette Ryan: Ian is closer to this one. I'll turn to him.

Mr. Ian Wright: Right now, if you look at the sentences when people are being prosecuted for money laundering and terrorist financing, you see that they tend to be concurrent sentences, and they tend to be of a term that's equivalent to the underlying predicate crime.

One of the challenges, I think, one of the areas that we're working on with our law enforcement and prosecution colleagues, is the difficulty: ML is a very difficult crime to investigate and to prosecute. I think what the FATF felt is that at times there were cases where the ML charges would dropped for the pursuit of the underlying predicate crimes, which puts people away and gets the bad guys behind bars over a suitable time.

As Maxime would be able to talk to, there are some discussions within the paper about trying to address some of these issues with regard to the prosecution and the law enforcement.

Ms. Annette Ryan: Mr. Chair, I have one specific point, which is that we've done an operational review of our effectiveness as a regime, and we see a need to address the standard of prosecution in this space.

Right now, we require the standard of proof to tie the money launderer to the discreet knowledge of the predicate crime. We would like to see that standard changed to be a standard of recklessness for which there's reason to believe that the money is associated with crime or terrorism.

Mr. Dan Albas: Thank you.

The Chair: Ms. O'Connell.

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): Thank you.

The 2014 budget implementation act gave FINTRAC the responsibility of conducting public awareness campaigns to help deal with terrorism financing. Have you seen any areas of improvement or success? Are there things that we need to continue to look at? Have you seen tangible results since the public awareness campaign, or has it caused any kind of additional issues that have been brought up?

Ms. Annette Ryan: I think our colleagues at FINTRAC would be very happy to speak to their efforts in the public awareness space. It is an important activity that FINTRAC undertakes, and they have been making progress in any number of areas to bring a wider swath of Canadians, particularly those who are reporting entities, into a more active awareness of the value of the information they may have through their transactions.

● (0955)

Ms. Jennifer O'Connell: Okay, fair enough. I can ask that when they appear.

You touched on the gap with regard to politically exposed persons. Could you clarify some of the gaps there that we need to be looking at?

Ms. Annette Ryan: I would be happy to.

The concept of politically exposed persons was developed by the Financial Action Task Force, the FATF, and it speaks to a specific risk of money laundering and terrorist financing, particularly in the space of corruption. This is an aspect that plays to both the international integration of standards and laws, as well as to domestic objectives of making sure that corruption in particular is kept in check.

I would start with the observation that, happily, Canada is a country that has some of the fewest incidents of corruption in the world. We rank as ninth in a standard of some 170 countries when it comes to not having corruption as an issue. However, identifying people as politically exposed persons, which in Canada goes from the Governor General to mayors right now or to the heads of international organizations, speaks to the financial institutions' reporting entities having the right information in the transactions they survey to be able to pick up patterns that relate to corruption in particular.

The standards are there essentially to have an information base that can allow the identification of the particular stream of transactions that are problematic. This is more so in other parts of the world than in Canada, but as part of that integration and as a domestic objective, it's information that's pertinent and therefore part of the regime.

Ms. Jennifer O'Connell: Okay, thank you.

In terms of the beneficial ownership question—and you stated that the U.K. and the European Commission tend to be the gold standard—it seems that, based on the conversation here, part of the issue is really around lawyers. That seems to be a big gap, an opportunity, and I understand there was a court case that allowed for some of the...but the U.K. doesn't have that different a legal system. Obviously, the laws are different, but I'm curious if the department—or maybe this is a better question for Justice—is looking at the legal framework in the U.K. that meets that test while being in line with their own privacy laws and could help us close this gap? Again, their legal system is not completely dissimilar from ours. Why is it something that their rule of law can accommodate but ours seems to be missing? Is there language or a process that needs to be better addressed that we can look at?

Ms. Annette Ryan: It's a great question. We're working very hard on that question, with Justice and other partners.

We are looking at other international examples that could shed light on how we could structure our response to that court case, yet the Supreme Court cited the Canadian Charter of Rights and Freedoms. We do need to find a made-in-Canada solution, but our stated intention is to find a legal solution that will work in the Canadian context and has similarities with the structure and objectives of other countries.

Ms. Jennifer O'Connell: It hasn't been brought up yet, but I think cryptocurrency is going to be a big area and component of this study as well. I assume that somewhat fits into your comments about innovation. You're talking about innovation on the side of monitoring, but I think this committee can somewhat agree that we need to also look at the innovation on the criminal activity side. Even if cryptocurrencies might not have been established solely for that, it seems to be a very welcome place for that activity.

Do you have any comments or suggestions on how we could try to scope cryptocurrency in our study of that?

● (1000)

Ms. Annette Ryan: That's another great question, Mr. Chair.

The issue of cryptocurrencies—virtual, digital currencies—is one that's under careful study in the MLTFA space.

If I may, I would perhaps make three points. The first is that we have been taking steps. We've noted our intention to bring forth regulations in respect of dealers in virtual currency so that we can re-establish the level playing field in that space, in the sense of how money service businesses transact, as the member said, across borders and so on. There is work coming forward shortly that will address that specific space.

A second point is that the innovation in this space has both risks and challenges. The inherent challenge is the anonymity of the currencies, and the requirement to meet requirements to not have anonymity, to know your customer, is an inherent tension between how the new technology is being used and the regime. That's something we are actively mindful of and watching carefully.

That said, I think the technology has another potential that has been flagged, to have the record of who is behind what transactions. That has an area of discussion around it called regtech. In this space, the question is being posed as to whether you could in a sense build in the requirements to know your customer and make sure that transactions are compliant with the objectives and structures of the regime, so that as these technologies evolve, maybe we can lighten our requirements on the private sector and have that innovation move to a place that can bring all the benefits that are promised, as well as build in the important safeguards that the space concerns itself with.

The Chair: Thank you. We were well over on that round.

Mr. Albas.

Mr. Dan Albas: Thank you, Mr. Chair.

Continuing with some of the conversations earlier, Ms. Ryan, you alluded that regimes like the politically exposed person seem to be working rather well.

I opened up a self-directed TFSA using a virtual bank here in Canada and was interested to see that they followed procedures to make sure that elected officials like myself, though I have nothing bigger than my soap box as far as shaking my fist at the government.... It's good to know, though, that those systems are in play and that there's a checklist that they go down, so Canadians know that regardless, their elected officials are subject to a higher threshold. I appreciate that.

It also got me thinking that there are other companies that are operating in certain spaces. For example, obviously the CRA has asked PayPal for a bunch of information, because it believes there might have been some tax evasion.

Has your department also looked at the non-traditional payment space, like PayPal or other groups, to see if it used for money laundering?

Ms. Annette Ryan: There are different concepts in the question that you put forth. On the one hand, it's about the politically exposed persons and the requirements that we place on reporting entities to know their clients and to track the transactions against whom the client is, to be able to identify what is suspicious in the eyes of the regime.

The second part of your question spoke to companies like PayPal, which are more in the money service business space in terms of how the act and the regime view reporting entities. I would say that the short answer is that we want to have that consistency and comprehensiveness in how various reporting entities, be they the banks, insurance companies, money service businesses, or other types of—

● (1005)

Mr. Dan Albas: Prepaid credit cards, for example.

Ms. Annette Ryan: That also speaks to the margin that we try to keep current with in terms of the types of transactions that we capture in the regime. As you have more innovation in both the number of players and the types of transactions that people make, that speaks to the need to keep all of our regime current internationally and domestically, and part of the work we welcome from the committee, to make sure that we are up to current techniques.

Mr. Dan Albas: You said that we were trying to do a made in Canada approach, while working with the international community, where I would hope that we're trying to be leaders. Are there any particular countries you might cite as being good examples that Canada could say, “Here's some good work that's been done here. Perhaps we could look at that and see how it would fit into a Canadian context”? Are there any particular regimes that you think Canada should look at, or do you think we seem to be leading the field? I'm a big believer in seeing what other regimes can offer.

Ms. Annette Ryan: Absolutely. In terms of areas where Canada has shown leadership, I think Project Protect is important example of how the regimes continue to evolve. The idea of having an understanding of the patterns of specific transaction flows related to very narrow types of crime or so on, and then feeding back that information in a way that protects the privacy of Canadians, is a space where there is a lot of innovation, including Canadian-led innovation.

That said, we absolutely can always learn from other countries. I think there are any number of examples you could look to, but the U. K., as the other member said, is quite like Canada, and is innovating in a number of ways that we're watching closely. They have a variant of Project Protect, project JMLIT, from which I think the committee will find insights. There are other countries that are also active in this space and have learnings for Canada. These would include Australia and New Zealand, who are like us. The Americans are active, and any number of partners have their own innovations, but those are the closest to the Canadian model, I would say.

Mr. Dan Albas: Thank you. I appreciate that. The United Kingdom, I think, has a lot, especially when it deals with cybercrimes and whatnot, so I'm glad to see that we are checking with people who have similar values but also face similar conditions.

Thank you, Mr. Chair.

The Chair: Ian, did you want to add something?

Mr. Ian Wright: I would just add that we're very active. The genesis of the FATF came out of the G7 in the late 1980s and we are still very active. We meet regularly with our G7 colleagues because we do share a very common interest in all of this, and those discussions are very active. We also have discussions regularly with our Five Eyes colleagues. We do try to ensure that we can get like-minded people together in the room to try to provide some direction to where FATF is going.

The Chair: Okay, thank you.

Mr. Grewal, and then Mr. Dusseault.

Mr. Raj Grewal (Brampton East, Lib.): Thank you to the witnesses for coming today.

How big a problem is money laundering in Canada? How many cases have actually made it to court, and how many people have been convicted in, let's say, the last decade or so?

Ms. Annette Ryan: There have been different attempts to put a specific figure on money laundering. Those figures can be in the range $5 billion to $20 billion, but inherently we don't know what we don't know. If we could identify the money laundering, then the efforts would be to deter and detect it. It is large, it is significant, and it is a threat. We have published a national inherent risk assessment that attempts to speak in a more qualitative sense of the nature of the threat and how pervasive it is, so I would refer you to that work.

The number of prosecutions is relatively low when it comes to money laundering and terrorist financing, given what I think people often expect. Ian spoke earlier to the findings of the Financial Action Task Force that pointed to a dynamic whereby the law enforcement entities will often use financial information that is surfaced through the regime to identify the predicate crimes, and then they will often prosecute the underlying predicate crime rather than the money laundering or terrorist financing offence.

I offer that as an alternate aspect of what success—

● (1010)

Mr. Raj Grewal: Yes, I ask, because $70 million annually is funded to the organizations that track money laundering and terrorist financing, so as a policy-maker, the natural question is what is the return on investment? How much money is being recouped from the financial markets? How many cases are we taking to court? How many people are charged with these offences? In the grand scheme on a macro level, I don't think anybody's going to argue with you on the need for protection, especially in the global environment we live in, but there have to be concrete returns in Canada to ensure that we're on the right track.

My second question has to do with the $10,000 cash limit that one can carry between the U.S. and Canada. That limit got set decades ago, and in your report here, it said that we must have harsher penalties on undisclosed cash, but is there any discussion on raising the limit? The limit seems to represent an earlier era. It was set in the early nineties, I think.

Ms. Annette Ryan: I would describe the $10,000 limit as always subject to discussion, but it's not an area that we've received a lot of feedback about, compared to other areas, for reform in the regime.

Mr. Raj Grewal: Every transaction in any bank in Canada that's over $10,000 gets flagged by FINTRAC. That's got to be thousands of transactions on a daily basis, I would assume. I used to work as a corporate lawyer on Bay Street, and we were always dealing in the hundreds of thousands and millions of dollars in wire transfers.

How many resources does FINTRAC have to go after each little $10,000 transaction? If I'm money laundering, I'm not doing transactions in the millions to catch attention. I'm doing them at the $10,000, $15,000 limit to get away with it.

Ms. Annette Ryan: I would respond to your question in two directions.

The first would be to speak to the efforts we have under way with the private sector not just to focus on the specific dollar limit but to find ways that we can focus on the truly suspicious transactions. That speaks to understanding the typologies of crime: money laundering, terrorist financing, and finding ways to turn that back into actionable algorithms and practices that will sift through the haystack and find the needles.

As you say, the numbers of transactions in Canada that exceed $10,000 is quite vast. The question of how to focus on what is important is one of the higher-level questions before us that we are undertaking with private sector colleagues, and I'm quite certain they will address it when they appear here.

Mr. Raj Grewal: Thank you very much.

My last question is on digital currency. I think we're behind the pendulum here. Billions of dollars of wealth has been created in the cryptocurrency space. Our government, our country, and a lot of western countries are slow to regulate it and really don't understand what it is. If you read a lot of the opinion articles on the Internet in established sources, a lot of it has to do with money laundering. People in the black market are trying to legitimize their wealth by coming into the crypto space.

What are we doing, from a regulatory perspective, first, to track this and, second, to counter it and see how we can actually stop money laundering in the cryptocurrency space? I ask because it is the next big thing, and we can't be this slow to evolve, because innovation is happening on a daily basis.

● (1015)

Ms. Annette Ryan: I appreciate the question. It is, again, one of the higher-level questions facing us.

We've spoken to efforts that we will be bringing forth, in coming months, in regulating virtual currency dealers. The question of how to put in place the requirements so that transactions entering the Canadian financial system will not be anonymous and so that you will be able to know your customer and to identify what is suspicious is an active area for all of the regime. We are seized by it. We share your concerns, which you've described very well.

Mr. Raj Grewal: Thank you very much.

The Chair: Thank you, Raj.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

I'd like to pick up on the idea of going after more detailed information that reveals trends and patterns, instead of focusing on the specific dollar limit that triggers reporting, in other words, $10,000. The vast majority of those transactions are completely kosher, as we know. What the committee must do, then, is try to figure out how the system can flag situations that are potentially troubling, such as recurring transactions between two entities during a given period of time or repeated transactions of $9,900.

At the end of the day, shouldn't the objective be to have a system that flags situations that truly pose a threat, as opposed to setting a specific limit?

Ms. Annette Ryan: Yes, absolutely.

[*English*]

We are seized with the question not of whether a transaction is above or below $10,000, but rather whether it is suspicious. That goes to a profound set of guidelines to reporting entities regarding what they should consider to be suspicious, based on their knowledge of their client. I would offer the committee that we focus not specifically on $10,000 plus or minus, but rather on the pattern of transactions that would raise concerns. That question of being ever-more precise and practical and tangible in the guidance we give to reporting entities is something that we're seized with.

With regard to the question of structured transactions that are meant to fall below the radar, below $10,000, we also have advice in our paper that would give us better tools to identify efforts to go below the threshold. The term for this is “smurfing” when someone takes a large transaction and turns it into a series of small transactions that would evade the objectives of the act.

Yes, we want to focus on the suspect transactions more so than on the amount. Yes, we also want to make sure that we're not creating blind spots with that threshold, but it's a question of magnitude.

[*Translation*]

Mr. Pierre-Luc Dusseault: My next question is out of curiosity, but also for the sake of government transparency.

Fortunately, the system is working. Proceeds of crime are being seized, whether in the form of money or other. That said, I'd like to know what you do with it.

Where does the money end up? Does it flow back into the system?

● (1020)

[*English*]

Ms. Annette Ryan: It's an excellent question and it relates to the discussion with the honourable member.

It's a mixed answer. At the federal level, the proceeds of crime that are captured and seized through money laundering are in the order of $30 or $40 million in any given year. There is an overlay with the provincial and territorial responsibilities for forfeiture, which is separate, and it's more in the predicate crime space. I would answer it that way.

In terms of whether the money flows back to the regime, yes, but indirectly. It flows into the central revenue fund of the government, which is then the basis for departmental budgets and so on. Is there a dedicated fund? No. It's a problematic concept, in that, in any given year, the funds might exceed or fall short of what the regime would need. On balance, we would prefer to get the resources right for the purpose, rather than tie it to seizures in any given year.

The Chair: On that point of where the money flows, you said earlier something along the lines that rather than prosecuting or seizing the proceeds of crime, there are other underlying issues other than money laundering itself. Is that partly because police from other jurisdictions than the federal one are involved? If you go to the proceeds of crime, then that's going to head towards federal coffers. If you prosecute under something else, it's likely going to be a provincial or municipal coffers, where they have done the work, to a great extent.

Are there problems there?

Ms. Annette Ryan: I wouldn't think so, Mr. Chair.

I think that the distinction we spoke to earlier, about how law enforcement agencies decide to prosecute the ensemble of evidence and actions they have before them, speaks more to the ability to get a conviction. For that reason, we would like to strengthen the ability for law enforcement agencies to pursue money laundering offences, by changing the standard of proof. We think that's a good piece of advice to follow through.

I would offer that the return on investment of prosecuting one way or another is something that I wouldn't see as a problem. I would say that FINTRAC, the RCMP, and law enforcement agencies do have a high level of collaboration and I would think that they can speak in further detail to this.

The Chair: I've talked to some former chiefs of police, in fairly large jurisdictions, and they would differ with that opinion. Maybe we need to talk to them as well. I do believe that the financial matters, at the municipal level, come into play on this issue. That's something we'll hear more about.

Prior to going to Greg, the second issue I wanted to ask about is this. Mr. Beaupré, you mentioned "know your customer", that at banks there should be an effort to know your customer. Do you think that is really happening today?

If you have a business or a mortgage now, you probably haven't been into the bank for many years, since the time you set it up. From where I live, I have found when dealing with banks that if you do business with a bank in Prince Edward Island, the decision is really made in an office in Halifax, or Toronto, or elsewhere. Do you really think they know their customer now?

● (1025)

Mr. Maxime Beaupré: I would say that the modalities through which the reporting entities implement their know-your-customer obligations will vary based on the type of business they conduct, their size. In our regime we have 30,000 reporting entities. Some of them are the largest banks in the country, which you are well aware of, and other reporting entities are operations of a few people. Definitely the ways they structure their business to understand their clients and the purpose of their business relationship will differ.

I would argue that for the same reason, because of the variety of models, reporting entities have various levels of awareness as to their obligations to know their customers. On the one hand, I would argue that the largest financial institutions are quite sophisticated in their approach to knowing their customers. It is about when they onboard a new client—and you are right, nowadays not only may you not often go in a branch, but you may not even have to go in a branch to open an account in an institution. We have put flexibilities in the regime so that the reporting entities are able to onboard clients in what we call “non face-to-face” environments while still having measures in place to get a good understanding of who their client is, including verifying their identity, for example, and also documenting the purpose of the account if we're talking about an account opening.

Not only do reporting entities have obligations at the outset of a relationship, but throughout that relationship. That is what we call “ongoing monitoring”, and it is through that process.... Again, reporting entities have different modalities for implementing that. Large banks will have sophisticated systems in place to detect if there are strange patterns emerging that are not consistent with what they were told the account was for.

I'm giving an example. If a client says, I am opening an account to save for my grandchild's studies and then there is a large velocity of transactions happening in his or her account, a bank, through its systems, would find this quite unusual and may decide to investigate and document what is happening. At the other extreme, if we are talking about very small entities, they would have a more personal relationship with their clients and may have other means to see if there is a problem in what they think they know about their client and what is actually happening with the consumption of the services they offer.

The Chair: Thank you.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you very much, Mr. Beaupré. Your comment leads me to make an interesting distinction between

[*English*]

knowing your client and understanding your client.

[*Translation*]

I would think there is a slight difference, depending on the size of the financial institution.

I'd like to ask Ms. Ryan a question about money laundering.

[*English*]

You said that money laundering is a process used by criminals to conceal or disguise the origins of criminal proceeds to make them appear as if they originated from legitimate sources.

That's great, but I'm trying to figure out, then, that if our focus is on knowing our clients, it seems to me that the definition of money laundering, or any anti-money laundering efforts we'd want to take on, would require us to want to know the provenance, the sources of those funds. Am I missing the point, or is that correct?

Ms. Annette Ryan: You're correct. That is the overarching objective of the regime. Knowing the client is an inherent part of that logic of how do you assess whether there is sufficient suspicion that the provenance of the funds may be of interest.

Mr. Greg Fergus: A retired teacher in Summerside shouldn't have $300,000 going through their account on a regular basis.

Ms. Annette Ryan: There is a range of advice that FINTRAC has compiled and shares with reporting entities about what constitutes suspicious transactions, but you've got it right; that's the inherent logic.

Mr. Greg Fergus: To go back to some questions that my colleagues asked, how can we strengthen the regime so that we’d know, not only for our clients in Canada but also for non-Canadians who are investing here, what the provenance or sources of their income are? What kinds of efforts are under way in that regard on an international coordinated level, if any?

Ms. Annette Ryan: That's very much a focus of the regime and there is existing advice on that. I think it's a space where we could make better progress, especially with our private sector entities, particularly with a more nuanced identification of suspicious clients and transactions among regime partners. To the extent that the international and intentionally complex and opaque transactions would require a series of transactions and events and actions to come together, being able to bring that information together from different sources in a more fluid, robust, practical way is part of the way forward to doing just what you said.

● (1030)

Mr. Greg Fergus: Again, in that regard, we would want to make sure, and I imagine that in any efforts we would want to make, it would be much better, that we prevent funds originating from undesirable sources. It's better to enact measures to prevent that and to ensure that whatever funds come into the Canadian financial system are legitimate and are not being used for money laundering, the proceeds of crime, or terrorist fundraising.

I'm just trying to figure this out. In the recipe that we have for the activities we could do, one is prevention, one is detection, of course, and the other is disruption. Are we putting enough efforts into prevention to make sure that the money that comes into the system is legitimate?

Ms. Annette Ryan: I would point to the evaluation of the Financial Action Task Force to say that, on balance, the Canadian regime and efforts are effective. It is a difficult space. It is an evolving space, and we do have advice on how to do better in that space.

The international piece of it is difficult. We do require that people who are moving money into the Canadian system do their due diligence to understand their customers, the institutions, and so on with which they are dealing, so that the provenance of funds is as compliant as it can possibly be. We hope to tighten that. We hope to improve it, but my summary would be that, yes, that's very much the focus of how we want to move the regime forward.

The Chair: We'll go to Mr. Dusseault, then back to Mr. McLeod.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

I have a quick question. I am not sure what kind of an answer you will be able to give, since my question is a bit

[*English*]

out of the box,

[*Translation*]

This may reveal my age.

Cryptocurrency is said to provide guaranteed anonymity, but isn't it true that the cash within the system is also a big part of the problem? People can have large amounts of cash, which affords them anonymity.

Have you taken that into consideration? In the longer term, could eliminating cash transactions solve part of the problem?

Ms. Annette Ryan: Again, I agree with you.

[*English*]

Cash is a traditional and ongoing challenge for the regime. It is inherently anonymous, and the ability to track cash going across borders, the ability to withdraw cash that may be falling into misuse is an important challenge and we bring forward advice about that question. It is a nice parallel to some of the challenges for the emerging technologies. So that aspect of anonymity and being able to move funds to finance terrorist activities, or move funds that flow from criminal activities and essentially increase the reward for crime, in terms of what it can purchase and how transparently, is inherent to the challenge in front of the regime.

We have spoken to some of the risks of these new technologies but also the potential to build new safeguards into the technologies as they emerge and as digital means have the potential to replace cash going forward.

Je suis d'accord.

● (1035)

The Chair: Go ahead, Mr. McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chairman.

Thank you to the presenters today. The subject is certainly broad and very complex, and there is a lot of information that's been provided that I'm still struggling to digest. Your presentation today was very helpful. I appreciate it very much.

There are some questions I have, though. The subject that Mr. Grewal raised, namely the $10,000 threshold, is not clear to me. There are already reporting entities that are required to exercise discretion by flagging transactions below the thresholds. Could you tell me if you believe that the existing threshold of $10,000 is an effective and efficient level for the regime to use? I didn't get that answer from your response.

Ms. Annette Ryan: I answered the question earlier by saying that what we flag as suspicious transactions and how we assess the more pertinent patterns of transaction is where I would put our focus rather than on the $10,000 number itself.

Mr. Michael McLeod: Should the number be removed? Do we need it anymore?

Ms. Annette Ryan: I would say that some level is important so that minor transactions can flow without a major level of attention. I'd be happy to bring forward some thoughts on whether it's the right number. Should it be higher, or should it be lower? I think some level of consistency is important. We do have instances that we flag in our administrative section where the threshold is different—$3,000, $5,000. I think there is merit to having a single threshold. As to the exact number, I would prefer to defer that question till another time. I'd be happy to talk to our partners and see how we can answer that question for the committee.

Mr. Michael McLeod: I'd like to go to another issue you raised around Project Guardian and the ongoing opioid crisis that's happening across the country, including in my riding in the Northwest Territories.

Many members of the regime, including FINTRAC, are involved in the anti-fentanyl initiative, Project Guardian. I'd like to know more about it. Can you give me more details of the project and its function and maybe some of its impacts?

Ms. Annette Ryan: With respect, Mr. Chair, I think FINTRAC is the better witness to walk you through that. I'd refer you to them, because they've worked closely with any number of partners and can answer in detail.

Mr. Michael McLeod: Okay. Since the last review of the act, we've seen a significant increase in technology, the popularity of technology relevant to the regime in the areas of cryptocurrency and crowdfunding. I'm curious to know how the regime has adapted in these areas since the last review.

Ms. Annette Ryan: We—

Mr. Michael McLeod: Maybe you could tell us if further tools are needed to do a better job.

Ms. Annette Ryan: The last review pointed us toward the evolving types of payments. It included things like pre-paid cards. We have brought forward legislative and regulatory changes that attempt to capture the innovation that's going on in the financial space. As new methods come on-stream that bring greater convenience to Canadians, we want to ensure that we capture them in the regime, but that we do it with a sensitivity to local realities.

For example, we received in consultations the advice that pre-paid cards are important for remote communities that may not have branch banking. We wanted to be careful not to bring in new requirements that would be onerous for people trying to do basic transactions.

● (1040)

The Chair: Thank you.

Ms. O'Connell, you're on.

Ms. Jennifer O'Connell: I just have a question in regard to cryptocurrency and whether the international community agrees somewhat with the definition. I know that Canada has defined it in some of the reports and FATF has come out with a definition as well.

Internationally speaking, is cryptocurrency being defined somewhat consistently? If not, I would think that would lead to issues in the international regulation of it. Or, is it still too early to define it, because jurisdictions are still figuring it out amongst themselves? I guess my question is really about the defining of cryptocurrency and figuring out how we globally regulate it.

Mr. Ian Wright: I'll just speak quickly to the FATF and where we are. I think Maxime can talk in more detail about where we are.

Clearly, within the financial action task force and within our guidance there's quite a clear understanding of what the cryptocurrencies are. Again, it's this balance. We're not directly trying to regulate cryptocurrencies. We're just trying to ensure that there's a mechanism for making payments and for transferring value. It falls under the regime in the sense of record-keeping, knowing who they are, and managing the risks. I think there's a fairly well-known understanding of what the requirements are within our FATF environment.

Maxime can talk a bit more about the actual work we're doing.

Mr. Maxime Beaupré: It is one issue to nail down exactly what we're talking about in regulatory-speak, but people know what we're talking about. That's not necessarily the issue. As Ian pointed out, the purpose of the regulations we're working on is not to regulate the virtual currencies themselves. I'm not aware of any country attempting to do that. What we are attempting to do is what we call the “on-ramps” and “off-ramps”. There is a level of anonymity within the virtual currency space, although I would posit that there's actually a great detailing of records that also takes place; it's just that you don't necessarily know who is sitting behind it.

In terms of our purpose, once you try to move between the virtual currencies, or move into what we call “fiat” currencies—the Canadian dollar, for example—for all of these on-ramps and off-ramps there are requirements in place. When those dealers in virtual currency offer the service of converting virtual currency into dollars, let's say, they apply the types of obligations that money-service businesses have to apply in terms of defining the client, keeping records of the transactions, and so on.

Ms. Jennifer O'Connell: Thank you.

The Chair: Mr. Fergus.

Mr. Greg Fergus: I'm not a lawyer, and I don't know if any of the three of you are lawyers. How much does the charter weigh upon you in terms of recommending

[*Translation*]

solutions

[*English*]

to address these issues?

Ms. Annette Ryan: It weighs on us fundamentally and heavily and significantly. I think your opening question set forth the competing objectives in this space. There's respect for the charter. There's effectiveness in terms of safety and security of Canadians. Then there's the appropriate burden in both the private sector and public sector, the appropriate resourcing.

In terms of compliance with the charter, we have structured the regime from its initial stages to put in place this division in terms of what FINTRAC receives in terms of its information. Then there's the fact that it doesn't do investigations but rather passes the information, once it meets a reasonable threshold, to law enforcement agencies, such as CRA and others, that have the appropriate warrant powers and safeguards in their own space to make sure that Canadians' information is being used appropriately.

● (1045)

Mr. Greg Fergus: The charter is also a flexible document, though. I mean, it does take into account the changing attitudes of the time. Is there a sense, at least among officials, that the charter could evolve, or that the context could evolve, so that the charter might be more flexible on the question of tracking or putting more limitations on the right to privacy so that we can ensure that we're not engaging in money laundering or terrorist financing?

Ms. Annette Ryan: Mr. Chair, I would defer the large part of that question to my Justice colleagues, who I understand will be invited to appear.

I think the evolution in the legal space, coupled with the evolution in the technological space, does give promise that it's the algorithms, the patterns involved, that are problematic and can be brought together so that it's people's suspicious behaviour that surfaces to the fore, along with the right protections to ensure that there isn't inappropriate search and seizure and other legal concepts that the charter was put in place to protect in that balance of democracy and privacy versus safety and security.

The Chair: We will have to leave it at that.

Thank you all.

For people who may pay attention to this committee versus the Department of Finance's website, I do note that the discussion paper is on department's website. I understand that submissions on this paper will close on April 30. That's just for your information.

I think you can figure on being invited back on the discussion paper itself, although I do note that in here you lay out the key developments since the last review and legislative and regulatory amendments. In response to what Mr. Dusseault asked earlier, please try as best you can—I know and have been told that it's fairly difficult—to give us some kind of response on what has happened with each of the 18 recommendations that were in the last Senate review report.

Dan.

Mr. Dan Albas: In regard to the website and whatnot, because there are a number of people who may want to follow the committee's work, and since we've referenced the document, perhaps we could put a link to it on our website, as well as to some of the information the analysts have prepared. I'm not sure if that's in line with protocol, but I certainly think that the more people know about this and get involved, the better.

The Chair: Okay. We can look at that doing that as the finance committee.

Thank you again. I think we had a very broad exchange.

The meeting is adjourned.