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Chair

The Honourable Wayne Easter

Standing Committee on Finance

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● (1605)

[*English*]

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

I apologize to witnesses in advance. We're going to run a little further behind because we're going to have to deal with committee business at the start of the meeting rather than at the end.

I would ask the clerk if he could give the subcommittee report to the committee, and then we'll discuss it.

I'll read it:

> Your Subcommittee met on Tuesday, March 27, 2018, to consider the business of the Committee and agreed to make the following recommendations:
>
> 1. That, in relation to the statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, the Committee dedicate additional meetings based on the remaining lists of witnesses provided on Friday, February 16, 2018; and that, should the Committee's travel to Toronto, Ontario, London, United Kingdom, Washington, D.C. and New York City, New York, United States of America, in Spring 2018, be cancelled, efforts be made to invite these witnesses to appear by videoconference.

I think that's clear to everyone, given the travel difficulties we're having in the House at the moment. If this committee's travel gets cancelled as a result of that or doesn't get authorized tomorrow, then we would have to try to invite witnesses by video conference.

> 2. That, notwithstanding the Committee's routine motion on the distribution of documents adopted on Wednesday, February 3, 2016, and the usual practice of committees concerning access to electronic documents, Pierre-Luc Dusseault and Pat Kelly be added to the Committee's distribution list and be granted access to the Committee's digital binder site for the remainder of the parliamentary session.
>
> 3. That the Committee retain interpretation services in regards to....

I'll not go through all the places again related to the trip related to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

> 4. That the Financial Consumer Agency of Canada be invited to appear to discuss their review of bank sales practices prior the commencement of the study of a budget implementation bill.
>
> Respectfully submitted.

It is moved by Ms. O'Connell, seconded by Mr. Dusseault.

Is there any discussion on the subcommittee report?

(Motion agreed to)

The Chair: You have a motion, Ms. O'Connell?

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): I do, if we can distribute it in both official languages.

The Chair: Yes.

Ms. Jennifer O'Connell: Mr. Chair, do you want me to read the entire motion?

The Chair: It is before committee members.

Do you want it read, members? We talked about it at the subcommittee, in terms of what the thrust might be.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): People might be watching at home.

The Chair: Okay, please read it, then, Ms. O'Connell.

Ms. Jennifer O'Connell: Thanks.

> 1. That the Committee begin a subject matter study of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018, and other measures on Tuesday, April 24, 2018, if the Bill itself has not yet been referred to the Committee.
>
> 2. That the Committee hear from departmental officials on the subject matter of Bill C-74 on Tuesday, April 24[,] 2018, from 3:30 p.m. to 5:30 p.m.
>
> 3. That, if Bill C-74 is referred to the Committee by the House during the subject matter study of the Bill, all evidence and documentation received in public in relation to its subject matter study of Bill C-74 be deemed received by the Committee in the context of its legislative study of Bill C-74.
>
> 4. That the Clerk of the Committee write immediately to each Member of Parliament who is not a member of a caucus represented on the Committee, to inform them of the beginning of the subject matter study of Bill C-74 by the Committee and to invite them to start working on their proposed amendments to the Bill, which would be considered during the clause-by-clause study of the Bill.
>
> 5. That Members of the Committee submit their prioritized witness lists for the study of Bill C-74 to the Clerk of the Committee by no later than noon on Friday, April 13, 2018, and that these lists be distributed to Members that same day.
>
> 6. That the Subcommittee on Agenda and Procedure meet on Monday morning, April 23, 2018, to finalize the list of witnesses to be invited to appear on Bill C-74.
>
> 7. That the Committee hear from witnesses on Bill C-74 from April 24, 2018, to May 10, 2018.
>
> 8. That the Committee invite the Minister of Finance to appear on Bill C-74 on Thursday, May 3, 2018, from 4:00 p.m. to 5:00 p.m., and that officials appear from 5:00 p.m. to 6:00 p.m., if necessary.
>
> 9. That proposed amendments to Bill C-74 be submitted to the Clerk of the Committee in both official languages by 5:00 p.m. on Tuesday, May 15, 2018, at the latest.
>
> 10. That the Committee commence clause-by-clause consideration of Bill C-74 on Tuesday, May 22, 2018, at 3:30 p.m., subject to the Bill being referred to the Committee.
>
> 11. That the Chair may limit debate on each clause to a maximum of five minutes per party, per clause.
>
> 12. That if the Committee has not completed the clause-by-clause consideration of the Bill by 9:00 p.m. on Wednesday, May 23, 2018, all remaining amendments submitted to the Committee shall be deemed moved, the Chair shall put the question, forthwith and successively, without further debate on all remaining clauses and proposed amendments, as well as each and every question necessary to dispose of the clause-by-clause consideration of the Bill, as well as all questions necessary to report the Bill to the House and to order the Chair to report the Bill to the House as soon as possible.

The Chair: Do you so move?

Ms. Jennifer O'Connell: Yes.

The Chair: Is there a seconder?

It's open for discussion.

Mr. Albas.

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

I certainly appreciate the member reading it out for the people at home. I really want to make sure we're being clear on exactly what we're doing. This is a pre-study. The bill itself was tabled in the House yesterday. A technical briefing was given about eight hours later, I think. There were a number of us who raised concerns publicly in yesterday's meeting that it's not a good process.

That being said, the only question I would have here is about how, when we go through it, there is a provision such that the chair may limit debate to a maximum of five minutes per party. Could you just reassure me, Mr. Chair, on what the typical practice is? Not every clause receives five minutes of attention.

● (1610)

The Chair: I guess that if things get really sticky we'll have to limit it to five minutes. In the past, in terms of the budget implementation act, we have taken as long as 20 minutes or half an hour on some points that seemed to require a lot of debate, and I think we're open to that flexibility again. I do understand where the government comes from. If we get into filibusters and those kinds of things, we'll need to be able to limit the debate to meet the conditions that are laid out in number 12. From my perspective, I think you'll find that we'll be fair.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Out of respect for the witnesses with us today, I will be brief.

Bill C-74, which is 547 pages long, has not even been voted on yet, but the government is already predicting that it will be passed. In other words, it is anticipating the result of a vote in the House of Commons. I would like the record to reflect my disagreement with this practice.

I would also like the record to reflect my disagreement with points 11 and 12 of the motion, which limit the time allocated for the clause-by-clause consideration of the bill as a whole. They are seeking to limit the attention parliamentarians may devote to this 547-page bill. We want to make sure that, at the end of the process, we have done our due diligence.

I would simply like the record to reflect my disagreement with such an undemocratic process.

[*English*]

The Chair: That's noted. Is there any further discussion?

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec (Calgary Shepard, CPC): I'm going to point out something here. I'm holding the bill in my hands, but the clause of this motion says that we'll start clause-by-clause consideration of Bill C-74 on Tuesday, March 22, and by May 23, if we haven't finished it by 9:00 p.m., all the remaining amendments submitted to committee shall be deemed moved. The chair shall put the question forthwith and successively. This means that there's very little way we can actually get through this. I remember that the last time we went through it, I reserved my remarks to about 12 to 15 clauses with which I had serious issues, where I proposed some amendments. This is a bigger bill than last year's, and it goes into far more detailed taxation issues that I need to read up on and on which I need to get up to speed, because it goes outside of just strict budgetary matters, I would say.

You're severely limiting my ability as an individual member to represent, which is why I kind of have an issue with the “limiting it to the party” thing as well, not that I'm all that verbose at times. I'd like to be able to thoroughly review the budget bill in its entirety, and in its minutiae as well, because a lot of these odd clauses get caught in that moment. I remember that in clause-by-clause you actually learn more about the budget bill than at any point because you hear from others on their viewpoints. I'm just a little bit concerned that we won't be able to give this bill the due diligence it deserves.

The Chair: Is there any further discussion?

(Motion agreed to)

The Chair: We'll turn now to the witnesses.

Go ahead, Mr. Kmiec.

Mr. Tom Kmiec: Mr. Chair, in talking right before the meeting, I advised the clerk that I'm just giving notice of motion. I have two motions. The first is:

[*Translation*]

> That the Chair of the Committee writes, as soon as possible, to the Chair of the Standing Committee on Industry, Science, and Technology, inviting that Committee to study the April 2017 report of the Office of the Superintendent of Bankruptcy (OBS) entitled “Review of Licensed Insolvency Trustee Business practices in relation to administration of consumer insolvencies.”

[*English*]

I have five copies in French and English.

The Chair: The notice is given.

● (1615)

Mr. Tom Kmiec: I do have one more motion.

The Chair: Go ahead.

Mr. Tom Kmiec: This is my second motion:

> That the Standing Committee on Finance undertake a study over a period of four meetings to review the tax revenue losses to the federal government, including but not limited to royalties, personal and corporate income taxes, and levies, as well as review the fiscal impacts, including loss of business and economic activity, resulting from the construction delays of the Trans Mountain Expansion Pipeline, that the Committee review the potential long-term federal benefits, including employment opportunities that the project would generate, and that the Committee would report back to the House and make a recommendation as to whether or not the Government of Canada declare the Trans Mountain expansion project to the national advantage of Canada and invoke Section 92(10)(c) of the Constitution of Canada.

The Chair: It is noted that notice is given.

With that, thank you all.

Thank you, witnesses, for your patience.

As I think everyone knows, but just for the record, the finance committee is continuing its study on the statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

We welcome the witnesses.

First we have the Canadian Bankers Association with Ms. Stephens, Assistant General Counsel; and Mr. Davis, Chief Anti-Money Laundering Officer. The floor is yours.

Ms. Sandy Stephens (Assistant General Counsel, Canadian Bankers Association): Thank you very much.

The Canadian Bankers Association would like to thank members of the committee for inviting us to participate in the review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. On behalf of our member banks, we welcome the opportunity to contribute our comments on this important piece of legislation.

From the beginning, the financial industry has taken its responsibility in this area very seriously and has worked co-operatively with the Department of Finance, law enforcement agencies, prudential regulators, and FINTRAC on the development and implementation of the regime. Banks in Canada are fully committed to supporting the fight against money laundering and terrorist financing. The banks' central role in the regime gives them hands-on experience and insight into where the regime could be improved to be more effective and efficient in its fight against money laundering and terrorist financing.

Today I will speak to our recommendations with respect to the following three topics: strengthening the regime, information sharing under PIPEDA, and client identification in a digital economy.

With regard to strengthening Canada's AML-ATF regime, we note that new provisions, regulations, and guidance are always being added to the AML-ATF regime in order to keep pace with the changing landscape for financial services. While we fully support ongoing efforts to strengthen the regime, it is becoming increasingly complex, with significant regulatory, resource, and operational costs that continue to grow.

In that regard, the banking industry is a strong supporter of using a more risk-based approach to the regime. Reporting entities should be encouraged to focus on risk typologies and customers who demonstrate significant AML-ATF risk. By focusing on high-risk transactions and patterns, banks would be able to effectively dedicate resources where they can achieve the greatest benefit.

The CBA also recommends that the regime be enhanced through greater collaboration, communication, and information sharing between governments, law enforcement, and financial institutions. This includes, one, using a more aligned and consultative approach to legislation and guidance; two, working jointly to develop typologies and identify high-risk transaction patterns; three, sharing information on individuals or entities under investigation; and four, allowing FINTRAC to request additional information once it has reasonable grounds to suspect money-laundering or terrorist financing activities.

We believe that overall, these changes would help strengthen the regime. Also, in order to ensure the regime is functioning effectively, we support the collection and publication of data with respect to investigations, prosecutions, and convictions.

The next topic I'd like to go over is information sharing under PIPEDA. We believe the ability of banks to help protect against financial crime would be enhanced if PIPEDA were amended to allow financial institutions to share information among themselves to detect and prevent other types of serious criminal activity beyond fraud. Currently, the relevant provision in PIPEDA is limited to where it is reasonable for the purposes of detecting or suppressing fraud, or of preventing fraud.

This makes it challenging for the financial system to effectively restrict a customer who is considered to present higher risk for money laundering or terrorist financing from having access to services. If one financial institution, for instance, believes that one of its customers is involved in one of these activities and accordingly terminates the relationship, there's virtually nothing to stop them from just moving down the street and going to another institution.

We strongly support the recent ethics committee's recommendation that PIPEDA be amended to allow for a broader range of instances where financial institutions can share information. It should go beyond financial fraud to include money laundering and terrorist financing, to strengthen the regime as a whole. At the same time, we recognize that any measures taken to enhance information sharing must be balanced with privacy considerations.

My last topic is related to client identification in a digital economy. It is imperative that the AML-ATF regulations continue to be flexible and adaptive in an environment of rapid development and adoption of emerging technologies. Banks need to harness the ever-changing world of digital technology solutions, including innovative and secure means of performing identification, to meet the consumer demands of banking in a non-face-to-face environment. There is still a reliance on physical viewing of identification documents. We believe the legislation needs to be expanded to allow for the use of advanced technology that has the ability to perform remote identification.

● (1620)

This can be done through mechanisms such as online scanning, data extraction, and document authentication; live video connections; blockchain; biometrics; and other methods as they become available in the near future. Many of these methods have the potential to provide greater security and accuracy for client identification than reliance on the viewing of physical documentation at a branch.

In closing, we would like to reiterate the strong support of the banking industry for the AML-ATF regime. We are pleased to have an opportunity to work co-operatively with the government and parliamentarians to ensure that Canada's system is effective and efficient.

Thank you once again for providing the CBA with this opportunity to offer our views.

The Chair: Thank you very much, Ms. Stephens.

Turning then to the Credit Union Association, we have Mr. Pigeon, Assistant Vice-President; and Ms. Kellenberger, Senior Manager, Regulatory Policy.

Welcome.

Mr. Marc-André Pigeon (Assistant Vice-President, Financial Sector Policy, Canadian Credit Union Association): Thank you for the opportunity to talk about the 2018 statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

I'm going to approach this issue from the perspective of our 260-plus members that we often characterize as the small businesses of the Canadian financial sector. Our concerns, as you'll see in my comments, are really oriented from that perspective.

[*Translation*]

I would note first of all that the credit union system is pleased to see that the government is seeking a balance between regulatory compliance and the associated costs. Credit unions know they have a role to play in fighting these criminal activities. They are apprehensive, however, about the expansion of this framework to include sectors in which small entities, such as credit unions, do not always have the required resources or knowledge.

We also recognize that financial institutions have a responsibility to know who they are dealing with. That is the foundation of our business model. That said, our members maintain that due diligence as regards money laundering, collecting information, and documentation requirements is costly and prevents them from focusing on their core mandate, which is serving their members.

[*English*]

All this matters because our research, and research internationally, have found repeatedly that regulatory compliance, especially with money laundering and terrorist financing obligations, impose a disproportionately large and heavy burden on credit unions, smaller institutions, and smaller credit unions in particular. In fact, I think this creates a barrier to entry or good competition in the banking sector. It's a serious issue for us.

With the proposed expansion of the framework to cover new sectors, it would seem this load will spread to more entities. I know it's difficult to argue against the logic behind moving towards functional regulation, but it's also hard to imagine how collecting more information will necessarily lead to a more successful policy outcome. So far, the evidence we've seen does not bear that out.

It's true that some of the proposed changes try to make the overall framework more efficient and responsive. We are concerned, however, that some of these are just tweaks to what is frankly often a burdensome and not always efficient or effective system.

We'd like to suggest a different approach. We'd like to suggest the adoption of a model built around a simplified due diligence process for use in situations where there is little risk of services or customers becoming involved in money laundering or terrorist financing. Other jurisdictions have already adopted this approach. We believe that following their example would lead to the same results, namely reducing or at least limiting the increase in administrative burden imposed by the framework. Further, we think it would do so without affecting the value or quality of the gathered information.

This alternative model could also leverage new technologies to achieve the goal of capturing useful information while minimizing the cost of doing so. For example—I think this has been discussed publicly—the public sector might consider creating industry-wide information clearing houses. These clearing houses could collect beneficial ownership information, from annual tax reports, that could be keyed to unique identifiers assigned to each tax filer. By limiting a reporting entity's obligations to obtaining this unique number from their clients, the resulting compliance burden could be meaningfully reduced. Reporting entities would no longer need to go through the inefficient and duplicative effort of gathering this information from each account holder.

From the client's perspective, it would be less time-consuming and repetitive, especially for clients who hold accounts at several reporting entities. For the public sector, this approach could increase confidence that the information is secure, consistent, verified, and accurate. Since the detection of money laundering often hinges on observing the flow of funds among parties, policy-makers may also want to consider tying this approach into some of the changes that are being proposed as part of the payments modernization effort.

● (1625)

[*Translation*]

In short, we think the approach we are proposing would give credit unions and other reporting entities more time to focus on what is truly important, namely, explaining the context of transactions, rather than recording the usual, factual information.

The measures we are proposing are not simple to implement. We admit that. Yet if we are to strike a balance between costs and results, we encourage policymakers to carefully consider our proposals.

[*English*]

As I wrap up, I'd like to briefly shift to thanking this committee for the support it gave to credit unions as we worked to secure the right to use generic banking terms. Yesterday, as you know, the federal government introduced proposed changes as part of its budget implementation act that for us represent important progress on this file. This committee deserves credit for its support.

I'd be happy to take your questions on today's topic and also to appear on your Bill C-74 review.

Thank you very much.

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

From the Canadian Life and Health Insurance Association, we have Mr. Kohn, Counsel; and Ms. Birnie, Assistant Vice-President, Compliance. Welcome.

Mr. Ethan Kohn (Counsel, Canadian Life and Health Insurance Association): Thank you, Mr. Chair.

As you mentioned, my name is Ethan Kohn. I'm Counsel at the CLHIA. My colleague Jane Birnie from Manulife Financial is here. She is the Assistant Vice-President, compliance.

We'll begin with an opening statement, and then we'd be pleased to address any questions the committee might have.

The Canadian Life and Health Insurance Association is a voluntary association with member companies that account for 99% of Canada's life and health insurance business. The life and health insurance industry is a significant economic and social contributor in Canada. It protects over 28 million Canadians and makes $88 billion a year in benefit payments to residents in Canada. In addition, the industry has over $810 billion invested in Canada's economy. In total, 99 life and health insurance providers are licensed to operate in Canada, and three Canadian life companies rank among the 15 largest life insurers in the world.

[*Translation*]

Our industry is proud to do its share in fighting money laundering and terrorist financing. When proceeds of crime are introduced, layered, and integrated into the financial system, public confidence is eroded. Companies with weak controls risk having significant administrative penalties imposed, and they also risk considerable damage to their reputation.

[*English*]

This committee has heard from a number of witnesses, including FINTRAC, that a risk-based approach to compliance and to enforcement is an objective of Canada's AML regime. Because neither reporting entities nor government agencies enjoy unlimited resources, it is important that they focus on the areas of greatest potential exposure. In this regard, I would note that the insurance industry is relatively low risk. We offer long-term protection products for which a significant majority have a clear source of funds, which makes it unlikely that bad actors will exploit the insurance sector. To illustrate this point, in 2016 over three-quarters of premiums received were in regard to products that carry a low risk for money laundering and terrorist financing. These products include term life, group life, registered annuities, disability insurance, and uninsured health contracts.

● (1630)

[*Translation*]

I would also note that the personal insurance industry is unique among all reporting entity sectors—not only are insurers subject to the act, but so too are their primary distribution network, life insurance advisors.

Each individual advisor must have controls in place similar to those required of insurers.

[*English*]

For our industry, there really are belts and suspenders in place.

I will turn now to the question at hand, this committee's examination of the PCMLTFA as part of the five-year review. You've heard from previous witnesses that the FATF assessed Canada's regime as being largely effective in containing ML-TF threats, and that Canadian financial institutions have a good understanding of their risks and obligations, and generally apply adequate mitigation measures. We agree with that, though there is always room for improvement.

With that, I'll turn the floor over to Ms. Birnie.

Ms. Jane Birnie (Assistant Vice-President, Compliance, Manulife, Canadian Life and Health Insurance Association): Policy-makers have made good strides in examining and improving aspects of the system that present real challenges for insurers. One example is the requirement that institutions identify the beneficial owners of corporations. As you know, the government is working with the provinces in devising a system that would have corporations report their controlling shareholders. We understand there could be sensitive information in such a repository, and unfettered access may not be appropriate. Limited access by authorized financial institutions, however, would avoid the need for each institution to replicate the work of determining beneficial ownership. It would make a better customer experience when applying for our products, as there would be fewer questions to ask and less documentary evidence to produce. This would have a dual benefit of enhancing privacy rights and reducing regulatory burden on every legal entity in Canada.

We also appreciate recent enhancements to identification requirements. Last year, the government responded to industry and introduced greater flexibility in the documents that constitute acceptable forms of identification. Going forward, we support further efforts to expand ID methodologies, such as digital identification.

Over the past couple of years, amendments have also been made to enable FINTRAC to exchange information with more of its federal and provincial partners, such as securities regulators and national intelligence agencies. If this were extended to allow FINTRAC to share information with reporting entities, there would be benefit to industry and to Canadians alike.

In each of these areas, we see real signs of progress, and we encourage Finance, FINTRAC, and OSFI to continue their efforts in identifying and addressing other aspects of the regime that would benefit from streamlining, bearing in mind the primary objective of the act: minimizing the abuse of Canada's financial system by money launderers and terrorists.

Thank you for inviting us today, and we're pleased to answer any questions.

The Chair: Thank you very much.

Turning to Mr. Lareau, as an individual, Associate Professor at Université Laval, the floor is yours. Welcome.

[*Translation*]

Prof. André Lareau (Associate Professor, Faculty of Law, Université Laval, As an Individual): Hello. Thank you kindly for inviting me.

As you said, I am an Associate Professor in the Law Faculty of Université Laval, a tactful title for a retired professor who still makes a contribution to the university community.

I am not an expert on the application of the Proceeds of Crime and Terrorist Financing Act. I specialize in taxation only, so my comments today will be limited to taxation in international transactions. I do not claim to have the solutions, but I would still like to put forward some hypotheses that may or may not be borne out.

Laurent Laplante, a journalist and essayist who I greatly admired, told me about twenty years ago that we cannot control what we cannot see. That is true for the criminal activities we are discussing today. Applying that statement to taxation, we can see that crime draws its strength from secrecy. When essential information that is needed to understand a commercial transaction remains secret and is not disclosed to the authorities—who nonetheless should have access to it in order to do the necessary audits and calculations—that means that our detection tools are inadequate.

In short, these weaknesses of our tax system that I have identified —some fiscal, others more commercial—can be exploited by tax evaders. I will explain them in greater detail later on or in answering your questions.

First, our tax legislation is very attractive, especially to international players, as it provides a screen and camouflages illegal transactions through the exempt surplus. I will talk about this later on.

Second, the fines for tax evaders, tax criminals, are too lenient. Most of these people do of course have advisors, guides, who are experts in taxation and who do not act alone. Recently, a businessman in Quebec City told me that he had been approached several times by accounting firms to carry out large international transactions, using tax havens in particular. He was also told several times that it was risky, but that it should work. He turned down those offers.

There is a third element, something that could be discussed. I am referring to bearer shares, which are used in tax evasion and are often denounced. Unfortunately, the Canadian Bar Association made an exception to this rule and did not speak out against them. Stating that this would interfere with tax planning, it argued for the status quo.

The voluntary disclosures program is the fourth element. In spite of the most recent changes to the program, it needs to be completely reviewed and to a large extent scrapped. The United States has in fact just announced that it is scrapping its offshore voluntary disclosure program; the program will be eliminated in a few months.

The Jordan decision is the fifth element, and it is increasingly being raised in taxation matters. In a very recent decision regarding tax evasion of $31 million related to contraband tobacco, a Quebec Court judge dismissed the charges on February 26, 2018, in accordance with the Jordan decision.

The sixth element pertains to changes that should be made to paragraph 55(3)b) of the Proceeds of Crime and Terrorist Financing Act, in order to expand the powers of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to require it to disclose information to the Canada Revenue Agency. Paragraph 55 (3)b) is poorly written, in both English and French, but I would say the French version is even worse.

Another element that I will discuss very briefly is the ability of foreign companies to pay tax-free dividends to Canadian parent companies through the exempt surplus.

● (1635)

My explanation is as follows: there is nothing stopping a foreign company that is located in a tax haven, where there are few controls, and that is affiliated with a Canadian company from smuggling firearms or selling illicit drugs and recording those revenues under the company's exempt surplus, since there are no controls in the foreign country. As a result, in many cases no one is the wiser when those amounts are repatriated as dividends payable to the Canadian parent company, because form T1134 requires very little information from the dividend recipient.

As a colleague from the Canada Revenue Agency told me recently, it is obviously worse when the parent company is not subject to an audit. It is smooth sailing because the Canadian parent company deposits the amount it receives in its bank account and not in a non-resident entity. The resident entity may deposit amounts from abroad. That is a major problem. As someone noted, a new generation of tax evaders could take advantage of this situation.

Why then should we not require the foreign entity that pays dividends to a Canadian parent company to obtain certification from an expert in the field to certify that the revenues earned are indeed from legitimate operations? And at the same time, of course, impose prison terms for experts who sign off on something that constitutes fraud?

Canada has concluded 23 information sharing agreements and more than 90 tax conventions, in some cases with countries that merrily engage in fraud.

On March 26, just two days ago, an article by Jeremy Cape was published in the *Tax Notes International*.

[*English*]

He is a tax and public policy partner with Squire Patton Boggs in London.

[*Translation*]

Mr. Cape said the following about Nigeria:

[*English*]

> If I were a Nigerian living in Nigeria, I'm not sure I'd be wholly compliant with my tax affairs. In fact, there's a good chance I'd be a tax evader.

[*Translation*]

There is in fact a lot of tax fraud in Nigeria, and Canada has a tax convention with that country.

There are other aspects as well. I could mention Panama, with which Canada concluded an information sharing agreement. Article 6 of that agreement should include a foreign control mechanism to allow us to investigate what is happening abroad, but it does not. There is an article 6 in 22 other information sharing agreements, allowing Canada to investigate what is happening in those countries, but there is no such article 6 in the agreement with Panama.

As recently as yesterday, the Canada Revenue Agency told me not to worry about it, since Canada has signed the Convention on Mutual Administrative Assistance in Tax Matters. Article 9 of that convention does in fact provide that countries may conduct investigations in other countries, but Panama has set aside article 9. Since it does not subscribe to that article of the convention, Panama could refuse to let foreign countries conduct investigations within its borders.

● (1640)

[*English*]

The Chair: Could I ask you to wrap up fairly quickly, as we're slightly over time?

[*Translation*]

Prof. André Lareau: I will be pleased to answer your questions.

[*English*]

The Chair: Good. Thank you very much.

Given the time, we will go to six-minute rounds and for the first round, we have Ms. O'Connell.

Ms. Jennifer O'Connell: Thank you all for being here.

I'm going to start with the Canadian Bankers Association. You mentioned the potential for PIPEDA changes and sharing of information between financial institutions. I can certainly see why you raised that. Would FINTRAC not contact...? For example, let's say they had a report from one institution and they could trace funds between one institution and another that may have shown up somewhere, would they not contact the other institution to make sure that they were at least aware that this has been flagged?

Ms. Sandy Stephens: FINTRAC is given information. It currently doesn't have the ability to provide information back down to private industry. There is sharing at the governmental level, obviously, but there's no ability to share back down.

Ms. Jennifer O'Connell: FINTRAC themselves never come back to you...? I know what their role is, which is to receive the information, but they never come back to flag anything?

Ms. Sandy Stephens: No, but that is also one of our recommendations: that they have the ability to come back. Again, that would allow for more targeting, so you're not boiling the ocean so much with all of this reporting. With information sharing, etc., you can have a more targeted approach.

Ms. Jennifer O'Connell: I'm assuming that you can at least understand.... I guess the concern would be how we ensure that institutions aren't sharing with each other or verifying risky transactions, making sure that everything's reported to FINTRAC, but also that there isn't, for example, some type of stigma for transactions that are fine and turn out to be totally legitimate, but perhaps banks say that if something was flagged for an individual they're just going to decide not to do business with them anymore.

● (1645)

Ms. Sandy Stephens: I think this is an incremental change. There's already a provision in PIPEDA under paragraph 7(3)(d.2) that allows for sharing for preventative purposes for fraud. It states specifically that it's where it's likely to be committed. It's not a wholesale sharing of information. It's a limited purpose for where it's likely to be committed. If you swapped in money laundering for fraud, it would be where money laundering is likely to be committed. I think it's an incremental ask. There are already constraints around how you could use it, to protect privacy.

Ms. Jennifer O'Connell: You essentially want to duplicate those types of regulations but include money laundering and anti-terrorism?

Ms. Sandy Stephens: Exactly. It would just be adding in another element. It's not just fraud but predicate offences to money laundering, as well as money-laundering offences.

Ms. Jennifer O'Connell: Okay. Thank you for clarifying.

I'm going to move to the credit unions, please.

We certainly heard this before when we had testimony from different officials in terms of credit unions. You mentioned in your testimony as well the model of knowing your customer and things like that. I can see that certainly in a lot of communities, but there are still credit unions in big cities and a lot of customers, and it would pose a challenge to know your clients all that well.

I understand that's the model, but in today's day and age that's certainly not possible everywhere. How would the credit unions see their role in ensuring that you do try to know your customers, but if you can't physically know them, that you have other conditions in place?

I'll ask you a two-part question all at once. Also, we know from the larger banks and the testimony we heard earlier that there are systematic flags built within the system. The average teller isn't going to know that even though it might be an amount under the $10,000 that is being transferred, there are flags built into the system. I can't imagine that every credit union—the smaller ones—could have that technological infrastructure. What role do you see in terms of knowing your customer and technology and those costs, then?

Mr. Marc-André Pigeon: I'll start with the framing. You're right. In the larger urban centres, that's where we tend to find the larger credit unions, as you might expect. In the rural settings, I would hazard to say that most credit unions do know most of their members. You're right. In the bigger institutions, there would be more challenges in that respect.

Similar to our friends at the CBA, we are advocating for a risk-based approach. That's where the simplified due diligence approach would help address the regulatory burden side of things while still keeping the trappings of the broader framework. Again, we know that other countries have implemented this, and this is a good way to address the regulatory burden side while still maintaining a robust system. Australia and the U.K., for example, have set thresholds where you report if a transaction goes above a certain amount or you do it on a periodic basis.

I might get my colleague Sabrina to add to this, if she has anything she'd like to build on.

Ms. Sabrina Kellenberger (Senior Manager, Regulatory Policy, Canadian Credit Union Association): Your comment that perhaps the smaller credit unions are not able to use technology as much is partially true, but most do have very sophisticated banking systems that do allow detection of the types of transactions you're talking about. For transactions that would violate the 24-hour rule, definitely, we do have the ability to pick those out from a technological perspective.

That said, there certainly is a component of knowing your customer, because it's a small community. In the larger credit unions, that is lost somewhat, but I don't think we're in any different position there than a bank or any other financial institution.

● (1650)

The Chair: That will end that round.

Mr. Kmiec, go ahead for six minutes.

Mr. Tom Kmiec: Most of my questions will be to the credit unions association.

You mentioned the simplified due diligence process, and then you also mentioned that others have done it. Can you explain what "others" includes? Who has done it? How did they do it? What type of simplification did they do? What were some of the reporting elements that they stopped asking for, or maybe asked for in a simplified way?

Mr. Marc-André Pigeon: I'll start off and then I'll ask my colleague to fill in.

The U.K. example is one that we've documented a little bit, and we'd be pleased to share more information after the meeting as well. In the U.K., they would approach the application of the simplified due diligence approach in cases where, for example—and I'll just read off my list here—the person's total annual turnover in terms of financial activity does not exceed 64,000 pounds, for example; the financial activity does not exceed 5% of the person's total annual turnover; the financial activity is ancillary and directly related to the person's main activity.... There is a long list of instances in which they would apply this simplified due diligence approach.

I don't know if Sabrina would like to add anything to that.

Ms. Sabrina Kellenberger: The FATF has actually, within its recommendations on financial inclusion in particular, put out quite a significant paper on how a simplified approach to due diligence can encourage financial participation in the economy. Some of the things they are citing are issues like verifying the customer identity or beneficial ownership after the establishment of a business account so that in cases of a small business you're not crippling that business from moving ahead financially by putting all this process around it. Then they put limits on it. Once you have done this for 12 months, you have to start meeting the full requirements of customer due diligence, or if you exceed certain transaction thresholds, you start doing it.

The idea is not dissimilar to the idea of fintechs and sandboxes in which, for a certain length of time, you allow participation on a compliance-relief basis, and then slowly move to a full compliance.

Mr. Tom Kmiec: Just so that I understand, it basically sounds like a two-track system where, depending on your process or amounts or types of clients, you stay in one area, and then once you cross some type of threshold, you go into the regular "FINTRAC-esque" model in the U.K. system.

Ms. Sabrina Kellenberger: Yes.

Mr. Tom Kmiec: Okay.

When someone becomes a member of a credit union, obviously, I figure that a lot of your members who do business with you do so for an exceedingly long time. The same goes for a lot of Canadians who stay at the bank they get when they're 18 or 16. It's typically the bank they stay with for the rest of their lives.

You obviously know quite a bit of information on your clients. You already know where you have problems. You don't have people just randomly walking in to open an account with you.

You already know so much about your client, but then FINTRAC makes you track more information about your client given the compliance related to it. Do you know how much it costs you, per client? Have you ever done an assessment or a cost analysis of how much extra it costs you to try to comply with all these rules for people you really trust and know, because they're members of yours?

Mr. Marc-André Pigeon: We haven't done an analysis for AML-ATF in particular. We've done analyses around total regulatory burden, but AML-ATF is always cited as the number one most burdensome regulatory policy out there.

I can give you some numbers from a study one of our member centrals did of Ontario and B.C. credit unions. They found that the compliance cost per member—and, again, this is for the entire suite of regulatory policy and positions—was $75 at the smaller credit unions, those with $250 million or less in assets. At the larger credit unions it was $22 per member, for those with $2 billion.

Just within the credit union system, you can see that the impact of regulatory burden is quite disproportionate, depending on your size, per member. We can imagine that, if we extended that to the large banks, the gap would be that much bigger.

These are real numbers we have gotten from surveys, from analysis, and again, this kind of research has been replicated in the U.S., in Italy, and elsewhere in Europe. We even did a study earlier, in 2011, with almost identical results where, within the credit union system, the big guys have five times less cost, from an FTE perspective, than smaller guys do.

● (1655)

The Chair: You have time for a very short one, Tom.

Mr. Tom Kmiec: You mentioned a few international examples of where they have done similar studies. Would you be able to provide that information to the committee through the clerk and the chair?

Mr. Marc-André Pigeon: I would be pleased to.

Mr. Tom Kmiec: Thank you.

The Chair: Mr. Dusseault.

[*Translation*]

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

My first question is for Mr. Laureau, who provided some very interesting and different information from what we have heard in our study thus far. He focused on the international aspects. I would like to know more about that.

You said essentially that it is possible to repatriate funds from foreign countries, sometimes without paying taxes, and that most of the time there is really no due diligence or verification of the source of those funds. The funds could therefore essentially be the proceeds of crime. With regard to those foreign funds entering Canada, you said that there is practically no way of verifying where they come from or how they were generated.

Is that correct?

Prof. André Lareau: That is not quite right. There are rules for transfer pricing, which applies to the extent that it is possible to identify which assets were part of transactions. If the funds are only entering Canada, the recipient company has to fill out form T1134 and indicate the foreign country and the specific activity in that country that generated the funds.

On the assumption of good faith, it is assumed that the real activity will be reported. Since there is no tax audit, however, people can answer those questions as they wish. As a result, funds can enter the country relatively easily. Since we cannot control something we do not see, this is where things get tricky. This can pose a major problem.

Mr. Pierre-Luc Dusseault: Form T1134, where revenues from foreign companies are reported, would have to be more detailed and the Canada Revenue Agency would have to verify more of the information declared on that form.

Prof. André Lareau: Yes. There is no control upstream, that is, on the source of the funds. The Canada Revenue Agency has limited resources. So the payer would have to be subject to more rigorous control. That might require an on-site expert to certify the amount and source of the funds. In the event of fraud, the person would of course be subject to significant penalties.

Mr. Pierre-Luc Dusseault: Okay. That is very interesting.

I would also ask you to comment on beneficial ownership. Canada often ranks near the bottom on company transparency. I do not know if you are familiar with this area.

Prof. André Lareau: No, not enough. I have worked in the field of bearer shares, but I am not the right person to answer questions about beneficial ownership.

With regard to bearer shares, it should be noted that, despite the amendments to Bill C-25, bearer shares that have been issued will continue to be legal. In this regard, we could learn from the Netherlands, where bearer shares are no longer allowed. For the outstanding shares, namely, those that have been issued, a period of two years has been allowed for those shares to be returned into the system and for the shareholder to be authenticated. The Netherlands are a good example as regards bearer shares.

Mr. Pierre-Luc Dusseault: My next question is along the same lines and is for the Canadian Bankers Association.

When a company wishes to open an account, would a registry of bearer shares be a step in the right direction in order to gather more information about clients?

[*English*]

Mr. Stuart Davis (Chief Anti-Money Laundering Officer, AML Enterprise, BMO Financial Group, Canadian Bankers Association): Thank you for having me today and the opportunity to speak to such an important topic.

I think the opportunity for a shared utility that assists the banks in verification of customer information is an outcome that we would like to see achieved in this regime. Again, banks have multiple obligations. We have obligations to collect information. We have obligations to confirm that information and verify it. A registry really helps with latter part of that equation, but in some ways it also may ensure that we have complete information on our customers.

● (1700)

[*Translation*]

Mr. Pierre-Luc Dusseault: I would like to ask essentially the same question to the Canadian Credit Union Association.

Do you sometimes get the sense that you are targeted? I was thinking that the industry might feel that banks have very strict audits. Do you think you are sometimes targeted by ill-intentioned people who might see weaknesses in credit union audits, specifically regarding client information, but regarding audits in general.

Mr. Marc-André Pigeon: I will ask my colleague to answer that question.

[*English*]

Ms. Sabrina Kellenberger: To address your comment on whether we feel targeted, I think the answer to that is no. There seems to be a common misconception that credit unions somehow are weaker or less stringent in the exercise of their due diligence. I can assure you that's not the case. We have to live by the same rules as the largest of the banks. There is no fact to that; it could be a misconception, but that is all it is.

With respect to a registry, we definitely are in support of that. This is one of the areas where I think we could make meaningful reductions in the burden that we carry for compliance, if just the gathering of factual information such as beneficial ownership information can be done just once and it's held in a repository that's accessible to all. That way we could also be assured that everyone is seeing the same information, because right now there's no assurance of that. Clients could come to a bank and give certain information; they could go to another bank and give other information; then they could come to us and give other information. So you could have three sets of information out there that may not be entirely different but not necessarily completely the same either.

[*Translation*]

Mr. Marc-André Pigeon: I would like to elaborate on what my colleague said earlier.

Even small credit unions have access to fairly sophisticated systems provided by their head office. Head offices were in fact designed to develop shared, sophisticated, and modern systems. So we already have some systems.

Further, in smaller regions, we know our members better. I would even say this is an advantage in terms of these issues.

[*English*]

The Chair: Thank you all. I didn't say this at the beginning, but if you have a comment you want to raise when somebody else has been questioned, just raise your hand and I'll let you in.

Go ahead, Mr. Fergus.

[*Translation*]

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

My questions are for the so-called retired professor, Mr. Lareau, and the Canadian Bankers Association representatives.

Mr. Lareau, I'd like to discuss two of the regime flaws you mentioned: light penalties and bearer shares.

I intend to use your comments as the basis for other questions, so I'd like you to elaborate briefly on those two topics. That will also give you a chance to touch on anything you missed during your opening statement.

Prof. André Lareau: It's actually possible to look at a comparison with the United States. Since 2009, the Internal Revenue Service, or IRS, has initiated proceedings against 1,545 taxpayers in relation to activities abroad and 671 taxpayers in connection with tax violations.

In Canada, from 2011 to 2016, proceedings were initiated against 42 taxpayers in relation to tax evasion. A CBC/*Toronto Star* investigation recently revealed that, since 1977, the Royal Bank of Canada had registered 429 offshore companies engaging in tax evasion in Panama. The bank was asked to turn over information, and it complied. It shows, however, how prevalent the use of offshore companies is.

As for bearer shares, everyone agrees that there is a problem. Even academics are saying that Canada is lagging behind on the issue. We have a serious problem, and we can't continue to allow bearer shares to be issued on the market. We absolutely have to get rid of them, since that is what led to the whole Panama Papers debacle. The British Virgin Islands still have bearer shares. My personal prediction is that the Virgin Islands will be the site of the next Panama Papers-style scandal, precisely because they still allow bearer shares.

● (1705)

Mr. Greg Fergus: Thank you.

That brings me to my question for the Canadian Bankers Association representatives.

Thank you very much for your presentation. We previously heard from witnesses who underscored the importance of financial institutions knowing who their clients were. You talked about client identification but wanted the rules to be more lax. You said, and I quote:

> We believe the legislation needs to be expanded to allow for the use of advanced technology that has the ability to perform remote identification.

You're proposing that approach as opposed to mechanisms that would force people to have direct contact with their banker.

How do you think that would improve the system?

[*English*]

Ms. Sandy Stephens: I'll start, and then I'll let my colleague add.

We're moving to a digital environment. That is the way of the world. Innovation is being fostered at all levels, including the government level, and a lot of those transactions or account openings are moving into the digital sphere. I don't think it's weaker, because many of the technologies that are coming out could be stronger. There are examples, such as when you show your driver's licence. If you use it through a digital channel, they can home in and get some data to confirm that it's valid ID.

I don't think we're looking for it to be laxer. I think we're looking for flexibility within the regulations to allow for new technologies to be utilized that are possibly more secure. Right now a very prescriptive regime allows us to use these methods to identify our client. We're suggesting more flexibility. Again, they have to be secure—we're not asking for lax identification—but for flexibility so these new technologies that could be more secure than face-to-face interactions are allowed to be part of the regime.

I don't know if you want to add to that, Stuart.

Mr. Stuart Davis: Thank you, Sandy.

The emergence of fintech has brought forth a whole new realm of opportunities to use technology to enhance identification. I don't think anyone at this table is advocating for a weaker approach to KYC, but we would—

[*Translation*]

Mr. Greg Fergus: Sorry to interrupt, but as part of your answer, could you also talk about how block chains could enhance your ability to identify who your clients were?

[*English*]

Mr. Stuart Davis: Absolutely.

Blockchain presents a unique opportunity for client identification in a secure and encrypted way, using the concepts of digital keys and digital key management. That's an area that we need to contemplate as we look forward to revamping regulations. How will banks use digital key and digital key management in the new regime, and the rights of protecting that information under PCMLTFA and things of that sort?

I'll tie this in quickly with bearer shares, if I may. In the blockchain world, this is a bearer share. If I give you this, it has a private key and a public key, and you own what is in that crypto-wallet or in the blockchain. That is not a mechanism by which the conventional means that we use to track and report on money laundering will work in the future, so there's an opportunity for exploration and new ways of innovation in how we think about AML in a future state in this space.

I welcome ongoing discussions with the Department of Finance, the CBA, and the government on this very topic, with FINTRAC included. The advancements we're seeing in technology create opportunities, but they also create new risks, and we need to be in a position to address that.

● (1710)

The Chair: Sorry, Greg. You're well over time; you may get another chance.

Mr. Albas, you're next.

Mr. Dan Albas: Thank you, Mr. Chair, as well as to all our witnesses for all the work you do and for coming to share your expertise with us today so we can help with this review.

I'd like to talk about FINTRAC in general. I have spoken with a number of credit unions that say that they are spending more and more money to comply with the federal side. There are many touchpoints, and FINTRAC is one of them.

This can be open to the group. FINTRAC collects a lot of data, and it does so on a lot of transactions. Right now, legislatively, it can only utilize that data on a one-to-one basis if it's regarding money laundering or terrorism financing. Then it works with the proper authority to tackle that from there. They cannot share information, by law, because they don't want to compromise privacy. Nevertheless, we know that in places under provincial jurisdiction, such as private mortgages, etc., there are a lot of cash sales that are not picked up by CMHC or by OSFI.

My proposal, as part of some sort of renewal of FINTRAC through this review, would be to see if we can take what is already very costly to credit unions and other reporting agents under this and allow FINTRAC to aggregate so that no personal, private information is compromised, allowing policy-makers to have a better understanding of the markets. For example, real estate professionals do tell me that FINTRAC takes quite a bit of their time. Again, I haven't seen the paperwork, so I can't judge that, but I bet you that if they had a return showing a little bit more information on cash sales in their area or which provinces are the flashpoints for troubles with real estate, they would probably value that. Is this something that you think would be a welcome addition as far as making that information publicly available?

Mr. Marc-André Pigeon: Maybe I'll start off.

It sounds like an interesting proposal. We'd have to give it some thought, but I don't know. Sabrina's more in this area than I am, so maybe she has some thoughts.

Ms. Sabrina Kellenberger: FINTRAC has for some time created their typologies and trends reports. I can't say that I've seen one recently, but those reports spoke very much to what you're suggesting. I think there's always room to do it to a greater extent and to share it more extensively. That's definitely valuable in helping alert reporting entities to what might or might not be compromising to them. This really ties into what our CBA friends have also said, in that there is capacity to use technology to a greater extent to try to identify some of these issues.

Mr. Dan Albas: Would anyone else like to speak to that? Anyone from life insurance?

Ms. Jane Birnie: Sure. I think we would support any initiative that would get greater value from the information that we're providing to FINTRAC.

Mr. Dan Albas: Okay.

In regard to administrative burden...and again, I don't want to say that the $75 per member is all FINTRAC, because that's not fair, and that's not true. It's an accumulation of the common reporting standard and know your client protocols, etc. There's a lot that goes into that, to be clear, but when I asked FINTRAC, when they came to this committee on this review, if they track—and Mr. Kmiec went on this vein, as well—they said that they are very effective at what they do, but they do not track the administrative compliance cost. You can't manage what you can't measure.

Do you think that it would be helpful to know, when they are doing their jobs, that there there was a number that they had to be accountable for, and if it went up over a period of time then public officials like us could better evaluate whether the system is working as is intended?

Mr. Marc-André Pigeon: I think I'll start off, and if my colleague has anything to add, she can.

I think, parroting a little bit the comment that was made earlier, we'd be supportive of any measure that increases awareness about that compliance cost and puts it a little higher up on the agenda. I think the government is striving to achieve a balance between having a robust framework and minimizing costs. I just think we think sometimes that balance isn't always struck quite right. I'd be supportive of anything like what you're proposing that would help with that.

● (1715)

Mr. Ethan Kohn: Mr. Albas, I couldn't agree more. I mean, even small changes in some of the definitions.... I'll give an example. I know you're using the Department of Finance February paper as a foundational document. One of the proposals is to broaden or increase the scope in terms of the definition of what would constitute a head of an international organization, these sorts of changes.

Obviously, the system needs to adapt to perceived threats and money launderers. They change and they amend their ways in response to these things, but in terms of changing the definition of a head of an international organization, these are small changes, but they can result in multi-million dollar costs, certainly to members of our association.

Forms need to be changed, and these changes are made electronically. Training has to be provided. There are outside vendors who need to be engaged, and many insurers often use the same vendors, so when these changes need to be made, and there's a deadline by which that has to happen, there's often competition for those scarce resources, and as you can imagine, what happens is the cost of those resources go up.

Let me just say there are a lot of excellent proposals and suggestions in that paper. We've mentioned a few, but this is one we're quite concerned about.

The Chair: Thank you, all. We have bells ringing, 30-minute bells. Do we have agreement to continue for the foreseeable future?

Mr. Tom Kmiec: Mr. Chair, maybe just one thing, and forgive me for this, but at the beginning of the meeting, I didn't speak to a Governor in Council appointment bill that was provided to us by the clerk, and I want to exercise the committee's right to call forth witnesses, because it is germane to the debate we're having, but I can do it at the end.

The Chair: We'll take it on notice, and we'll have a subcommittee meeting at some point in time to rework the schedule.

Mr. Sorbara, we'll go to four-minute rounds in order to get to all that has to be done.

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

Welcome, everyone, to the committee.

Mr. André Lareau, you mentioned bearer shares in your testimony. Is it correct that you mentioned bearer shares?

Prof. André Lareau: Yes.

Mr. Francesco Sorbara: In the agreement that the honourable Minister of Finance reached with his provincial counterparts, point 2:

> Ministers agreed in principle to pursue amendments to federal, provincial and territorial corporate statutes to eliminate the use of bearer shares and bearer share warrants or options and to replace existing ones with registered instruments.

Was this what you were advocating for in your testimony?

[*Translation*]

Prof. André Lareau: That's what the minister indicated, but an analysis of the bill suggests the exact opposite. According to the legislation, existing bearer shares will continue to be valid unless the holder of the certificate requests that it be converted to a registered instrument.

[*English*]

Mr. Francesco Sorbara: I'll just stop you, because it ends off and it says, “and to replace existing ones with registered instruments”.

[*Translation*]

Prof. André Lareau: Yes, that is what the minister stated, but that is not consistent with what's in the bill. At least, I couldn't find anywhere in the bill where that was indicated, despite reading all the provisions.

[*English*]

Mr. Francesco Sorbara: Thank you for indicating that.

Over to the CBA, on the testimony there is what's called a risk-based approach, and when I think about that, I think it's almost like going through CATSA at the airport, where some people have a NEXUS card, and some people are in priority where they just kind of whiz through and they've already been pre-cleared. The act we passed is called the Preclearance Act.

Is that fundamentally what you are advocating for on strengthening Canada's AML-ATF regime?

Ms. Sandy Stephens: The banks have put a lot of resources into this, and we're not suggesting that we don't want to keep that level of resource. We just want to get the most output for that resource, and we feel the best way to do that is to focus on the highest risk customers or typologies.

Sometimes in the regime, there's a lot of noise that doesn't necessarily cause compliance burden, but it doesn't necessarily bring you a greater output. An example would be ongoing monitoring of an account. You're supposed to have ongoing monitoring of low-risk accounts. You have a retired person, but you're still supposed to make sure that they're retired or they're still living at the same place, those types of things. We want to focus on the risk.

● (1720)

Mr. Francesco Sorbara: Okay. I have a quick follow-up, because I do want to move to the credit unions.

On PIPEDA, obviously there are privacy concerns that we need to deal with if we want to follow the House of Commons ethics committee recommendation to allow further information sharing. Sometimes I'm hesitant to advocate for more information sharing where the safeguards are not in place. I wanted to make that comment.

Going to the credit unions, we had FATCA, I think it was called, introduced a while ago. The burden on the compliance for credit unions, especially some of the smaller ones, is a lot. How are your members handling the compliance costs in terms of what we require, and do they have the wherewithal to potentially withstand more strengthening of compliance measures?

Mr. Marc-André Pigeon: A typical response to increased regulatory demands in the credit union system is to.... As I mentioned earlier in a response to another question, we get the central entities, these entities that are back-office entities that credit unions have created, historically, precisely to deal with these shared demands on the system. If the issue is not being dealt with by a central entity, they'd be creating a credit union service organization so they'd collectively get together and share the costs out. That's one way they can attenuate some of the costs.

Sabrina, would you like to add anything?

Ms. Sabrina Kellenberger: No, I think that's exactly it. We're seeing more and more of the service groups developing as regulatory compliance demands increase.

Mr. Francesco Sorbara: The last thing we want to do is have layering in effect, without getting any sort of output for it.

Mr. Marc-André Pigeon: Perhaps I could add, Mr. Chair, the other reaction that often happens, and our survey from 2011 found this. It compels mergers; it drives the credit unions together to get those efficiencies that bigger institutions have. That's not always the best outcome for Canadians. That local service gets a bit challenged when you're bigger and more widely spread.

The Chair: Thank you for that.

We have two more questioners, Mr. Albas and Mr. Fergus.

Before I turn to Mr. Albas, in the Bankers Association paper, you do outline, on page 4, a number of advanced technologies, including blockchain. We had meetings yesterday with representatives on blockchain. It is a five-year review that we're doing and things in technology happen fast. I'm sitting here wondering how we can make some recommendations along those areas for advanced technology without upsetting the apple cart, if I could put it this way.

Are you suggesting that FINTRAC needs to look at these advanced technologies in terms of how it does business going forward and over time, including blockchain?

Mr. Stuart Davis: I'd respond to that by saying, first of all, the proposed revisions to include the digital currency dealers within Bill C-31 are of particular importance to this industry. But moving too quickly to regulate an industry, where the technology is evolving quickly, could prove problematic or disadvantage Canada in terms of its competitiveness.

What I would suggest, though, is the importance of KYC in terms of onboarding to the blockchain ramp and offboarding of the blockchain ramp, especially involving those aspects of digital currencies. This is an important consideration. I think the inclusion of virtual currency dealers in proposed Bill C-31 does bring that standard of KYC to a very important topic.

Ms. Sandy Stephens: I would add that what I think we're advocating for with the technology is a technology-neutral approach to legislation. Right now it's a three-year credit bureau...or photo ID. You don't need to have prescriptive legislative requirements. You could have a principles-based flexibility that allows for technology to evolve. Obviously, people will have to determine if that technology is secure enough. I think it's more about how you write the legislation in order to allow for that evolution. To your point, every five years it has to be changed—so a little more evergreen.

● (1725)

The Chair: Thank you for that.

Mr. Albas.

Mr. Dan Albas: I think OSFI has a regulatory sandbox project that maybe could be expanded to have small projects where you could try some of these new technologies. Maybe that might not be appropriate for some of the larger banks, but I do know they do it for smaller organizations looking to try new things, and perhaps that might be an avenue for some of those things.

There's been a little bit of talk about clearing houses for information where perhaps you could have beneficial ownership as well as other information being fed in. To tell you the truth, as great as that sounds, I'm extremely reluctant when you see that you have credit bureaus being hacked. You see Facebook structuring itself in such a way that, again, there are breaches or potential breaches. Anytime you have something that's large and big, and inevitably if it's run by government, oftentimes when the budget comes round and people look to save, they don't necessarily update it or continue to keep things strong and that could leave it open to all sorts of things.

Then we also have existing registries, like in B.C. we have the land title registry, which works very well and has always been paid for by those who use it. Again, there would be transition costs and amalgamation costs. There are challenges when you amalgamate certain centres to a central authority; and there are those vulnerabilities. While I like the idea and perhaps we could use things like blockchain, how would you address some of those concerns?

I'd like to start with the bankers.

Mr. Stuart Davis: There are always the aspects of risk with any public registry or repository, but protecting information is instrumental by isolating those who have access to it and providing the right security credentials around it. It is an aspect of build, of any new form of technology, and security can be incorporated into those measures.

The real question to ask, as well, is to what degree is the information sensitive and needs to be protected. There is some information that might be beneficial to have publicly available in this regard and that consideration needs to be undertaken as well. I think there are aspects of public registries in other jurisdictions that have both public and private aspects.

As a banking institution, we use public registries today or private registries through the correspondent banking network, and it has been quite useful to banks to use that.

Mr. Marc-André Pigeon: I might just say that we put forward this idea in the spirit of looking for ways to minimize, again, and get that balance right. That's largely how we've approached this. I think there are a lot of things that need to be thought through, including the issues you've raised. I think we would take your concerns very seriously, of course, in that.

Sabrina, is there anything you'd like to add?

Ms. Sabrina Kellenberger: I think without a doubt any time you have a large database of potentially interesting information to anybody, it's going to pose a security challenge. I think that needs to be weighed, though, against the cost of having everybody repeat this exercise individually. Given the fact that you're now storing the same information, but in a whole bunch of different databases and that security issue still exists, I agree completely that you can mitigate some of those risk issues by controlling who gets access.

Personally, I'm not in favour of a completely public registry of any kind. I think there should be a stringent protocol around who gets access and for what reason.

The Chair: Okay. We'll have to leave it there.

For the last block of questions, Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you, Professor Lareau.

I, too, read Bill C-25, and you would appear to be right. The bill would add new subsection 29.1(1), which seems to confirm what you're saying.

Are you saying the committee should recommend that existing bearer shares be converted without the holder's prior consent?

● (1730)

Prof. André Lareau: I think a grace period might be appropriate.

I will read you a quote from a Canadian Tax Foundation article that came out a few days ago. Talking about the situation in the Netherlands, the author said this:

[*English*]

> [Netherlands] announced that bearer shares would have to be traded through a bank or investment firm, thereby removing their holders' anonymity and eliminating the incentive to use the shares for fraudulent purposes. Furthermore, shareholders were given a two-year period to register their shares with an intermediary designated by the corporation.

And further:

> At the expiry of the two-year period, the shares will be cancelled and corporations will have to pay the value of the cancelled shares into a deposit fund monitored by the Ministry of Finance. Therefore, shareholders who want to redeem the value of their shares will have to report to the Ministry of Finance.

[*Translation*]

Having such a grace period would be a good idea to ease the transition.

Mr. Greg Fergus: Thank you very much.

My last question is for the Canadian Bankers Association representatives.

You heard the concerns expressed by RCMP and FINTRAC officials about block chain technology. Their view was that it would be tough to regulate those kinds of transactions.

What do you think?

[*English*]

Mr. Stuart Davis: Blockchain technology takes a variety of shapes and forms. Recall that first it is typically a decentralized mechanism that exists not just within the bounds of Canada, but perhaps globally. In other iterations, you may have a more constrained or private blockchain network that can be fully centralized and controlled. Depending on the aspects and use cases that are of particular consideration, the risks, the ability to monitor them, the level of encryption, ans the level of obfuscation in a particular blockchain vary widely. We're seeing continued innovation and change in this space.

There is not a one-size-fits-all approach to this level of technology, and it needs a new way of thinking.

[*Translation*]

Mr. Greg Fergus: Thank you.

[*English*]

The Chair: Thank you, all.

As somebody mentioned, we are using the Finance discussion paper as the foundation for our discussions here. The committee will be hopefully closing off our hearings by June and will report some time in the fall. I suggest that if you have other ideas, you forward them to our clerk. If you're providing a response to the discussion paper to the Department of Finance, it might be useful for us to see that discussion as well.

With that, thank you for your presentations.

We will see committee members, we know not where. Will it be London, or will it be Ottawa? It's up to you.

An hon. member: London, Ontario?

Mr. Dan Albas: Down and out in Paris?

The Chair: Thank you.

The meeting is adjourned.