



ISSUE PAPER: ANTI- MONEY LAUNDERING AND ANTI-TERRORIST FINANCING LEGISLATION AND REGULATION

ISSUE: Since 2000 the Federal Government has worked to build and strengthen Canada's legislative and regulatory framework for combating money laundering. After the terrorist attacks of September 11, 2001 the government has also implemented a large number of legislative and regulatory measures to detect and deter activities associated with the financing of terrorism.

The core elements of the Canada's AML/ATF regime include measures requiring financial intermediaries (e.g. credit unions, banks, insurance companies) to meet customer identification, due diligence and record-keeping standards and to report suspicious and prescribed transactions relevant to the identification of money laundering, terrorist financing and the possession of terrorist property. Other elements relate to the establishment of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). FINTRAC's primary function is to receive prescribed and suspicious financial transaction reports from reporting entities and analyze those reports for information relevant to money laundering and terrorist financing. If necessary, FINTRAC then provides key identifying information (e.g. account holder, transaction amount and date) to Canadian law enforcement agencies and other agencies such as the Canada Border Services Agency, the Canada Revenue Agency and the Canadian Security Intelligence Service in specific circumstances.

Starting in October 2005 the Federal Government has undertaken to amend and strengthen this legislative framework and in December 2006, the resulting Bill C-25 (*An Act to amend the Proceeds of Crime (Money Laundering and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act)*) received Royal Assent. This legislation is designed to make Canada's AML/ATF financing regime consistent with emerging international AML/ATF standards and to respond to recommendations made in the 2004 Auditor General's Report and in a 2004 Treasury Board evaluation of the regime. Since the Bill has passed, the government has been working with stakeholders to develop and implement regulations to clarify aspects of the legislation.

IMPACT ON CREDIT UNIONS: Credit unions clearly recognize the need for strong AML/ATF measures; however, the manner in which Canada's legislative and regulatory regime has evolved is a cause for growing concern. Specifically, the creation of an elaborate legislative and regulatory regime has been accompanied by a significant and growing compliance burden and associated costs for credit unions and other regulated entities. Credit unions are relatively small financial institutions when compared to large Canadian chartered banks and the regulatory requirements that have developed since 2000 are challenging because of the limited resources and personnel available to respond at the credit union level. Concerns about this regulatory and cost burden are magnified in light of the seemingly limited effectiveness of the current AML/ATF transaction reporting regime. Thus, credit unions are concerned that, despite the large number of transaction reports filed with FINTRAC, very few are disclosed by FINTRAC to law enforcement and other agencies. For example, in the 2006-2007 year, FINTRAC reported only 193 disclosures to law enforcement and other agencies despite having received 17,615,233 transaction reports from regulated entities in that same period. Equally troubling is the fact that very, very few of these disclosures appear to have resulted in prosecutions being launched and successfully concluded.

CANADIAN CENTRAL POSITION: Credit unions recognize that robust AML/ATF legislative and regulatory measures are necessary to safeguard Canadian citizens and the economy. Credit unions have been working diligently to comply with the evolving legislative regime and Canadian Central has worked cooperatively with the Government of Canada throughout the policy development and legislative process.

That said, credit unions have serious concerns about the efficiency and effectiveness of the current legislative and regulatory regime and believe that before the Federal Government moves to expand the regime any further it must review current rules and practices to ensure they are in fact contributing to a reduction in money laundering and terrorist financing.

ISSUE OUTLOOK:

Since October 2005 Canadian Central has been working with government officials and Members of Parliament in an effort to ensure that the legislative proposals in Bill C-25 and accompanying regulations are effective, efficient and fair in terms of the compliance burden imposed on credit unions. Bill C-25 has now passed into law and will come into force - along with associated regulations - over 2008 and 2009.

At present, the Government of Canada and the Paris-based Financial Action Task Force¹ are researching emerging money laundering and terrorist financing trends likely with a view to developing further legislative and regulatory measures to combat emerging threats. Areas of growing concern include the use of internet payment systems and white label ATMs for money laundering and/or terrorist financing.

RELATED DOCUMENTS:

Credit Union Central of Canada's March 2006 Submission in Response to Finance Canada's Concept Paper on Identifying and Monitoring Politically Exposed Persons Under Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime:

<http://www.cucentral.ca/MARCH2006>

Credit Union Central of Canada's June 2006 Submission to the Standing Senate Committee on Banking, Trade and Commerce On the Review of Anti-Money Laundering and Anti-terrorist Financing Legislation

http://www.cucentral.ca/JUNE_2006

Credit Union Central of Canada's November 2006 Submission to the House of Commons Standing Committee on Finance in regard to Bill C-25: An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act

http://www.cucentral.ca/NOVEMBER_4_2006

Credit Union Central of Canada's December 2006 Remarks of Gary Rogers, Vice-President, Financial Policy, Credit Union Central of Canada, to the Standing Senate Committee on Banking, Trade and Commerce

http://www.cucentral.ca/DECEMBER_13_2006

A Backgrounder on Bill C-25 can be obtained at:

<http://www.fintrac.gc.ca/publications/nr/Bg2007-10-25-eng.asp>

Government of Canada (2007) *FINTRAC Annual Report 2007*:

<http://www.fintrac.gc.ca/publications/ar/2007/ar-eng.pdf>

¹ The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. See: http://www.fatf-gafi.org/pages/0,2987,en_32250379_32235720_1_1_1_1_1_1,00.html