Financial Action Task Force

Groupe d'action financière

THIRD MUTUAL EVALUATION ON
ANTI-MONEY LAUNDERING AND
COMBATING THE FINANCING OF TERRORISM

CANADA

29 FEBRUARY 2008

Executive Summary

1. Background Information

1. This report provides a summary of the AML/CFT measures in place in Canada as of June 2007. The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Canada's levels of compliance with the FATF 40 + 9 Recommendations (see attached table on the Ratings of Compliance with the FATF Recommendations).

2. Canada has strengthened its overall AML/CFT regime since its last FATF mutual evaluation (1997) by implementing a number of changes both in terms of statutory amendments and structural changes. The most important developments were the enactment of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the creation of the Canadian Financial Intelligence Unit (FINTRAC) in 2000. With regard to the legal measures (ML and TF offences, confiscation, freezing mechanisms), the legal framework is generally in line with the FATF standards however further steps could be taken to enhance effective implementation. The Canadian FIU has been provided with extensive powers and responsibilities. Since it became operationally effective in November 2001, FINTRAC has undertaken extensive outreach and assistance to reporting entities and has developed close relationships with government partners. There are concerns about its effectiveness in disclosing money laundering and terrorist financing cases to law enforcement authorities.

3. Canada has recently introduced a significant set of new requirements for financial institutions that aim at implementing the FATF standards. A large number of these new requirements will only be in force in June 2008, and these, together with further amendments applicable to DNFBPs due to come into force in December 2008, have not been analysed in the context of this evaluation. As it currently stands however, the preventive system is generally insufficient to meet the FATF Recommendations. In addition, certain financial institutions that undertake financial activities, as defined by the FATF Recommendations, are not currently covered by the AML/CFT regime. Moreover, both the scope of coverage and the AML/CFT requirements for the designated non-financial businesses and professions (DNFBPs) are insufficient to meet the FATF standards. Although FINTRAC and the Office of the Superintendent of Financial Institutions (OSFI) are involved in comprehensive supervisory actions, there are varying degrees of supervision for AML/CFT purposes in the financial sector.

4. Illicit proceeds from a variety of criminal activities contribute to the ongoing money laundering situation in Canada with drug trafficking as the source of much of the money laundered. Other sources of proceeds of crime include, but are not limited to, prostitution rings, contraband smuggling, illegal arms sales, migrant smuggling, and white-collar crime such as securities offences, real estate fraud, credit card fraud and telemarketing fraud. While there is no estimate for the total annual proceeds of crime, drug sales are estimated to amount to several billion dollars.

5. The money laundering methods used in Canada have remained relatively consistent in recent years. They essentially consist of: smuggling; money service businesses and currency exchanges; casinos; purchase of real estate; wire transfers; establishment of offshore corporations; credit cards, stored value cards and new payment methods; use of nominees; use of foreign bank accounts; use of professional services (lawyers, accountants, etc.); and reinvestment and distribution in illicit drugs. At the placement stage, criminals are using money service businesses or casinos. Electronic funds transfers are being used for layering and at the integration stage, criminal proceeds are used to purchase high-value assets in attempts to conceal the origin of the funds. Most recently, there have been signs that criminals are turning to such methods as internet payments or cross-border movement of gold bullion.

6. Canadian law enforcement authorities have identified a number of terrorist organisations operating in Canada. Investigations have shown that terrorist cells have a tendency to remain self-sufficient by generating funds locally. In some instances, they may do so by committing petty crimes, such as welfare fraud or credit card fraud. In other instances, cell members have started businesses to glean financial information from unsuspecting customers in order to clone credit cards and commit identity thefts. Law enforcement authorities have intelligence indicating that suspected terrorist entities in Canada are raising funds through drug trafficking.

7. The financial sector in Canada is diverse, mature, well developed and includes many service providers. The sector is significantly integrated, as many players offer similar services and a small group of "financial groups" or conglomerates offer a large variety of financial products directly or through subsidiaries. A wide range of financial institutions exist in Canada and are subject to AML/CFT requirements: banks; credit unions and *caisses populaires*; life insurance companies; trust companies (that offer services similar to those provided by banks but can also administer estates, personal and institutional trusts, trustee pension plans and agency contracts); securities firms and money service businesses (MSBs). Financial leasing, factoring, finance companies (i.e. entities specialised in consumer lending, credit cards, equipment financing and small business loans that are not loan companies), providers of e-money, internet payment providers and *cheque* cashers are also engaged in financial activities as defined by the FATF.

8. The following DNFBPs are currently subject to AML/CFT requirements: casinos, real estate agents and accountants. In addition, the Government of Canada has recently enacted regulations to cover the following DNFBPs as of December 2008: lawyers, notaries (relevant in Québec and British Columbia only) and dealers in precious metals and stones. Trust and company service providers are not separately recognised nor regulated as a discrete category of entity in Canada and do not fall under the AML/CFT regime. Trust companies, accountants, lawyers and other independent legal professions provide most services of this nature, though it appears that some other businesses exist that engage in TCSP activity.

2. Legal System and Related Institutional Measures

9. The anti-money laundering offences are comprehensive and Canada generally meets the requirements under Recommendations 1 and 2. The money laundering offence (section 462.31 Criminal Code (CC)) is part of a broader proceeds of crime regime designed to cover all obligations in the 1988 Vienna Convention and the 2000 Palermo Convention. Section 462.31 encompasses acts of using, transferring the possession of, sending or delivering to any person or place, transporting, transmitting, altering, disposing of or otherwise dealings with, in any manner and by any means, any property or any proceeds of any property. The Section 462.31 offence is however technically inconsistent with the relevant UN Conventions in that it has a specific intent mental element that is not consistent with those Conventions. Designated offence refers to virtually all indictable offences and also covers all ancillary offences.

10. There is also a second offence of possession of proceeds of crime (s.354(1), CC), whereby it is an offence to knowingly possess money or property derived directly or indirectly from any indictable Canadian criminal offence or any foreign offence, that had it been committed in Canada would have been an indictable offence in Canada. The two offences cover almost all of the requirements of R.1 & 2, with only some minor technical deficiencies (see comments above). Despite this, the emphasis on and preference for pursuing the predicate crimes and the offence of possession of property obtained by crime, and the low number of s.462.31 convictions indicates that the statutes available for countering ML are not being used as effectively as they could be. Canada should develop a more proactive approach to prosecuting the specific money laundering charge under s.462.31.

11. Canada has three criminal offences related to the financing of terrorism (s. 83.02-83.04, CC). The offences are broadly defined and wide-reaching in effect. These offences cover the provision or collection of property intending or knowing that it will be used, in whole or in part, to carry out or

facilitate a "terrorist activity", to possess or use property for that purpose, or to benefit a terrorist group. The offences and related provisions cover all types of property; include ancillary offences; and generally meet all the requirements of the FATF standards. The offences have been in existence for several years and there have been a large number of investigations, but only three persons have been charged with terrorist financing and these charges have not been heard yet. There have been no convictions. Given these facts, the authorities should consider how the TF offence could be more effectively implemented. The overall effectiveness of the TF offence and regime is an issue that the authorities will need to pay close attention to going forward.

12. The CC and the Controlled Drugs and Substances Act (CDSA) contain extensive provisions that authorise the forfeiture of proceeds of crime and instrumentalities used in or intended for use in offences. Forfeiture is available for all money laundering and terrorist financing offences, as well as all predicate offences. Conviction for any indictable offence or a conspiracy or attempt to commit an indictable offence is a prerequisite to forfeiture. There are also discretionary provisions for a fine in lieu of forfeiture, which is the action that Canada has taken to seek to deprive criminals of property of equivalent value. If there are no assets to which such a fine can be applied the court must impose a jail sentence, otherwise the fine is enforced as a civil judgement against any other property of the offender, but cannot be applied against third party property in such cases.

13. Other legislative provisions are broad and allow the authorities to restrain or seize and search for proceeds of crime or instrumentalities. The definition of "property" is broad, and includes any benefit or advantage obtained or "derived directly or indirectly" as a result of the offence. The available data on seizure/restraint and forfeiture is not comprehensive and suggests that it could be more effective.

14. Canada's United Nations Act and its related regulations enable the Canadian government to implement the decisions contained in the resolutions of the United Nations Security Council. The United Nations Al-Qaida and Taliban Regulations (UNAQTR), and the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism (RIUNRST), were enacted under the authority of Canada's United Nations Act. These regulations allow Canada to list a terrorist individual or entity for the purpose of freezing the funds or assets owned or controlled by that individual or entity or its associates. A third listing mechanism exists under the Criminal Code for threats to Canada's domestic security. Canada has laws and regulations to freeze terrorist funds or other assets of persons designated in the context of S/RES/1267(1999) and S/RES/1373(2001) that are in line with the legal international requirements. However, although the lists are published in the Canada Gazette, there needs to be more communication on listed persons provided to certain categories of financial institutions and other potential asset holders as well more clear and practical guidance to reporting entities (including DNFBPs and MSBs) that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms. Canada should also enhance the existing measures to monitor the compliance with the legislation governing the obligations under SRIII (except for federally regulated financial institutions supervised by OSFI).

15. In 2000, Canada established the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) as a national centre for receiving, analyzing and disseminating information concerning suspected money laundering or terrorist financing. In addition to mandatory reporting by financial institutions and DNFBPs, FINTRAC can receive voluntary information concerning suspicions of money laundering or terrorist financing from the general public and various other sources, including information about cases being investigated by law enforcement agencies and foreign FIUs. FINTRAC has a high level of operational independence and information held by FINTRAC is securely protected.

16. Under the PCMLTFA, FINTRAC is authorized to disseminate financial information to domestic authorities for further action when it has reasonable grounds to suspect that the information would be relevant and useful to the investigation or prosecution of a money laundering or terrorist activity offence. FINTRAC provides comprehensive guidance to reporting entities regarding the manner of reporting and the procedures that should be followed when reporting. In February 2006, FINTRAC

launched an updated secure online report capture system that provides reporting entities with a reliable mechanism to file reports through the Internet. However, the format of reporting forms is perceived by certain reporting entities as being too rigid and reduces the capacity to communicate a maximum level of information. FINTRAC develops very few typologies and is not allowed by the PCMLTFA to ask (directly or indirectly) for additional financial information from reporting entities in line with the FATF requirements.

17. The information that FINTRAC can provide to a disclosure recipient is referred to as "designated information" and includes key details that identify individuals or entities and their financial transactions. Under the PCMLTFA, FINTRAC has the authority to collect information from databases maintained for law enforcement or national security purposes and in respect of which an agreement is entered into. FINTRAC currently has access to two major national police databases. However, FINTRAC has limited access to intelligence information from certain administrative authorities (such as the Canada Revenue Agency, CRA).

18. There are serious issues in relation to effectiveness with respect to FINTRAC. Although Canada decided to establish a FIU that would make maximum use of advanced technologies in its analytical work, the number of staff dedicated to the analysis of potential ML/FT cases is low, especially in light of the number of reports FINTRAC receives, and FINTRAC has decided to concentrate its efforts on large or significant ML/TF cases. At the time of the on-site visit, the feedback provided by some organizations that receive FINTRAC disclosures was generally negative (unsatisfactory timelines for disclosures, relatively limited added value of FINTRAC disclosures in law enforcement investigations, FINTRAC disclosures positively contributed to existing investigations but rarely generated new ones). It seems that since March 2007, more positive feedback has been received from law enforcement authorities, especially with regard to the timeliness of disclosures. Another important issue is that, FINTRAC disclosures are largely based on voluntary information reports made by law enforcement authorities (80% of cases). This raises serious concerns with respect to the capability of FINTRAC to generate new ML/TF cases independent from existing investigations. Finally, until 2007, no conviction for ML or TF had directly resulted from a FINTRAC disclosure.

19. While all Canadian police forces can investigate money laundering and terrorist financing offences, the Royal Canadian Mounted Police (RCMP), and in particular its Integrated Proceeds of Crime Initiative, IPOC, Units, and, to a lesser extent, the provincial law enforcement authorities in Ontario (the Ontario Provincial Police) and Québec (*Sûreté du Québec*) undertake virtually all money laundering and terrorist financing investigations. The powers and capacity of the law enforcement services are sound and they have appropriate investigative techniques at their disposal. The RCMP acknowledges that, due to resources constraints, it essentially focuses its resources on large, complex ML investigations related to organised crime groups. The RCMP could undertake a larger number of investigations and tackle a larger spectrum of ML/TF cases with additional resources. In addition, consideration should be given to improving the educational and training programmes provided for judges and courts concerning ML and TF offences.

20. Canada has implemented comprehensive measures to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to ML or FT. These measures are fully in line with the FATF requirements and are effectively implemented.

3. Preventive Measures - Financial Institutions

21. To combat money laundering, the Canadian Parliament enacted the Proceeds of Crime (Money Laundering) Act which received Royal Assent on 29 June 2000. To help fight terrorism, it amended and renamed the legislation the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). The PCMLTF Regulations and the PCMLTF Suspicious Transaction Reporting Regulations implement the provisions of the Act. In October 2006, a Bill proposing to further strengthen the PCMLTFA was introduced in Parliament to expand the scope of preventive measures. The Bill received Royal Assent in December 2006. Some new provisions of the PCMLTFA came into

force on 10 February 2007 and on 27 June 2007, the *Regulations Amending Certain Regulations Made Under the PCMLTFA* were enacted and published in the Canada Gazette. Some of these provisions came into force on 30 June 2007; others will take effect on 23 June 2008. A second package of regulatory amendments, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Registration Regulations* setting out a framework for the registration of MSBs will come into force on 30 June 2008. Further regulations were enacted on 26 December 2007 that will come into force in December 2008. However, for the purpose of this report, none of the changes coming into force after June 2007 were considered.

22. FINTRAC (for all reporting parties), OSFI (for Federally Regulated Financial Institutions) and IDA (for securities dealers) have developed guidelines to assist persons and entities subject to the PCMLTFA and the Regulations to understand their obligations. IDA By-laws, Policies and Regulations are legally enforceable and can be considered as "other enforceable means". OSFI and FINTRAC Guidance are considered as non-binding guidance for the purpose of this report.

23. In Canada, certain entities that undertake financial activities, as defined by the FATF Recommendations, are not currently covered by the AML/CFT regime (except for entities that are caught because they also engage in financial activities which are captured under the regime). These include: financial leasing entities; factoring entities; finance companies (i.e. mostly entities specialized in consumer lending, issuing certain types of credit cards, equipment financing and unregulated small business lending entities); providers of e-money; internet payment providers[1]; and *cheque* cashers[2] when their only activity is cashing *cheques* issued to denominated persons. Canada considers that these entities pose little or no threat of money laundering/terrorist financing. Canada's approach to risk is not in line with the FATF approach as defined in the Methodology where a list of activities and operations must be covered by the AML/CFT regime unless there is a proven low risk of ML/TF. Canada has applied the opposite approach and has extended coverage of the PCMLTFA only to activities for which there is a proven ML/TF risk. Moreover, the risk assessment process carried out by Canada to reach conclusions on the exposure of certain sectors to ML/TF risks is either non-existent or very fragmented and ad-hoc.

24. Customer identification measures in Canada are currently insufficient to meet the FATF standards[3]. Current legislation does not impose a requirement for financial institutions to conduct CDD in all cases covered by the FATF standards, including when there is a suspicion of ML or TF or when financial institutions have doubts about the veracity or adequacy of previously obtained CDD data. The current customer identification measures for natural persons are insufficient and, except for IDA supervised entities, financial institutions are not required to understand the ownership and control structure of the customer nor obliged to determine the natural persons that ultimately own or control the customer. There are currently no requirements (except for IDA supervised entities) to obtain information on the purpose and intended nature of the business relationship. There is no obligation to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction and the current approach is not in line with the FATF standards regarding situations of lower risk. Finally, the timing of verification of customer identity is inadequate for certain financial entities vis-à-vis certain customers. Financial institutions (except IDA supervised entities in some circumstances) are not prohibited from opening an account or commencing a business relationship or performing a transaction and they are not required to make a suspicious transaction report where they are unable to identify the customer.

[1] Internet payment and e-money providers are only subject to the Act if they also offer funds remittance or transmission services and, as such, would be considered money services businesses.

[2] Cheque cashing businesses that also offer money remittance services are included in the definition of MSBs under the PCMLTFA and are therefore subject to the requirements of the PCMLTFA.

[3] New provisions will enter into force in June 2008 and December 2008. These provisions will impose a number of additional requirements including in the following areas: CDD, politically exposed persons, SR VII, record keeping, reporting of suspicious transactions, requirements for DNFBPs, and beneficial ownership information in company legislation. These changes were not assessed as the changes fall outside the period of the evaluation.

25. At the time of the on-site visit, there were no specific legislative or other enforceable requirements in relation to PEPs and limited requirements in relation to correspondent banking relationships. Provisions in relation to the prevention of misuse of technological developments in ML/TF schemes and the mitigation of risks associated with non-face to face business were not in compliance either with the FATF requirements. New provisions entered into force in June 2007 for correspondent banking, and will enter into force in June 2008 in relation to PEPs. Although introduced business arrangements exist in Canada, Canada has not implemented adequate requirements in relation to third party introduced business.

26. There is no financial institution secrecy law that inhibits the implementation of AML/CFT requirements. Canada's record-keeping requirements are generally satisfactory. At the time of the on-site visit, Canada had not implemented SRVII on wire transfers.

27. Under the PCMLTFA, there is currently no explicit provision requiring financial institutions to pay special attention to all complex, unusual large transactions. Such a requirement may only be indirectly deduced from (a) the requirement to report to FINTRAC suspicious transactions that may be related to money laundering or terrorist financing, and (b) the obligation to report large international electronic funds transfers and large cash transactions. Canada should ensure that the new provisions coming into force in June 2008 will fully and effectively address these issues. The obligation to give special attention to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF Recommendations is also not fully met.

28. All financial institutions subject to the PCMLTFA are required to report to FINTRAC transactions of any amount for which there are reasonable grounds to suspect are related to the commission of a money laundering offence or a terrorist financing offence. However, certain categories of financial institution (see comments above) are not subject to the PCMLTFA and, consequently, to any mandatory reporting requirement to FINTRAC. Under the current legislation, reporting entities are only required to report completed transactions to FINTRAC. As from June 2008, the reporting requirement will be broadened to the reporting of any suspicious attempted transactions related to money laundering or terrorist financing. The total number of STRs sent by the financial sector appears satisfactory (an average of 20,000 every year since 2004). The different financial institutions however contributed unequally to the total number of STRs (securities dealers, life insurance companies and life insurance brokers and dealers have sent limited numbers of STRs).

29. No criminal or civil proceedings lie against persons and entities for making a suspicious transaction report, a terrorist property report, a large cash transaction report or an electronic funds transfer report in good faith or for providing FINTRAC with information about suspicions of money laundering or of the financing of terrorist activities. The provisions in relation to tipping off are also fully in line with the FATF standards. FINTRAC gives very detailed guidance related to STRs to assist financial institutions in implementing and complying with STR requirements and provides satisfactory general feedback to large financial institutions. Specific feedback is provided within the legislative limitations. The PCMLTFA requires reporting entities to submit reports to FINTRAC on large cash transactions and electronic funds transfers and the FATF requirements in that area are met.

30. The requirements in relation to internal procedures, policies and controls to prevent ML and FT are generally sound, but some changes are needed to bring them fully in line with the FATF standards. FRFIs have generally adopted enterprise-wide AML/CFT standards based on the OSFI Guideline and supervisory practice. There is no specific requirement regarding the enforcement of AML/CFT measures consistent with Canadian or FATF requirements in foreign branches and subsidiaries.

31. In addition, Canadian financial entities are prohibited from entering into a business relationship with shell banks or with foreign financial institutions that have correspondent banking relationships with shell banks. Canada is broadly in compliance with the FATF requirements in this regard.

32. FINTRAC is responsible for ensuring compliance with the PCMLTFA. FINTRAC's compliance program is based on a collaborative risk-based approach divided into two categories: the promotion of compliance and the monitoring of compliance. FINTRAC has signed MOUs with certain financial and gaming regulators or supervisors to share AML/CFT supervisory information. In addition, some regulators have provisions under their own legislation or codes of conduct that impose similar requirements to, or which complement the key provisions in the PCMLTFA. Globally, there are unequal degrees of regulation and supervision, depending on the sectors and provinces although OSFI is responsible for regulating well over 80% of the Canadian financial sector as measured by total assets. It is worth mentioning that the entities which are currently not subject to the PCMLTFA are not subject to prudential supervision either.

33. The number of examinations performed by FINTRAC appears to be relatively low compared with the total number of reporting financial entities (potentially more than 100, 000) although a single FINTRAC examination can cover a large number of reporting entities (e.g., in the case of life insurance companies/agents and securities firms/dealers). Even including examinations conducted by FINTRAC's MOU partners, the figures remain rather low, except for the banking and federally regulated trust companies sectors which have a good supervisory coverage by OSFI. The use of a sophisticated risk-based model helps FINTRAC prioritise its supervisory activities. Those activities encompass not only examinations of reporting entities but also guidance, outreach, self-assessment tools and follow-up actions after examinations.

34. The securities sector is regulated by provincial securities regulatory authorities (SRAs) and has been subject to limited AML/CFT supervision. The on-site AML/CFT assessments conducted by OSFI since 2003 in the federally regulated life insurance sector amount to 90% of the industry measured by its assets but less than 10% of the supervised population. AML/CFT supervision by provincial financial supervisors appears to be less effective for life insurance agents because AML/CFT controls are mostly assessed by FINTRAC. In addition, despite the focus put on that sector, FINTRAC had managed to perform controls on only 60 credit unions and *caisses populaires* up to mid-2007, out of a total population of 1,250 reporting entities.

35. Under the current version of the PCMLTFA and its Regulations, FINTRAC has limited powers of enforcement against reporting entities and their directors or senior management for failure to comply with or properly implement AML/CFT requirements. Currently, FINTRAC cannot impose penalties and is limited to referring cases to law enforcement for investigation. Strengthening the sanctions regime in June 2008 with the introduction of administrative and monetary penalties should be a crucial enhancement of the system. The current PCMLTFA provides for a series of criminal sanctions for contraventions of various provisions of the Act. These can lead to criminal penalties of up to $2 million in fines and five years in prison for non-compliance. The December 2006 amendments expanded the regime of criminal sanctions to the violations of most of the provisions of the PCMLTFA and regulations.

36. OSFI has a wider range of possible enforcement actions or sanctions than FINTRAC. Nevertheless, sanctions remain infrequently used, and do not appear to be sufficiently effective, proportionate and dissuasive, though this may be partially due to the early intervention strategy adopted by OSFI. In the securities sector, except for IDA which has effectively applied in a number of cases heavy sanctions to its members for non compliance with AML/CFT standards, it seems that the powers of sanction have generally not been used by SRAs or SROs in that area, as they have rarely issued specific rules or regulations related to AML/CFT and consider such issues to be mainly FINTRAC's responsibility.

37. Measures aimed at preventing criminals or their associates from holding a significant or controlling interest or holding a management function in a financial institution, as well as the "fit and proper" principle are widespread. There is no systematic harmonization of these requirements across the federal and provincial systems. At the time of the on-site visit, there was no compulsory obligation

for FRFIs to implement screening procedures for directors or senior management, after the initial incorporation or authorisation procedures are concluded.

38. There was no registration regime for MSBs at the time of the on-site visit although Canada has created a federal registration regime that will enter into force in June 2008. The preventive measures currently applicable to MSBs (especially in relation to CDD, reporting of suspicious transactions or SRVII) present serious weaknesses and the MSB sector is subject to a limited range of preventive measures that are not in compliance with international standards. In addition, the sanction regime applicable to MSBs that fail to comply with the PCMLTFA is currently not effective, proportionate and dissuasive. Canada should ensure effective implementation of the registration system for MSBs in force in June 2008 and ensure that the requirements applicable to MSBs fully meet the FATF requirements.

4. Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBPs)

39. The PCMLTFA currently covers casinos, real estate brokers and sales representatives and accountants and accounting firms. Lawyers, Quebec Notaries, BC Notaries, dealers in precious metals and stones, internet casinos, and TCSPs are not currently captured by the PCMLTFA and therefore are not subject to the requirements under Recommendations 5, 6 and 8-11. It should be noted that internet casinos are illegal in Canada, but servers hosting such activity exists in Canada, and Canada should either take law enforcement action to eliminate this illegal activity, or regulate these casinos. The requirements in relation to Recommendation 5 and 13 applicable to land-based casinos, real estate brokers and sales representatives and accountants do not meet the FATF standards. Canada has not implemented any specific AML/CFT measures concerning PEPs that are applicable to DNFBPs. There are no specific legislative or other enforceable obligations for DNFBPs to take measures to prevent the misuse of technological developments in ML/TF schemes. The DNFBPs are not required to have policies and procedures in place to address any specific risk associated with non face-to-face business relationships or transactions. Provisions in relation to record-keeping with regard to casinos, real estate brokers and sales representatives and accountants are not fully in line with the FATF standards.

40. Because of limited staff resources, FINTRAC is not in a position to ensure an efficient monitoring of the effective application of AML/CFT legislation in the non-financial sectors captured by the PCMLTFA, especially in sectors/provinces where the primary regulators or SROs are not or insufficiently involved in AML/CFT compliance supervision. Canada should ensure that supervisory actions (especially on-site examinations) vis-à-vis casinos and more generally with regard to all DNFBPs are reinforced. With regard to DNFBPs, the sanction regime available to FINTRAC is currently inadequate but should be strengthened when administrative and monetary penalties are introduced in June 2008.

5. Legal Persons and Arrangements & Non-Profit Organisations

41. Canada's corporate registry and information collection system does not adequately focus on obtaining information relating to the beneficial owner or controller of bodies corporate in Canada. The information collected and maintained (including changes in information) relates almost solely to persons and other corporations that are the immediate owners or controllers of a corporation through shareholdings. The federal corporate registrar should consider measures to mitigate the threat that may arise from the use of legal persons to perpetrate money laundering and terrorist financing. Canada should ensure that competent authorities have access to accurate and current information on the ultimate beneficial owners and controllers of all legal persons on a timely basis.

42. The Canada Business Corporations Act (CBCA) appears to allow for the ownership of corporations through the use of bearer shares, although it is likely that the number of bearer shares is limited. Nonetheless, there do not appear to be any special measures in place to ensure disclosure of beneficial owners of these shares in order to mitigate the ML or TF risk.

43. Except for the province of Quebec (where the *fiducie* is similar to the trust), all provinces are common law jurisdictions and have trust laws. Canada relies on the investigatory powers of law enforcement to obtain or have access to information concerning the beneficial ownership and control of trusts and *fiducies*. These powers are generally sound and widely used. In the case of trusts and *fiducies*, limited, partial information is available, and even where certain information is recorded by agencies such as CRA or FINTRAC, agencies can only share this information with law enforcement authorities in limited circumstances. Canada should implement measures to ensure that adequate, accurate and timely information is available to law enforcement authorities concerning the beneficial ownership and control of trusts and *fiducie* in Québec.

44. Canada has a well-established registration system for charities and has taken considerable steps to implement SR VIII. Registered charities include most organizations that raise and distribute funds for social or humanitarian purposes. Charities represent the most significant portion of the financial resources of the NPO sector and account for a substantial share of the sector's foreign activities. Nevertheless, in line with the FATF's risk-based approach, Canada should continue to monitor risks in other segments of the NPO sector.

6. National and International Co-operation

45. Canada has developed a large number of initiatives to improve co-operation mechanisms among the different domestic stakeholders taking part in the fight against money laundering and terrorist financing. The interagency cooperation between the FIU and law enforcement authorities is not fully effective and should be enhanced in order for Canada to optimise its capacity to investigate ML and TF cases. Canada should consider encouraging more bilateral contacts among agencies.

46. Almost all of the provisions of the Palermo and Vienna Conventions have been fully implemented, and only some minor technical deficiencies remain. Canada has extensive formal and limited informal means of providing mutual legal assistance (MLA) to requesting countries. Where the evidence can only be gathered pursuant to a court order, Canada's Mutual Legal Assistance in Criminal Matters Act ("MLACMA" or "the Act") is the domestic legislation that enables a Canadian court to issue orders compelling the production or authorizing the seizure of evidence at the request of a treaty partner. Canada has a centrally-coordinated MLA regime involving: the Department of Justice, Crown prosecutors, the Judiciary and, on occasion, law enforcement agents who execute Canadian courts' orders. Canada should focus on improving the effectiveness of the current regime and the collection of adequate data.

47. Under the MLACMA, Canada can directly enforce foreign orders for the restraint, seizure and forfeiture of assets on receipt of a request from a treaty partner or designated entity in line with the FATF requirements. However, in terms of implementation, there is limited evidence of effective confiscation assistance, and Canada should consider how this could be enhanced.

48. The money laundering and terrorist financing offences are extraditable offences under Canada's Extradition Act. The current legal provisions on extradition meet the FATF standards; however Canada should maintain better extradition request data, so as to better assess the timeliness of assistance.

49. In general, law enforcement authorities can engage in a wide range of international co-operation. FINTRAC can also share its intelligence with foreign counterparts. As the AML/CFT supervisor, FINTRAC has the legal capacity to exchange supervisory information with foreign regulators, but has not yet entered into any MOUs that will allow it to share in practice. On the other hand, OSFI can exchange compliance information with foreign counterparts.

7. Other issues

50. Overall, authorities seem to be well-equipped, staffed, resourced and trained. There are concerns about the availability of resources within FINTRAC to undertake a sufficient number of comprehensive examinations. The number of staff at FINTRAC dedicated to the analysis of ML/TF cases is also too low. Finally, the authorities in charge of processing MLA requests should acquire additional resources to fulfil their tasks.

51. Canada collects a large set of statistics although more comprehensive data should be gathered regarding ML investigations and sentencing, MLA and extradition requests.

Table: Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (NA).

Forty Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	LC	▪ The ML offence does not cover all designated categories of predicate offences (copyright related offences); ▪ Section 462.31 ML offence contains a purposive element that is not broad enough to meet the requirements of the Conventions or R.1; ▪ The number of convictions for Section 462.31 ML is very low, as is the percentage of convictions in comparison to charges laid.
2. ML offence – mental element and corporate liability	LC	▪ The number of convictions for Section 462.31 ML is very low; ▪ Due to the lack of data on ML sentencing, is not possible to assess whether natural and legal persons are subject to effective, proportionate and dissuasive sanctions for ML.
3. Confiscation and provisional measures	LC	▪ The fine in lieu forfeiture provision does not fully and effectively meets the requirement for equivalent value provisions and does not apply to property held by third parties; ▪ Based on the limited quantitative and qualitative information available, it does not seem that the confiscation and seizure regime is fully effective, particularly with respect to value based confiscation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	▪ The Recommendation is fully met.
5. Customer due diligence	NC	*Scope issue* ▪ the requirement to conduct CDD does not extend to all financial institutions as defined by the FATF (notably financial leasing, factoring and finance companies); *Numbered accounts* ▪ Although numbered accounts are permissible and used, there is no direct requirement to maintain them in such a way that full compliance can be achieved with the FATF Recommendations; *When CDD is required* ▪ There is no requirement to carry out CDD measures when there is a suspicion of ML or TF and when financial institutions have doubts about the veracity or adequacy of previously obtained CDD data; ▪ Customer identification for occasional transactions that are cross-border wire transfers takes place for transactions above $3,000. This threshold is currently too high and no equivalent requirement is in place for domestic wire transfers; *Required CDD measures* ▪ The current customer identification measures for natural persons are insufficient, especially in relation to non face-to-face business relationships; *Identification of persons acting on behalf of the customer* ▪ The requirement to identify up to three persons who are allowed to give instructions in respect of an account is too limitative; *Third party determination and identification of beneficial owners* ▪ Except for IDA supervised entities, financial institutions are neither required to understand the ownership and control structure of the customer nor obliged to determine who are the natural persons that ultimately own or control the customer;

		Purpose & intended nature of the business relationship ▪ There are currently no requirements (except for securities dealers) to obtain information on the purpose and intended nature of the business relationship; *Ongoing Due Diligence* ▪ Except for securities dealers, there are currently no requirements to conduct ongoing due diligence on the business relationship although the need to identify customers for large cash transactions and electronic fund transfers provide certain automatic trigger points; ▪ Except for securities dealers financial institutions are not required to ensure that documents, data and information collected under the CDD process is kept up-to-date and relevant; *ML/FT risks – enhanced due diligence* ▪ There is no requirement to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction; *ML/FT risks – reduced or simplified due diligence* ▪ The current exemptions mean that, rather than reduced or simplified CDD measures, no CDD apply, which is not in line with the FATF standards; ▪ Exemptions from CDD and third party determination bring in very far reaching exceptions that introduce potential gaps in the customer identification process (especially the exemptions apply to financial entities that operate in FATF countries based on presumption of conformity only); ▪ There is no explicit provisions that set out that CDD or third party determination exemptions are not acceptable where there is a suspicion of ML or FT or specific higher risk scenarios apply; ▪ Financial institutions, in certain circumstances, are given the permission to exempt from CDD requirements or third party determination obligations certain customers resident in another country. However, Canada has not carried out a systematic country risk analysis to ensure that third countries in which customers of Canadian financial institutions are resident are in compliance with and have effectively implemented the FATF Recommendations; *Timing of verification* ▪ PCMLTF Regulations sets out unreasonable verification timelines to be carried out by certain financial sectors and/or in relation to certain customers; *Failure to satisfactorily complete CDD* ▪ Financial institutions (except securities dealers in some circumstances) are not prevented from opening an account or commencing business relationship or performing a transaction and they are not required to make a suspicious transaction report; ▪ In situations where the financial institution has already commenced a business relationship but is unable to perform adequate CDD and establish beneficial ownership, there is no requirement to terminate the business relationship and to consider making a suspicious transaction report.
6. Politically exposed persons	NC	▪ There were no mandatory legislative or other enforceable requirements in relation to PEPs at the time of the on-site visit.

7. Correspondent banking	PC	▪ Financial entities are not required to assess the respondent institution's AML/CFT controls and to ascertain that these controls are adequate and effective; ▪ Financial institutions are not required to determine the reputation of the foreign financial entity (other than take reasonable measures to ascertain whether there are any civil or criminal penalties that have been imposed on the foreign financial institution in respect of AML/CFT requirements) and the quality of supervision of that entity; ▪ In the context of payable through accounts, the respondent entity is not required to perform all the normal CDD obligations set out in Recommendation 5 on its customers that have direct access to the accounts of the correspondent institution in line with the FATF standards; ▪ The effectiveness of the measures in place cannot yet be assessed.
8. New technologies & non face-to-face business	NC	▪ There are no specific legislative or other enforceable obligations addressing the risks posed by the application of new technological developments; ▪ Financial institutions are not required to have policies and procedures in place to address any specific risk associated with non face-to-face business relationships or transactions; ▪ No effective CDD procedures for non face-to-face customers are in place.
9. Third parties and introducers	NC	▪ In the only two scenarios where reliance on a third party or introduced business is legally allowed without an agreement or arrangement, the measures in place are insufficient to meet the FATF requirements; ▪ In addition to the two reliance on third parties/introduced business scenarios contemplated by the Regulations, the financial sector uses introduced business mechanisms as a business practice. However, no specific requirements as set out in Recommendation 9 apply to these scenarios.
10. Record keeping	LC	*Scope issue* ▪ The record keeping requirement does not extend to all financial institutions as defined by the FATF (notably financial leasing, factoring and finance companies); ▪ Financial institutions must ensure that all records required to be kept under the PCMLTFA can be provided within 30 days which does not meet the requirement to make CDD records available on a *timely* basis to competent authorities, especially in normal business circumstances.
11. Unusual transactions	PC	▪ There is no explicit nor enforceable requirement for financial institutions to examine all complex, unusual large transactions under the current legislation (except for IDA members). Except for IDA members, the monitoring obligation is implied and indirect (it flows from reporting suspicious transactions, large international electronic funds transfer and large cash transactions) and it does not cover the full range of monitoring situations as stipulated in Recommendation 11; ▪ There is no explicit requirement to examine the background and purpose of these unusual transactions (except for IDA members); ▪ There is no requirement to keep record of financial institutions' findings in relation to complex, unusual large or unusual patterns of transactions.
12. DNFBP – R.5, 6, 8-11	NC	*Scope issue* ▪ Lawyers, Quebec Notaries, BC Notaries, dealers in precious metals and stones, internet casinos, ship based casinos and TCSPs are not captured by the PCMLTFA and therefore are not subject to the requirements under Recommendations 5, 6 and 8-11; *Application of Recommendation 5 to casinos* ▪ The requirements applicable to casinos are insufficient in relation to:

		(1) when CDD is required; (2) required CDD measures; (3) identification of persons acting on behalf of the customer; (4) third party determination and identification of beneficial owners ; (5) purpose & intended nature of the business relationship ; (6) ongoing Due Diligence; (7) ML/FT risks and (8) failure to satisfactorily complete CDD; *Application of Recommendation 5 to real estate brokers and sales representatives and accountants* ▪ The circumstances in which real estate agents and sales representatives and accountants have to carry out customer identification are too limitative; ▪ The CDD requirements that real estate agents and sales representatives and accountants are subject to are substantially very basic and extremely limited; *Application of Recommendation 6 to casinos, real estate brokers and sales representatives and accountants* ▪ Canada has not implemented any specific AML/CFT measures concerning PEPs that are applicable to DNFBPs; *Application of Recommendation 8 to casinos, real estate brokers and sales representatives, accountants* ▪ There are no specific legislative or other enforceable obligations for DNFBPs to take measures to prevent the misuse of technological developments in ML/TF schemes; ▪ The DNFBPs are not required to have policies and procedures in place to address any specific risk associated with non face-to-face business relationships or transactions; *Application of Recommendation 9 to casinos, real estate brokers and sales representatives and accountants* ▪ There are currently no provisions for DNFBPs that address the issue of relying on intermediaries or third parties to perform elements of the CDD process outside the outsourcing type of scenario; *Application of Recommendation 10 to casinos, real estate brokers and sales representatives and accountants* ▪ The circumstances in which real estate agents and sales representatives and accountants have to keep records are too limitative; ▪ Real estate agents and sales representatives, casinos and accountants institutions must ensure that all records required to be kept under the PCMLTFA can be provided within 30 days which is not in line with the FATF requirement to make CDD records available on a timely basis to competent authorities; *Application of Recommendation 11 to casinos, real estate brokers and sales representatives and accountants* ▪ There is currently no explicit provision requiring that DNFBPs pay special attention to all complex, unusual large transactions that have no apparent or visible economic or lawful purpose (the monitoring obligation is implied and indirect (it flows from reporting suspicious transactions, large international electronic funds transfer and large cash transactions) and it does not cover the full range of monitoring situations as stipulated in Recommendation 11). The other requirements under Recommendation 11 are not met either.
13. Suspicious transaction reporting	LC	▪ Some financial institutions as defined by the FATF (especially financial leasing, finance companies, providers of e-money) are not covered by the obligation to report; ▪ There is no requirement to report attempted transactions; ▪ The low numbers of STRs sent by certain financial sectors raise concerns in relation to the effectiveness of the reporting system.
14. Protection & no tipping-off	C	▪ The Recommendation is fully met.

15. Internal controls, compliance & audit	LC	▪ The requirement for internal controls does not extend to all financial institutions as defined by the FATF (notably financial leasing, factoring and finance companies); ▪ There is no mandatory explicit requirement to maintain up to date internal procedures, policies and controls and such policies do not include the detection of unusual and suspicious transactions; ▪ There is no explicit requirement to ensure that the AML/CFT compliance officer has a timely access to customer identification data and other CDD information, transactions records and other relevant information; ▪ There is no mandatory requirement for an independent audit function to test AML/CFT regime compliance for small financial institutions (including some MSBs) for which a simple self-assessment is admitted; ▪ There is no general requirement concerning screening procedures when hiring employees.
16. DNFBP – R.13-15 & 21	NC	*Scope issue* ▪ Lawyers, Quebec Notaries, BC Notaries, dealers in precious metals and stones, internet casinos, ship based casinos and TCSPs are not captured by the PCMLTFA and therefore are not subject to the suspicious transactions reporting requirements; *Application of Recommendation 13 to casinos, real estate brokers and sales representatives and accountants/accountant firms* ▪ The circumstances in which real estate agents and sales representatives and accountants have to report suspicious transactions under the PCMLTFA are too limited; ▪ Attempted transactions are not yet covered by the Suspicious Transaction Reporting requirement; ▪ The relatively low numbers of STRs sent by real estate agents/sales representatives and accountants raise significant concerns in relation to the effectiveness of the reporting system in these sectors; *Application of Recommendation 15 to casinos, real estate brokers and sales representatives and accountants/accountant firms* ▪ There is no explicit requirement to: (1) keep up to date internal procedures, (2) have policies to monitor for and detect unusual and suspicious transactions and (3) ensure that the AML/CFT compliance officer has timely access to customer identification data and other CDD information, transactions records and other relevant information; ▪ There is no mandatory requirement for an independent audit function to test AML/CFT regime compliance; ▪ Except for casinos, there are no requirements concerning screening procedures when hiring employees. *Application of Recommendation 21 to casinos, real estate brokers and sales representatives and accountants/accountant firms* ▪ There is no general enforceable requirement for DNFBPs to give special attention to transactions or business relationships connected with persons from or in countries which do not or insufficiently apply the FATF Recommendations but only through general guidance or advisories sent on a case by case basis; ▪ There are no effective measures in place whereby DNFBPs are advised of other countries that have specific weaknesses in their AML/CFT systems; ▪ There is no requirement to examine the background and purpose of these transactions and to document the related findings.
17. Sanctions	PC	▪ With the exceptions of OSFI and IDA regulated institutions, only criminal sanctions are available to FINTRAC under the PCMLTFA for all other types of financial institutions and these are only applicable for the most serious failures, and need to be proved to the criminal standard;

		▪ OSFI only uses a limited range of actions/sanctions in the AML/CFT context (namely supervisory letters and in a limited number of cases, staging); ▪ The lack of effective sanctions applied in cases of major deficiencies raises real concern in terms of effectiveness of the sanction regime, particularly taking into account that only one criminal sanction and a very limited number of administrative sanctions have been applied.
18. Shell banks	LC	▪ Financial entities are not required to terminate business relationships with shell banks, nor with any foreign financial institution that has, directly or indirectly, correspondent banking relationships with shell banks; ▪ The effectiveness of the measures in place cannot yet be assessed.
19. Other forms of reporting	C	▪ The Recommendation is fully met.
20. Other NFBP & secure transaction techniques	C	▪ The Recommendation is fully met.
21. Special attention for higher risk countries	PC	▪ There is no general enforceable requirement for financial institutions to give special attention to transactions or business relationships connected with persons from or in countries which do not or insufficiently apply the FATF Recommendations; ▪ There are no effective measures in place whereby financial institutions are advised of other countries that have specific weaknesses in their AML/CFT systems; ▪ There is no requirement to examine the background and purpose of these transactions and to document the related findings.
22. Foreign branches & subsidiaries	NC	▪ Currently, the PCMLTFA and PCMLTF Regulations contain no explicit enforceable provision requiring financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements although foreign branches of Canadian financial institutions are Canadian entities under the Bank Act and the Insurance Companies Act that are subject to Canadian laws; ▪ There is no requirement that particular attention be paid to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations; ▪ There is no legal obligation in the PCMLTFA and PCMLTF Regulations that, where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries are required to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit; ▪ There is no requirement that financial institutions be required to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures.
23. Regulation, supervision and monitoring	PC	▪ Exclusion from the AML/CFT regime of certain financial sectors (such as financial leasing, factoring, finance companies, etc.) without proper risk assessments; ▪ For the financial institutions subject to the PCMLTFA, there is a very unequal level of supervision of AML/CFT compliance, with certain categories of financial institution appearing to be insufficiently controlled (MSBs, certain credit unions/caisses populaires, life insurance intermediaries…). This is due to the limited staff resources of FINTRAC dedicated to on-site assessments compared to the high number of reporting entities, which has not always been compensated by the involvement of the primary prudential regulators in AML/CFT issues; ▪ "Fit and proper" requirements are not comprehensive; ▪ At the time of the on-site visit, there was no specific obligation for FRFIs to implement screening procedures for persons who are

		hired, or appointed to the Board, after the initial incorporation or authorisation procedures are concluded; ▪ There is currently no registration regime for MSBs.
24. DNFBP - regulation, supervision and monitoring	NC	*Scope issue* ▪ Lawyers, Quebec Notaries, BC Notaries, dealers in precious metals and stones, internet casinos, ship based casinos and TCSPs are not captured by the PCMLTFA and not subject to FINTRAC supervision; *Supervision of casinos* ▪ The sanction regime available to FINTRAC is currently inadequate (see conclusions in relation to Rec. 17). Provincial regulators may have administrative sanctions at their disposal but there is no evidence that these are dissuasive, effective and proportionate, since no data or statistics regarding sanctions taken by these regulators on the grounds of AML/CFT non-compliance issues have been made available to the assessment team; *Supervision of other DNFBPs* ▪ Limited staff resources deprives FINTRAC from closely and efficiently monitoring DNFBPs' compliance with the PCMLTFA requirements especially in sectors/provinces where the primary regulators or SROs are not or insufficiently involved in AML/CFT compliance supervision; ▪ The sanction regime available to FINTRAC is currently inadequate (see conclusions in relation to Rec. 17). Provincial regulators may have administrative sanctions at their disposal but there is no evidence that these are dissuasive, effective and proportionate, since no data or statistics regarding sanctions taken by these regulators on the ground of AML/CFT non-compliance issues have been made available to the assessment team.
25. Guidelines & Feedback	LC	▪ There is a lack of specific guidelines intended for sectors such as life insurance companies and intermediaries; ▪ There is not enough general feedback given outside the large financial institutions sector.
Institutional and other measures		
26. The FIU	PC	▪ FINTRAC has insufficient access to intelligence information from administrative and other authorities (especially from CRA , CSIS and Customs); ▪ FINTRAC is not allowed by the PCMLTFA to gather additional financial information from reporting entities; ▪ Effectiveness: (1) the number of staff dedicated to the analysis of potential ML/FT cases is low especially in comparison with the amount of reports coming in, which may have an impact on the number of cases that FINTRAC generate; (2) feedback from law enforcement authorities outlines the relatively limited added value of FINTRAC disclosures in law enforcement investigations; (3) the timeliness of FINTRAC disclosures to law enforcement authorities was raised as an issue at the time of the on-site visit; (4) 80% of the disclosures made by FINTRAC result from voluntary information from law enforcement; only 20% result from STRs which raises serious concerns with respect to the capability of FINTRAC to generate ML/TF cases on the basis of STRs or other reports it receives from the private sector; (5) so far, very few if any convictions for ML or TF have resulted from a FINTRAC disclosure which is an additional factor to consider when looking at FINTRAC's ability to produce intelligence to be used in criminal investigations and prosecutions.
27. Law enforcement authorities	LC	▪ The RCMP lacks the resources that would allow it to focus on a larger spectrum of ML/TF investigations.
28. Powers of competent authorities	C	▪ The Recommendation is fully met.

29. Supervisors	LC	▪ FINTRAC has no power to impose administrative sanctions.
30. Resources, integrity and training	PC	*In relation to the FIU*: ▪ The number of staff dedicated to the analysis of ML/TF cases is too low, especially considering the amount of reports coming in; *In relation to law enforcement agencies:* ▪ The RCMP lacks resources to properly undertake ML/TF investigations; *In relation to the Department of Justice* ▪ There seems to be very little if any coordinated or sophisticated training efforts in the forfeiture area; ▪ The authorities in charge of processing MLA requests lack resources; *In relation to prosecution agencies:* ▪ Insufficient training is provided for combating ML and TF; *In relation to supervisors:* ▪ FINTRAC current internal organisation and resources dedicated to supervision are insufficient to allow it to perform its compliance function effectively.
31. National co-operation	LC	▪ Interagency cooperation between the FIU and law enforcement authorities is not fully effective and needs to be enhanced.
32. Statistics	LC	▪ Incomplete statistics are kept in relation to ML investigations; ▪ Incomplete statistics are kept in relation to ML sentencing; ▪ Statistics on confiscation are incomplete; ▪ There is no data available on the time requested to respond to extradition and MLA requests; ▪ No statistics are kept by OSFI on the time to respond to a request initiated by its counterparts.
33. Legal persons – beneficial owners	NC	▪ There is no requirement to ensure adequate transparency, for instance there is no obligation that information on the beneficial ownership of shares in legal persons is required to be collected by either the corporate registry, within corporate records held by legal persons or by lawyers, accountants or TCSPs; ▪ While law enforcement and other authorities have sufficient powers, those powers are not adequate to ensure the existence of adequate, accurate and timely information on the beneficial ownership of legal persons, which can be accessed or obtained in a timely fashion by competent authorities; ▪ There are no measures to ensure that bearer shares are not misused for ML, particularly for private corporations.
34. Legal arrangements – beneficial owners	PC	▪ There are limited and indirect legal requirements to obtain, verify, or retain information on the beneficial ownership and control of trusts and fiducie in Québec; ▪ While the investigative powers are generally sound and widely used, there is minimal information that is adequate, accurate and timely concerning the beneficial owners of trusts and fiducie in Québec that can be obtained or accessed by the competent authorities in a timely fashion. Where some information is held, such as by CRA, there are limits on the circumstances in which information on trusts can be shared.
International Co-operation		
35. Conventions	LC	*Implementation of the Palermo and Vienna Conventions:* ▪ Canada has ratified the Palermo and Vienna Conventions and implemented them with some omissions however (the ML offence does not cover all required categories of predicate offences and Section 462.31 ML offence contains a purposive element that is not broad enough to meet the requirements of the Conventions); *Implementation of the CFT Convention:* ▪ Article 18(1)(b) of the Convention, which requires countries to implement efficient measures to identify customers in whose interest accounts are opened is insufficiently implemented. Canada's

		implementation of Recommendation 5 does not include adequate measures to ascertain the identity of beneficial owners.
36. Mutual legal assistance (MLA)	LC	▪ There are concerns about the ability of Canada to handle MLA requests in a timely and effective manner and effectiveness of the current regime cannot be demonstrated due to the lack of adequate data.
37. Dual criminality	C	▪ The Recommendation is fully met.
38. MLA on confiscation and freezing	LC	▪ There are doubts about the effectiveness of the measures in place under Recommendation 38: there is limited evidence of effective confiscation assistance as only four cases have been successful in last 5 years and international sharing statistics indicate that while asset sharing with foreign states is possible, it rarely occurs. Canada executes requests to enforce corresponding value judgments as fines, which has limitations and cannot be enforced against property held by third parties.
39. Extradition	LC	▪ Insufficient statistical data was provided to make a thorough assessment, particularly the assessment of the delay element, but even the limited data provided indicates that obtaining extradition from Canada quickly may be difficult.
40. Other forms of co-operation	LC	*FINTRAC as a supervisory authority* ▪ FINTRAC has the legal capacity to exchange information with foreign counterparts but has not yet put the arrangements and agreements in place.
Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	LC	*Implementation of the CFT Convention:* ▪ Article 18(1)(b) of the Convention, which requires countries to implement efficient measures to identify customers in whose interest accounts are opened is insufficiently implemented. Canada's implementation of Recommendation 5 does not include adequate measures to ascertain the identity of beneficial owners.
SR.II Criminalise terrorist financing	LC	▪ The lack of any TF convictions and the very limited number of prosecutions shows that the offence has not yet been fully and effectively used.
SR.III Freeze and confiscate terrorist assets	LC	▪ The actions taken to communicate the names of listed persons or entities do not cover all types of financial institutions and the lists are not effectively communicated to other types of asset holders; ▪ With the exception of guidance given to federally regulated financial institutions (and copied to provincial regulators/SROs), Canada has issued insufficient guidance to other financial institutions and DNFBPs that may be holding funds of other assets concerning their obligations in taking action under freezing mechanisms. This may have an impact on Canada's ability to freeze terrorist funds or other assets for such entities without delay; ▪ The existing measures to effectively monitor the compliance with the legislation governing the obligations under SRIII are insufficient (except for federally regulated financial institutions supervised by OSFI).
SR.IV Suspicious transaction reporting	LC	▪ Some financial institutions as defined by the FATF (especially financial leasing, finance companies, providers of e-money) are not covered by the obligation to report; ▪ There is no requirement to report attempted transactions.
SR.V International co-operation	LC	Regarding compliance with Recommendation 38 ▪ All elements missing in R. 38 are missing for SR.V; ▪ There are concerns about the ability of Canada to handle MLA requests in a timely and effective manner and effectiveness of the current regime cannot be demonstrated due to the lack of adequate data. Regarding compliance with Recommendation 39 ▪ No meaningful statistical data provided to assess delay element

		(effectiveness issue). Regarding compliance with Recommendation 40 *FINTRAC as a supervisory authority* ▪ FINTRAC has the legal capacity to exchange information with foreign counterparts but has not yet put the arrangements and agreements in place.
SR VI AML requirements for money/value transfer services	NC	▪ There is no registration regime for MSBs as contemplated by SR VI; ▪ Overall, requirements and implementation of Recommendations 4-11, 21-23 and SR. VII is inadequate which has a significant negative impact on the effectiveness of AML/CFT measures for money transmission services.; ▪ MSBs are not required to maintain a list of their agents; ▪ The sanction regime available to FINTRAC and applicable to MSBs is not effective, proportionate and dissuasive.
SR VII Wire transfer rules	NC	▪ Canada has not implemented SRVII.
SR.VIII Non-profit organisations	LC	▪ The existing co-ordination mechanisms between competent authorities, especially between the CRA and the parties responsible for listing and freezing applications is insufficient to fully address the risk in some segments of the NPO sector.
SR.IX Cross Border Declaration & Disclosure	C	▪ The Recommendation is fully met.