The National Initiative to Combat Money Laundering: Year Three Evaluation APPENDICES

February 14, 2003

This ‘Appendices’ document was prepared as part of the National Initiative to Combat Money Laundering - Year Three Evaluation conducted by About Business Crime Solutions Inc., Toronto, Ontario, 416 466 7591.

Table of Contents

1.0 Evaluation Approach

1.1 DESIGN

A formative - process style evaluation was conducted of the Year Three National Initiative to Combat Money Laundering. An evaluation framework logic model and specific performance indicators had been previously developed. These process measures were used to guide the evaluation process and to objectively measure the degree of success the Initiative has had to date in achieving its stated goals, objectives, and the planned implementation of the seven *activities* outlined in the logic model, designated as: (1) Operationalizing National and International Commitments; (2) Liaison, Cooperation and Education; (3) Promoting and Monitoring Compliance; (4) Analysis; (5) Disclosure; (6) Investigation; and (7) Adjudication and Sanctioning.

These process measures identified how the management and delivery of the Initiative should actually be progressing. It involved looking at both the inputs, or all those activities[1] that define the Initiative in terms of *what was done and why*, and the *resources devoted to it*; while the outputs (performance measures) addressed the efficiency of the program and defined it in terms of *what has been accomplished to date.* In other words, it answered those applicable and relevant evaluation questions set out in the Evaluation Framework along with a number of others developed by the evaluation TEAM.

The evaluation was broad in scope, targeting all the relevant Initiative *activities* and *focused* on the following sources of information:

- representatives from the seven Initiative partners;
- experts[2];
- stakeholders[3];
- reporting entities[4];
- media;
- academic literature; and
- relevant government documents.

It was based on:

- a review of documents and reports provided by Initiative partners;
- direct feedback from partner representatives regarding inquiries;
- review of the media;
- review of the academic literature;
- interview and focus group guides; and
- review of the mechanisms for dealing with FINTRAC disclosures (e.g., process RCMP and CCRA – Tax and FINTRAC process).

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[1] **Activities**: These are the key, seven activities identified above that are intended to contribute to the achievement of the objectives.
[2] **Experts**: individuals with expertise in money laundering, organized crime or financial sector issues.
[3] **Stakeholders**: individuals external to the Partner representatives whose views would be relevant to understanding the implementation and impacts of the Initiative on various sectors.
[4] **Reporting Entities**: A sampling of sectors to ascertain their perceptions about the Initiative, its process of implementation, compliance, and any anticipated impacts they envision over both the short and long term.

In order to evaluate and enhance the Initiative, it was necessary to understand how well it was moving towards achieving its objectives so that changes can be made, if necessary to the program activities and implementation process. Therefore evaluation questions focused on examining four key aspects of the implementation process to date: (a) each Initiative partner's respective *role*; (b) the *extent* to which that role has been *implemented*; (c) the working relationships among the seven *partners*; and (d) issues concerning the operationalizing of Canada's national and international *commitments*. Specific issues were identified and evaluation questions were developed, such as:

Issues:

- To what extent is Initiative resource levels appropriate?
- To what extent is the Initiative organized appropriately to meet its objectives?
- To what extent has the Initiative contributed to increased understanding of and improved response to money laundering through strategic analysis?
- To what extent has the Initiative contributed to improved national and international liaison and cooperation with respect to money laundering?
- To what extent has the Initiative fulfilled Canada's national and international anti-money laundering commitments?
- To what extent has the Initiative increased public awareness of money laundering and support for its efforts in combating it?
- To what extent have efforts to promote and monitor compliance with the PCMLA contributed to enhanced compliance and improved data for analysis?

Questions:

A. Implementation:

1. Did you receive the resources assigned under the Initiative? When these resources were received, were they distributed appropriately (i.e., used for the Initiative as intended or other purposes)?

2. To what extent has your dept's/agency's designated resources under the Initiative been put in to place?

3. To what extent have the intended, relevant activities and outputs, as set out in the Initiative's Logic Model, been implemented/ achieved to date by your department/agency?

4. During the implementation process, has your dept/agency/ unit experienced any difficulties or opportunities that weren't anticipated? If so, what were they, and how did they affect your implementation? For example, difficulties in staffing the positions allocated under the Initiative (i.e., knowledge, training, skill levels)?

5. Do you have any practices or mechanisms in place to monitor the effectiveness and impacts of your dept's/agency's/unit's activities under the Initiative? What are the criteria you use to determine success (e.g., for role and resource deployment)?

B. Role:

1. From your perspective, describe your department's/agency's/ unit's intended role in the Initiative?

2. How has this role evolved to date?
3. If that role has changed, describe those changes and why they have occurred? For example, any changes in workload and/or priorities.
4. Are there any early indications how this role has contributed to the achievement of the Initiative objectives to date?

C. Partnerships:

1. Describe your current working relationships with the other Initiative partners based on the evolution of the Initiative to date (e.g., sharing of information, is the information viewed as useful, of benefit to your department, overall satisfaction)?
2. Are there any early indications of what effects these partnerships are having in working towards meeting the Initiative objectives and specifically your department's objectives?
3. How have you found the coordination and cooperation across the Initiative to date?
4. Was the process/results suitable and should continue or should adjustments be made? If so, on the basis of what information or evidence?
5. Are there any early indications of what effects these changes/or no changes in coordination and cooperation have made towards attainment of the Initiative objectives?
6. Is there evidence of overlap/duplication or complementary functions between partners?
7. Has there been increased collaboration among the partners as a direct result of the Initiative?
8. Is there opportunity for more collaboration with your dept/agency and the other partners (for example, for information exchange, joint ventures, in planning, programme design, decision making)? If so, how could that collaboration be enhanced?
9. Is there an opportunity for more coordination and cooperation within the Initiative Steering Committee or other Initiative Committees?
10. What types of risks do you face as a partner that could compromise the Initiative's objectives being met? How are these risks being managed? For example, privacy concerns, public reaction, and industry non-compliance.
11. Do these risks impact on other partners in this Initiative? If so, how could a common solution emerge?

D. Commitments:

1. To what extent has the Initiative contributed to improved national and international cooperation to date? If so how?

See Appendix, Section 10.0 for the Interview and Focus Group Guides for: Initiative partners, experts, stakeholders, reporting entities and focus groups with partner and FINTRAC personnel.

1.2 Data Sources and Methodology

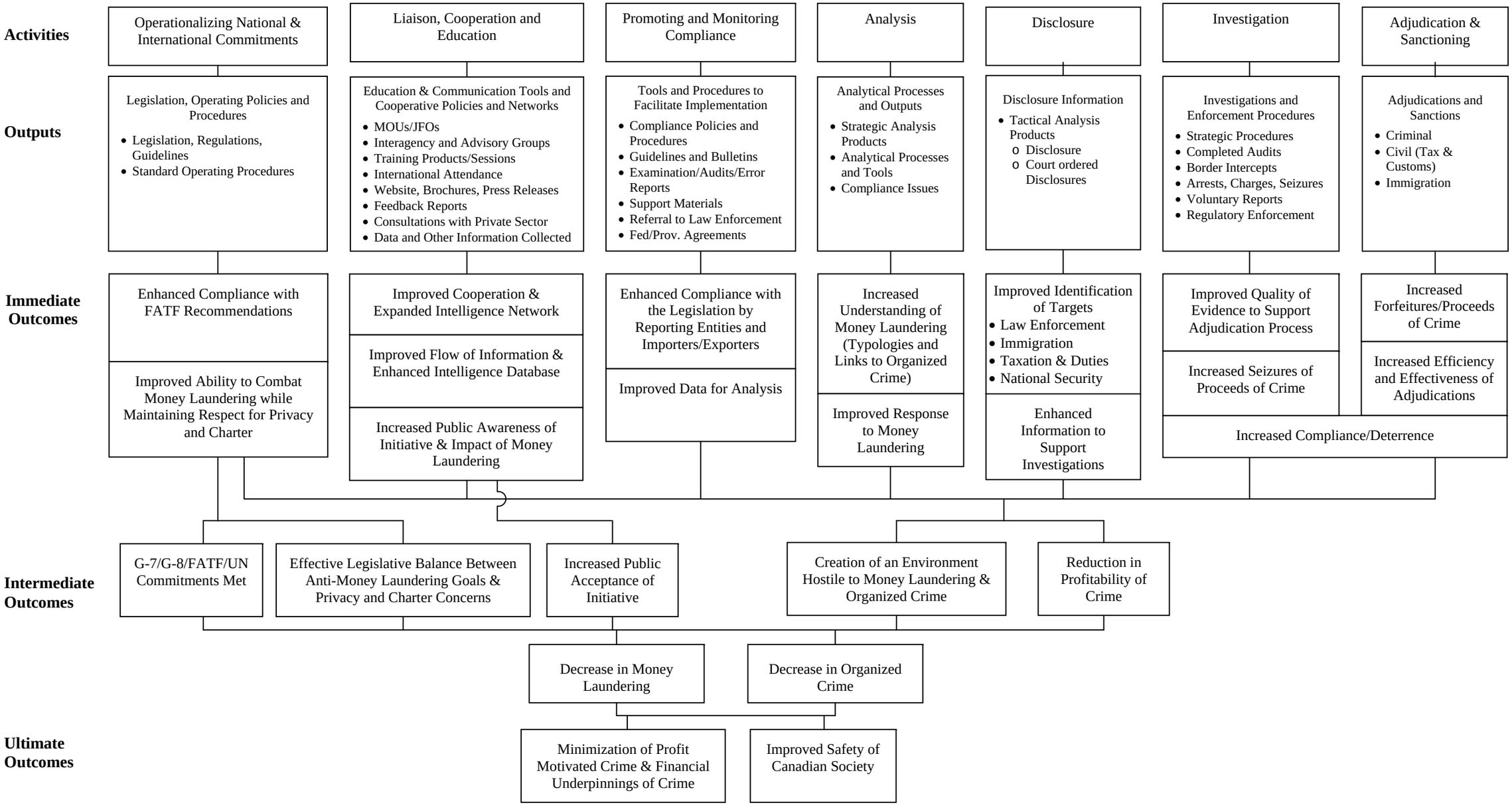
This evaluation included the following data sources and approaches:

DATA SOURCES	METHODOLOGY
1. Conferred with representatives from the seven Initiative partner agency/ departments about such issues as: ➢ program operation (e.g., clarity and operationalization of program goals and objectives, intent of the Initiative; achievement of intended objectives; and effective co-ordination of the multiple Initiative activities; ➢ the acquisition and maintenance of essential resources, such as personnel involved in the Initiative and their appraisal of the Initiative, expected outcomes that will determine success, and development of inter-agency/department cooperation and partnerships); and, ➢ perceptions about the ability of the Initiative to adapt to the environment and to its own internal demands (e.g., public awareness, compliance with the legislation, operating policies and procedures, documents produced, and international commitments).	➢ conferred on a regular basis with the project authority and the Steering Committee about the evaluation process and various Initiative activities. ➢ consulted (e.g., interviews, focus groups, emails) with Initiative partner representatives (N= 54). An interview and two focus group guides were prepared and distributed ahead of time for review. Each interview lasted approximately one hour and was conducted in person or via the phone. Two focus groups each lasting approximately two hours were held; one with representatives from the Partner groups and one with FINTRAC personnel. In addition, two meetings were held with RCMP and FINTRAC personnel to determine an understanding of the respective disclosure process. ➢ document review of key reports and other documents relating specifically to the work of the Initiative with a goal of confirming the context within which the Initiative was developed and the foundation on which the department activities and proposed outputs were based. In addition, operational documents provided an indication of the implementation progress particularly as it applies to relevance and success issues. The document review also looked at key documents produced, including strategic analysis products by Initiative partners and others, including typologies and international comments and assessments of Canada's regime (e.g., FATF, CICAD reports).
2. *Interviewed* individuals: (a) with *expertise* in money laundering, organized crime or financial sector issues; (b) external *stakeholders* whose views would be relevant to understanding the implementation and impacts of the Initiative on various sectors; (c) a sampling of *reporting entities* to ascertain their perceptions about the Initiative, its process of implementation, compliance, and any anticipated impacts they envision over both the short and long term.	➢ conducted interviews with experts, stakeholders and reporting entity representatives (N= 20). Each interview lasted approximately one hour and was conducted in person or via the phone. A detailed interview guide was prepared for each group and distributed ahead of time for review.

DATA SOURCES	METHODOLOGY
3. Literature review (see Appendix, Section 7.0) of printed and electronic literature concerning transaction reporting regimes and Financial Intelligence Units (FIUs). Particular emphasis has been placed on reviewing literature that: ➢ Provides a conceptual overview of reporting regimes and FIUs ➢ Evaluates the effectiveness of reporting regimes and FIUs ➢ Documents and examines privacy issues related to the development and implementation of reporting regimes ➢ Documents and examines the extent to which the reporting regimes mandate reporting of cash and suspicious transactions by lawyers	The literature review identified and synthesized seminal books, papers, reports, and academic articles documenting the design and findings of evaluations of organized crime enforcement policies and programs in Canada and other countries. The first stage in the research process involved an extensive search through bibliographic databases and the Internet. The bibliographic databases to be search include those specific to criminal justice, criminology, and organized crime in particular, including Criminal Justice Abstracts, the National Criminal Justice Reference Service database (www.ncjrs.org), and the Nathanson Centre Organized Crime Bibliographic database (www.yorku.ca/nathanson). In addition, general social scientific bibliographic databases – as well as meta databases – were searched for relevant literature. The databases, available through Ryerson University and the University of Toronto included: Academic Search Elite, Social Sciences Index, Proquest Research Library, Canadian Periodical Index, and Lexis/Nexis Academic. In addition to searches of bibliographic databases, web-based searches of the Internet were undertaken. These Internet searches entailed keyword searches using meta-search engines, such as: Google, alltheweb.com, yahoo.com, etc. and searches of specific web sites of relevance to this study, including those for enforcement and other criminal justice agencies, University departments, and sites for private and public sector agencies that have (or potentially have) conducted relevant evaluations.

DATA SOURCES	METHODOLOGY
4. Media search	
Government sites – see Appendix Section 6.3 for a listing of the various sites searched. Search of press releases about the Initiative for each of the seven partners (DOJ, FINTRAC, CCRA, Finance, RCMP, Solicitor General, and Citizenship and Immigration). The press releases were collected via a search of each partner's website.	Government sources – The media search targeted those press releases specifically related to the Initiative. The press releases were sorted by five different time periods (January to June 29th, 2000; June 29 - December 31, 2000; January - December 31, 2001; January - June 30, 2002; July 2002 – November 30, 2002). These time periods were chosen as specific Initiative activities occurred during these intervals.
Search of Canadian print and electronic media sources for items specifically related to Canada's Money Laundering Initiative as well as general stories concerning money laundering. Media searches – see Appendix Section 6.3 for a listing of the various sites searched.	Media sources – Canadian print and electronic media sources were searched using a variety of search terms ("FINTRAC", "money laundering", "money laundering initiative"). The initial search of the Lexis/Nexis news database, using the key words "money laundering", returned more than 1000 results for the time period between January 2000 and November 30, 2002. Use of the key words "money laundering initiative" returned 289 results for the specified time period. These articles were then examined for applicable content. The results, along with those gathered from additional Canadian on-line news portals, were then examined in-depth and classified. The search results were sorted by the five different time periods and include: stories with general information about money laundering in Canada; or stories that specifically discuss Canada's money laundering laws. Within those two designations, stories are evaluated as: supportive, neutral, or critical. If supportive, provide the reasons why (i.e. law is needed, money laundering threat to economy and public safety, international expectations, control of terrorists). If critical, the reasons for criticism are identified (i.e. civil libertarian threat, privacy concerns, lawyer's rejection and challenge, government control and interference).

2.0 Initiative Logic Model



3.0 Partner Activity Development (April 1, 1999 – November 30, 2002)

Activities	OUTPUTS	Finance	Sol Gen.	FINTRAC	RCMP	CCRA (T) & (C)	CIC	DOJ
Operationalizing National & International Commitments	**Legislation, Operating Policies and Procedures**							
	- Legislation	Completed/ongoing		N/a				
	- Regulations	Completed/ongoing		N/a				
	- Guidelines in place	N/a		Completed/ongoing		C – Completed & T - N/a		
	- Standard Operating Principles	N/a		Completed/ongoing		C – Completed & T - N/a		
Liaison, Cooperation & Education	**Education & Communication Tools & Cooperative Policies & Networks**							
	- MOUs							
	o Minister of Finance with other states/organizations	1	N/a	N/a	N/a	N/a	N/a	N/a
	o FINTRAC with other FIUs	N/a	N/a	5 underway (3 need Minister approval/ signing) /ongoing	N/a	N/a	N/a	N/a
	o FINTRAC with law enforcement agencies & others	N/a	N/a	1 completed /ongoing	N/a	N/a	N/a	N/a
	o RCMP	N/a	N/a	N/a	None	N/a	N/a	N/a
	o CCRA	N/a	N/a	N/a	N/a	T – RCMP, IRS; C- None	N/a	N/a
	o CIC	N/a	N/a	N/a	N/a	N/a	CSIS, RCMP, CCRA	N/a
	- Ongoing MLATS	N/a	N/a	N/a	N/a	N/a	N/a	MLATS: 37 incoming & 39 outgoing (2000-2002)
	- JFOs							
	o RCMP	N/a	N/a	N/a	2	N/a	N/a	N/A
	o CCRA	N/a	N/a	N/a	N/a	T & C - none	N/a	N/A
	- Interagency/Advisory Working Groups	15, + Bilaterals with Initiative partners	Participates	Bilaterals with partners; no working groups	Bilaterals	Bilaterals	Bilaterals	Legislation/Regulation Development, Bilaterals
	- Joint policy papers developed	3 completed; 3 in progress	Research 2, ongoing	N/a	1	T - 1	N/a	N/a
	- Membership/attendance in international meetings/events	63	5	Egmont, FATF, CFATF, APG	24 FAFT meetings, APG	T - 3 & C - none	4	>30 FAFT &/or CFAFT meetings since 1996
	- Formal/information consultations with stakeholders	> 100, started Dec. 1999/ ongoing	5	> 75 with LE agencies, plus others	> 100	T – 5; C - 40 groups Draft Regs. Sent out	Ongoing	N/a
	- Speaking engagements & presentations	6	N/a	13/15 national associations and self-regulating organizations[6]	103	T – 10 + internal & C - 1	1	N/a, informal
	- Public seeking information	40 media inquiries, 439 ministerial correspondence	N/a	Not counted; CMS under development to identify public; 931 RE requests	None to date	T & C Not tracked	None to date	Informal
	- Training Products/Sessions	N/a	N/a	Participated in courses provided other, produced a course	No products, 2 sessions	T – N/a; C- In place	None	50 FPS counsels trained
	- Website information about Initiative	None	Forthcoming early 2003	Public site in place	None	T & C - Public in place, Infozone for staff	None	Most info linked to Organized Crime on web
	- Press Releases[5]	9	10	12	2	T & C – None	None	14
	- Brochures, other communications regarding Initiative	Completed/ongoing	Completed/ongoing	Completed/ongoing	None	Completed/ongoing	None	Linked to organized crime
	- Feedback Reports to reporting entities	N/a	N/a	Approx. 10 on their draft compliance manuals	N/a	N/a	N/a	N/a
	- Number of reports received	N/a	N/a	15,363 STRs and 946,794 SWIFT EFTs	N/a	N/a	N/a	N/a

[5] **Press Releases:** January 2000 to November 30, 2002, inclusive.
[6] Met with senior officials and/or made presentations at Annual Conferences and Training Seminars for 13 of the 15 identified reporting entity sectors to date.

Partner Activity Development

Activities	OUTPUTS	Finance	Sol Gen.	FINTRAC	RCMP	CCRA	CIC	DOJ
Promoting & Compliance Implementation	**Tools and Procedures to Facilitate Implementation** - Compliance Policies & Procedures - Guidelines - Support materials provided to reporting entities - Bulletins - Equipment - Staff training - Agreements with other regulators (Fed./Prov.) - Examination/Audits/Error Reports - Referrals to law enforcement for non-compliance - Currency/monetary instruments seized & returned - Fines assessed for currency/monetary instruments seized & returned			 Completed/ongoing Completed/ongoing Completed/ongoing Completed/ongoing Technology/software in place Done None pending C-17, discussion with 54 + 2 self-regulated organizations None/ongoing None to date N/a N/a		T – N/a all below C - Completed/ongoing C - Completed/ongoing C - General public done, Brokers - yes C - Completed/ongoing C - Dogs (2 trained), all equipment purchased C - Done N/a N/a N/a C - None to date C - None to date		
Analysis	**Analytical Processes and Outputs** - Working & formal papers on money laundering & typologies - Analytical Processes & Tools - Compliance Issues (Reporting Entities - 'REs')	4 N/a N/a		Participated in FATF & APG typologies exercises In place/ongoing > 90 REs follow-ups, done manually, automated tools under development	1 N/a N/a	T –1, + numerous papers on offshore, banking, trusts & corp. entities N/a N/a	None N/a N/a	N/a N/a N/a
Disclosure	**Disclosure Information** - Tactical Analysis Products o Disclosures to Law enforcement, CCRA - T, CIC, CSIS, foreign counterparts o Production Court ordered disclosures (S.60; CSIS S60.1) - Feedback on FINTRAC disclosures o Usefulness of information received o Comprehensiveness of information received o Timeliness of information received			 50 None received None formally, informal received	 41 received [7] 1 on-going Informal	 T- 2 received referred by RCMP, 1 FINTRAC T- None; C– N/a T – Informal, C- N/a	 None to date None to date No disclosures made	 N/a 1 on-going N/a

[7] **Disclosures**: March 28, 2002 to December 10, 2002, inclusive

Partner Activity Development

Activities	OUTPUTS	Finance	Sol Gen.	FINTRAC	RCMP	CCRA	CIC	DOJ
Investigation: Disclosure	**Investigation & Enforcement Procedures** - Strategic Procedures to deal with FINTRAC investigation of disclosures - Investigations/Audits initiated - Cases closed/audits completed - Border Intercepts - Arrests, Charges, Seizures - Voluntary Reports - RCMP, CCRA, CIC make referrals for prosecution & administrative judgements				Procedures in place, data retrieval/technology problematic[8], not efficient 41 investigations 8/41 cases concluded None to date None to date 2 None to date	C – N/a to all T – in place T - None to date T - None to date T - None to date T - None to date T - None to date T - None to date	In place None to date None to date N/a None to date None to date None to date None to date	
Investigation: Compliance	**Investigation & Enforcement Procedures** - Compliance Investigations initiated - Strategic Procedures to deal with FINTRAC disclosures-compliance - Investigations/Audits initiated - Cases closed/audits completed - Border Intercepts - Arrests, Charges, Seizures - Voluntary Reports - RCMP, CCRA, CIC make referrals for prosecution & administrative judgements				None to date In place, none to date, data retrieval system for compliance not assessed None to date None to date None to date None to date None to date None to date	C - N/a to all T - None T - In place, none to date T - None to date T - None to date T - None to date T - None to date T - None to date T - None to date	N/a N/a None to date None to date None to date None to date N/a None to date	
Adjudication & Sanctioning	**Adjudication & Sanctioning** - Adjudication processes initiated o Criminal o Civil (Tax & Customs) o Immigration - Adjudication processes completed o Criminal o Civil (Tax & Customs) o Immigration - Convictions/findings of guilt - Appeals launched/successful, not guilty - Sanctions				None	None	None	Based on amended PCMLA in June 2000 or PCMLTFA, Dec 2001. On-going prosecutions of money laundering is captured under the IPOC initiative. For the fiscal years 2000-2001, 2001-2002, and 2002-2003 there were 167, 196 and 242 money laundering-related charges active in the in-house inventory.

[8] Apparently the RCMP – IT section is working on a 'SPURS' system that may improve the efficiency of data retrieval; implementation is unknown.

Partner Activity Development

Activities	OUTCOMES	Finance	Sol Gen.	FINTRAC	RCMP	CCRA	CIC	DOJ
Operationalizing National & International Commitments	**Enhanced compliance with FATF Recommendations**							
	- progress made in addressing FATF recommendations	Yes		Yes				
	- nature & extent to which the legislation is in line with 40 recommendations	27/28 'Key' recommendations met		N/a				
	- FATF acknowledgement of Canada's action/annual report	In place/ongoing		N/a				
	- FINTRAC established	N/a		July 5, 2000				
	- FINTRAC **fully** operational	N/a		November 20, 2002[9]				
	- Cross-border regime regulations published	November 26, 2002		N/a		C - November 26, 2002		
	- Cross-border regime implemented	N/a		Jan. 6. 2003		C - January 6, 2003		
	- Membership in Egmont & other international groups	N/a		June 2002				
	- Positive mutual evaluation in next round of FAFT assessments	Too soon		Too soon				
	Improved ability to combat money laundering							
	- Number of requests under Privacy Act	N/a		2 (1 was related to info not held by FINTRAC)				N/a
	- Number of privacy complaints under Privacy Act	None		None				N/a
	- Number of Charter challenges	1 (Fed of Law Societies of Canada)		N/a				1
	- Number of successful privacy complaints under Privacy Act	N/a		None				None
	- Number of successful Charter challenges	None		N/a				None
	- Nature & extent of responses from privacy and Charter advocates	None		None formally				None
	- Nature and extent to which components of the legislation are struck down regarding privacy and Charter violations	None		N/a				N/a

[9] **Fully** operational as per FINTRAC Communiqué dated November 20, 2002. FINTRAC's processes for the receipt of voluntary information were in place by October 28, 2001, and systems to enable the electronic receipt of Suspicious Transaction Reports were tested and in place on November 8, 2001.

Partner Activity Development

Activities	OUTCOMES	Finance	Sol Gen.	FINTRAC	RCMP	CCRA	CIC	DOJ
Liaison, Cooperation & Education	**Improved cooperation & expanded intelligence network** - Number of voluntary information items received from international partners - Access to interagency databases - Sharing of training tools/resources - Levels of cooperation through formal linkages: o Number of JFOs o Number of MOUs o International Agreements/networks o Number of partnerships, interagency and working groups -Nature & extent of overall asset sharing on a domestic/international basis	Too soon		Tracked, no data provided CPIC; others being negotiated Participated and produced a course N/a 1 domestic 5 MOUs underway; new member on Egmont Outreach & Legal Working Groups Participation in groups hosted by Finance; bilateral work with other partners on issues N/a	Too soon			
	Improved flow of information & enhanced intelligence database[10] - Rate of exchange of analysis reports/annual reports - Size of intelligence database - Information available/received: o Quality of information available/received o Comprehensiveness of information available/received o Timeliness of information received - Number of requests (under MLATs) leading to assistance - Volume of formal information/intelligence exchange - Volume of informal communication/information exchange	Too soon		First annual report was delivered to all partners and relevant FIUs immediately after it was tabled. Too soon Too soon N/a Too soon Too soon	Too soon			
	Increased public awareness of Initiative - Nature & extent to which the public seeks information on the Initiative or money laundering/organized crime in general - Volume & content of reporting by media on relevant issues & the Initiative itself - Volume of tips/voluntary suspicious reports received	Too soon		Website and Call Centre contacts counted 218,186 visits to FINTRAC website between January 2001 and November 30, 2002; and 2,827 calls to Call Centre number between October 29, 2001 and November 30, 2002. Approximately 3500 of these website visits were FINTRAC staff and/or other federal government agencies. Tracked, but not counted Tracked, no data provided	Too soon			

[10] Refers to interactions between Initiative partners and other related agencies, and possibly, international links.

Partner Activity Development

Activities	OUTCOMES	Finance	Sol Gen.	FINTRAC	RCMP	CCRA	CIC	DOJ
Promoting & Monitoring Compliance	**Enhanced compliance with the Legislation by reporting entities and importers/exporters** - Number of reports filed - Quality of reports filed - Quality of compliance programs implemented - Rate of successful audit/compliance checks - Number of wilful non-compliance referrals to law enforcement - Number of compliance issues identified - Number of compliance issues rectified			15,363 STRs & 946,794 SWIFT EFTs Starting to emphasize quality in addition to completeness Just starting, too early to determine None to date None to date None to date > 90 REs, no data provided Usually after first contact, no data provided				
	Improved data for analysis - Error rates in data received by agencies - Analysts' perceptions of the quality & utility of the data - Volume of reporting to FINTRAC - Quality assurance practices implemented (training elements for reporting entities)			Technology in place for STRs and SWIFT EFT reports is underway Follow-ups made with >90 REs, usually rectified after 1 contact. 15,363 STRs and 946,794 SWIFT EFTs - Underway				
Analysis	**Increased Understanding of Money Laundering** - Knowledge about money laundering - New/more refined typologies - Quality of indicators for assessing nature, impact & scope of money laundering - Level of understanding of the linkages/relationship between money laundering & organized crime - Level of ability to integrate & apply test for disclosures - Level of ability to undertake risk assessments - Perceived usefulness of analytical reports	Too soon	Research published soon N/a Research published soon Research published soon N/a N/a N/a	Mechanisms are in place / ongoing As above As above As above As above As above Too soon				
	Improved Response to Money Laundering - Level of resources focused on identified high risks - Types of responses to money laundering				Too soon			

Partner Activity Development

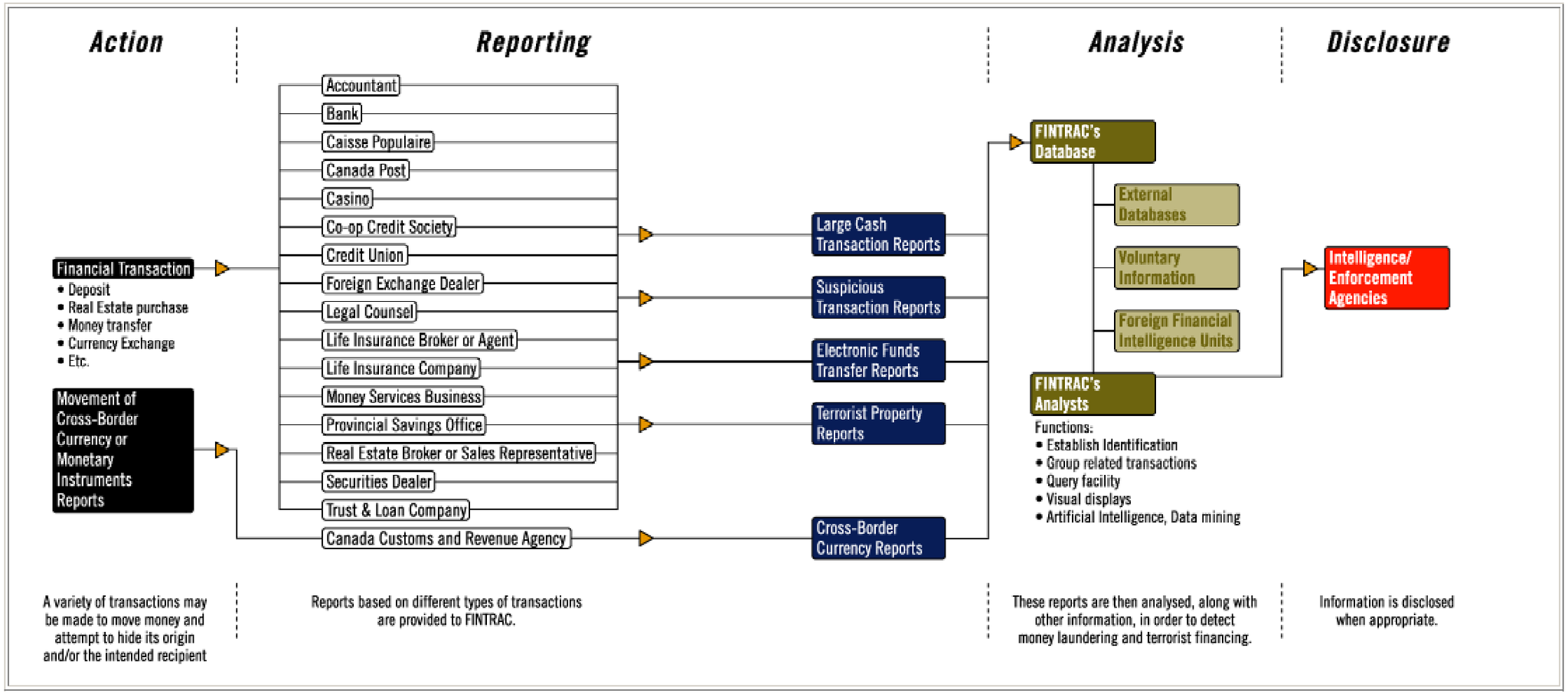
Activities	OUTCOMES	Finance	Sol Gen.	FINTRAC	RCMP	CCRA	CIC	DOJ
Disclosures	**Improved identification of targets** - Law enforcement, Immigration, Taxation & duties, & National security – CSIS – FIUs o Number of new targets identified o Number of existing targets confirmed/ eliminated o Nature & extent of the linkages/ relationships between/among targets drawn on initial and full disclosures				SUI ? Unknown	Too soon		
	Enhanced information to support investigations - Quality of information disclosed - Nature & extent to which money laundering element is added to or incorporated into other investigations - Number of investigations restarted/ renewed on the basis of new or improved information - Number of special warrants authorized - Number of new investigations initiated - Rate of complete disclosures				Informal Unknown ? ? ? 8[11]	Too soon		
Investigation	**Improved Quality of Evidence to support adjudication process** - Acceptance of evidence by prosecutor - Acceptance of evidence by Court - Cases referred to Justice - Charges laid - Charges withdrawn				Too soon Too Soon Too soon IPOC statistics as baseline: - Charges laid by RCMP for money laundering Too Soon	Too Soon Too Soon Too Soon CCRA – IPOC statistics as baseline: - Audits, fines, convictions Too Soon		Too soon
	Increased seizures of proceeds of crime - Market value of seized goods, + Seized Property Management Database (SPMD)				IPOC statistics as baseline: - Suspicious or unusual transaction reports filed - Money laundering cases (investigations) - Seizures related to money laundering (RCMP)	CCRA – IPOC statistics as baseline: - Audits, fines, convictions, monies collected		DOJ (FPS) border seizure/forfeiture results April 1, 2002 – August 2002.
	Increased compliance/deterrence - Cases referred to Justice - Levels of Immigration among identified groups - Number of arrests made and charges laid related to money laundering and organized crime - Nature and extent of repeat offending/repeat offenders				Too soon N/a IPOC statistics as baseline: - Charges laid by RCMP for money laundering - Too Soon	CCRA – IPOC statistics as baseline: - Audits, fines, convictions, monies collected, fines	Too soon	

[11] RCMP indicated that the lack of resources to investigate the files *does impact* on their ability to start/complete disclosures.

Partner Activity Development

Activities	OUTCOMES	Finance	FINTRAC	Sol Gen.	RCMP	CCRA	CIC	DOJ
Adjudication & Sanctioning	**Increased forfeitures/proceeds of crime** - Number of forfeiture orders - Market value of goods forfeited				IPOC statistics as baseline: - Value of revenue collected - Value referred to outside agencies	CCRA – IPOC statistics as baseline: - Audits, fines, convictions, monies collected, fines		DOJ (FPS) border seizure/forfeiture results April 1, 2002 – August 2002.
	Increased efficiency & effectiveness of adjunctions - Resources required to process case - Number of successful appeals - Elapsed time between charges laid and adjudication results - Nature of adjudication result				Too soon			Too soon
	Increased compliance/deterrence - Cases referred to Justice - Levels of Immigration among identified groups - Number of arrests made and charges laid related to money laundering and organized crime - Nature and extent of repeat offending/repeat offenders				Too soon			

4.0 FINTRAC Business Process Model



5.0 Assessment of FATF Recommendations

5.1 FATF Recommendations Requiring Specific Action

FATF : 28 Recommendations Requiring Specific Action			
Analysis	**Full Compliance with Recommendations**	**Partial Compliance with Recommendations**	**Non-Compliance with Recommendations**
Analysis of the 1999-2000 Self-Assessment Exercise	14	11	3
Analysis of the 2000-2001 Self-Assessment Exercise	16	11	1
Analysis of the 2001-2002 Self-Assessment Exercise	27	1	0

5.2 Analysis of the Self-Assessment Recommendation Compliance Exercise (1999 – 2002)

Recommendation	99/00	00/01	01/02	Canada's Response to FATF Recommendation	FATF Assessment of Canada's Progress
8	Partial	Partial	Full	PCMLTF Regulations brought into force, applying to broad range of reporting entities.	Implementing regulations have come into effect to deal both with the issues relating to money remitters and with the lack of full compliance with Rec. 11 and 15. The compliance level changed to Compliant".
11	Non	Partial	Full	Enhanced client identification requirements brought into force. Identity records kept of third party transactions.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
12	Partial	Partial	Full	Enhanced record-keeping requirements brought into force, which apply to a broad range of reporting entities.	The necessary regulations have come into force. The compliance level is changed to "Compliant".

Analysis of the Self-Assessment Recommendation Compliance Exercise (1999 – 2002)
(Continued)

Recommendation	99/00	00/01	01/02	Canada's Response to FATF Recommendation	FATF Assessment of Canada's Progress
15	Non	Partial	Full	Implementation of suspicious transaction reporting regulations	The necessary regulations have come into force. The compliance level is changed to "Compliant".
17	Non	Partial	Full	Financial institutions are not prohibited from tipping off customers.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
18	Partial	Partial	Full	Implementation of suspicious transaction reporting regulations. FINTRAC responsible for supervising compliance. FINTRAC published guidelines on methods for reporting suspicious transactions. FINTRAC assists financial institutions to ensure compliance. FINTRAC forwards instances of non-compliance to law enforcement.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
19	Partial	Partial	Full	All reporting entities required to implement a compliance regime.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
20	Partial	Partial	Full	Foreign branches of Canadian financial institutions are subject to the same anti-ML obligations as the parent institution. OSFI anti-ML guidelines extended to cover life insurance companies.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
21	Partial	Partial	Full	FINTRAC responsible for ensuring compliance with all covered entities. OSFI issued advisories to all federally regulated financial institutions. Provincial regulators and self-regulatory organizations have also issued advisories.	The necessary regulations have come into force. The compliance level is changed to "Compliant".

Analysis of the Self-Assessment Recommendation Compliance Exercise (1999 – 2002)
(Continued)

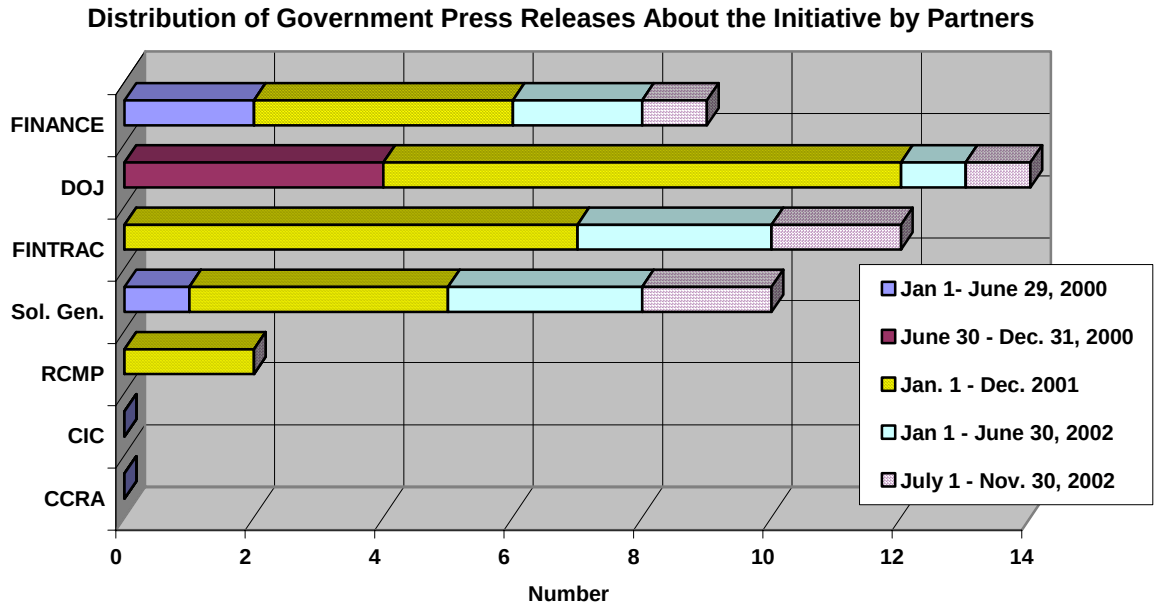
Recommendation	99/00	00/01	01/02	Canada's Response to FATF Recommendation	FATF Assessment of Canada's Progress
26	Partial	Partial	Full	Reporting entities required to implement a compliance regime. FINTRAC supervises compliance. OSFI issued guidelines concerning internal risk management systems for federally regulated deposit-taking institutions and insurance companies. FINTRAC can receive information relevant to its mandate. FINTRAC required to disclose information to law enforcement when relevant to prosecuting a ML or terrorist financing offence.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
28	Partial	Partial	Full	FINTRAC issued guidelines to assist reporting entities meet their requirements under the Act.	The necessary regulations have come into force. The compliance level is changed to "Compliant".
29	Partial	Partial	Partial	Recommendations being developed to require bureaux de change and other money service businesses to register with competent authorities.	These "Recommendations" are not yet in force.
38	Partial	Partial	Full	Canada may enforce a seizure, freezing, and forfeiture orders issued by a criminal court of another jurisdiction for both proceeds of crime and criminal instrumentalities (offence related property). Canada may share the forfeiture with a foreign jurisdiction if a reciprocal Sharing Agreement exists.	The necessary regulations have come into force. The compliance level is changed to "Compliant".

6.0 Media Review

6.1 Press Releases

A media review was completed to determine the extent to which information was available to/in the popular media that was informative about money laundering in general and the Initiative in particular. The press releases identified were subsequently distributed according to five periods from January 2000 through to and including November 30, 2002. The Figure below sets out the distribution of those press releases by partner and period of time. Initiative partners between January 2000 and November 2002 sent out 47 press releases.

Distribution of Government Press Releases About the Initiative by Partners



6.2 General Media Articles

Information in the popular press is for the most part usually from two basic sources --- (a) the actual source of the information (e.g., press releases) or (b) journalists who decide to write about the topic out of personal interest. Since the first category was captured primarily by analyzing the press releases, a second search of the media looked at the second option from two directions --- any and all **general articles** about money laundering in Canada; as well as those articles that **focused specifically** on Canada's money laundering laws and/or this Initiative. The identified articles were then distributed according to the same time periods used with the press release analysis.

Each article was then reviewed in detail and graded as to whether it was supportive, critical or neutral with respect to the comments by the writer. The implication being that the journalist's opinion often has more of a bearing on whether the reader remembers the information in the first place and secondly treats it with any degree of relevance. In other words, would the article contribute to the publics overall knowledge and appreciation of the issues surrounding money laundering, or not?

The following Table shows the distribution of articles found to contain general information about money laundering in Canada. A total of 25 separate stories were identified in this grouping, with 52% presenting a neutral position by the writer. 'Press supportive' articles dropped off significantly during 2002 in comparison to the three previous time periods, with 'press neutral' articles dominating in 2002.

General Information About Money Laundering in Canada

Date	Number	Press Supportive	Press Neutral	Press Critical
July 1 – Nov 30, 2002	4	0	3	1
Jan. 1 – June 30, 2002	7	1	4	2
Jan. 1 – Dec 31, 2001	7	3	2	2
June 30 – Dec. 31, 2000	4	1	3	0
Jan 1 – June 29, 2000	3	2	1	0
TOTAL count **Percent**	25 100%	7 28%	13 52%	5 20%

The **Table** below shows the distribution of those articles that specifically discussed Canada's money laundering laws or the Initiative itself. As with the previous grouping, each article was reviewed and assessed as supportive, neutral, or critical. If **supportive**, the content of the story stressed one or more of following five themes: *the law is needed; money laundering is a threat to the economy; money laundering is a threat to public safety; the law is needed to meet international expectations; or, it is necessary for the control of terrorists.*

Those articles given a **critical rating** were categorized as such for having stressed one or more of the following four themes: *the laws were a threat to the civil liberties of Canadians; it created privacy concerns, the story addressed the legal challenge instituted by Canada's lawyers; or the laws reflected growing government controls and interference.*

Articles that Specifically Discussed Canada's Money Laundering Laws

Date	Number	Press Supportive	Press Neutral	Press Critical
July 1 – Nov 30, 2002	3	1	1	1
Jan. 1 – June 30, 2002	12	2	3	7
Jan. 1 – Dec 31, 2001	10	4	2	4
June 30 – Dec. 31, 2000	8	5	3	0
Jan 1 – June 29, 2000	1	0	1	0
TOTAL count	34 100%	12 35%	10 30%	12 35%

6.3 Media Review References

6.3.1 Press Releases

Department of Justice

http://canada.justice.gc.ca/en/cons/final2.htm
http://canada.justice.gc.ca/en/news/nr/2000/doc_25605.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_26098.html
http://canada.justice.gc.ca/en/news/nr/2000/doc_25603.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_27787.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_28217.html
http://canada.justice.gc.ca/en/news/nr/2002/doc_30710.html
http://canada.justice.gc.ca/en/news/sp/2000/doc_25589.html
http://canada.justice.gc.ca/en/news/nr/2000/doc_25784.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_29513.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_28215.html
http://www.canada.justice.gc.ca/en/news/nr/2001/doc_29513.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_26100.html
http://canada.justice.gc.ca/en/news/g8/doc8.html

FINTRAC

http://www.fin.gc.ca/news01/01-016e.html
http://www.fin.gc.ca/news01/01-076e.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_27785.html
http://www.fin.gc.ca/news01/01-094e.html
http://www.fin.gc.ca/news01/01-102e.html
http://canada.justice.gc.ca/en/news/nr/2001/doc_28215.html
http://www.canada.justice.gc.ca/en/news/nr/2001/doc_29513.html
http://www.fintrac.gc.ca/publications/nr/2002-01-16_e.asp
http://www.fin.gc.ca/news02/02-039e.html
http://www.fin.gc.ca/news02/02-055e.html
http://www.fintrac.gc.ca/publications/nr/2002-11-05_e.asp
http://www.fin.gc.ca/news02/02-095e.html

RCMP

http://www.rcmp-grc.gc.ca/news/nr-01-29.htm
http://www.rcmp-grc.gc.ca/news/nr-01-22.htm

Department of Finance

http://www.fin.gc.ca/news02/02-055e.html
http://www.fin.gc.ca/news02/02-039e.html
http://www.fin.gc.ca/news01/01-102e.html
http://www.fin.gc.ca/news01/01-094e.html
http://www.fin.gc.ca/news01/01-076e.html
http://www.fin.gc.ca/news01/01-016e.html
http://www.fin.gc.ca/news00/00-038e.html
http://www.fin.gc.ca/news00/00-011e.html

http://www.fin.gc.ca/news02/02-095e.html

Solicitor General of Canada
http://www.sgc.gc.ca/publications/news/20020723_e.asp
http://www.sgc.gc.ca/publications/news/20020514_2_e.asp
http://www.sgc.gc.ca/publications/news/20020215_e.asp
http://www.sgc.gc.ca/publications/news/20020102_e.asp
http://www.sgc.gc.ca/publications/news/20011224_e.asp
http://www.sgc.gc.ca/publications/news/20011218_2_e.asp
http://www.sgc.gc.ca/publications/news/20011218_e.asp
http://www.sgc.gc.ca/publications/news/20011015_e.asp
http://www.sgc.gc.ca/publications/news/20000210_e.asp
http://www.sgc.gc.ca/publications/news/20021127_e.asp

6.3.2 General Media Article Sources

List of Selectable Sources
Source Directory: Country & Region: Canada:News

www.nexis.com/research	Agence France Presse (French)
Boards	Broadcast News (BN)
Business Dateline Database	The Calgary Sun
The Cambridge Reporter	Canada NewsWire
Canadian Broadcasting Corporation TV	Canadian Business
Canadian Business & Current Affairs	Canadian Corporate News
The Canadian Press	PROFIT
CTK National News Wire	CTV Television
The Edmonton Sun	National Post (f/k/a The Financial Post)
Financial Post Investing	The Guelph Mercury
The Hamilton Spectator	IAC Canada
The Record (Kitchener-Waterloo)	Lafferty Newsletters
The Lawyers Weekly News	The London Free Press
Maclean's	Le Monde
Nouvelles tele-radio (NTR)	The Ottawa Sun
PAP News Wire	Playback
Press Association Newsfile	La Presse Canadienne (PC)
RDS Business & Management Practices	Selected Documents
Realscreen	
Southam Publishing Company Combined	'Materials – Canada Stories
Strategy	The Times and Sunday Times
The Toronto Star	The Toronto Sun

Additional searches:

Canoe News	The Globe & Mail
Yahoo Canada News	

7.0 Literature Review

Transaction Reporting Regimes and Financial Intelligence Units

7.1 Introduction

This document summarizes the findings of a review of printed and electronic literature concerning transaction reporting regimes and Financial Intelligence Units (FIUs). Particular emphasis has been placed on reviewing literature that:

- Provides a conceptual overview of reporting regimes and FIUs;
- Evaluates the effectiveness of reporting regimes and FIUs;
- Documents and examines privacy issues related to the development and implementation of reporting regimes; and
- Documents and examines the extent to which the reporting regimes mandate reporting of cash and suspicious transactions by lawyers.

Ostensibly, the objective of this literature review is to contribute to a greater understanding of the conceptual, normative, and implementation and operation of transaction reporting regimes and FIUs in particular.

This literature review begins by providing a broad overview of transaction reporting regimes and financial intelligence units. This includes both a conceptual overview as well as normative prescriptions for the effective development, implementation, and operation of these regimes. This is followed by a review of literature that examines and evaluates the implementation and operation of the reporting regimes and FIUs. In general, this material has been drawn from Financial Action Task Force (FATF) reports that assess the extent to which its member countries have complied with the FATF 40 recommendations. The focus of this review will be placed on the extent to which the members have complied with those recommendations specifically addressing transaction reporting (including large case, suspicious activity, and cross-border currency reporting). Finally, this document examines all of the above issues in relation to four countries: the United States, Australia, the United Kingdom and Canada.

7.1.1 Methodology

The literature review identified and synthesized seminal books, papers, reports, and academic articles documenting the design and findings of evaluations of organized crime enforcement policies and programs in Canada and other countries. In general, there was no media search conducted, although some media articles have been included in the literature review to address current issues, in particular those dealing with privacy issues and the exemption of lawyers from the reporting transaction.

The first stage in the research process involved an extensive search through bibliographic databases and the Internet. The bibliographic databases searched included those specific to criminal justice, criminology, and organized crime in particular, including Criminal Justice

Abstracts, the National Criminal Justice Reference Service database (www.ncjrs.org), and the Nathanson Centre Organized Crime Bibliographic database (www.yorku.ca/nathanson)

In addition, general social scientific bibliographic databases – as well as Meta databases – were searched for relevant literature. The databases, available through Ryerson University and the University of Toronto include: Academic Search Elite, Social Sciences Index, Proquest Research Library, Canadian Periodical Index, and Lexis/Nexis Academic. In addition, web-based searches of the Internet were undertaken. These Internet searches entailed keyword searches using meta-search engines, such as Google, alltheweb.com, yahoo.com, etc. and searches of specific web sites of relevance to this study, including those for enforcement and other criminal justice agencies, University departments, and sites for private and public sector agencies that have (or potentially have) conducted relevant evaluations.

7.2 Conceptual Overview

A financial transaction monitoring and reporting system is part of a series of public policies that mandate the private sector and the financial services sector in particular, to detect and report suspected money laundering to government agencies. Due in part to pressure from such international government bodies as the Financial Action Task Force (FATF), transaction reporting has been adopted by an increasing number of countries to combat money laundering and predicate offences, such as drug trafficking. The recent terrorist attacks on the United States have also resulted in new laws that have expanded transaction-reporting laws to combat terrorist financing.

Currency and financial transaction reporting is designed to expose the money laundering process at its most vulnerable 'choke' points, that is, when cash enters the financial system, when it is transferred between financial intermediaries, or when it is transported across national borders. By imposing an obligation to report transactions, as well as provide financial information that may be related to profit-oriented criminal activity, a transaction-reporting regime may potentially serve a number of important policing and regulatory functions. It provides government agencies with a greater capacity to uncover evidence of wrongdoing by creating a central repository of financial information that can identify proceeds of crime and their sources. It also ensures proper records are in place to facilitate a subsequent criminal investigation. Theoretically, transaction reporting is also meant to serve as a deterrent to criminal behaviour for both the original perpetrator of the criminal offence and any financial intermediaries who would capitalize on their position to help launder illicit profits.

Transaction reporting can be demarcated into two general categories: **currency transaction reporting** (CTR) and **suspicious activity reporting** (SAR).

- A CTR system requires that specified financial intermediaries report any currency transaction over a specified threshold (generally 10,000 in the currency of the country implementing the reporting regime). A second type of currency monitoring is that which requires the reporting of currency or monetary instrument above a certain threshold amount when it crosses national borders.

- SAR systems require financial intermediaries to report transactions that appear to be suspicious, regardless of the amount. This model provides more discriminate reporting of financial transactions compared to the CTR system. The philosophy behind SAR is that while there are millions of transactions that pass through financial institutions, a certain percentage are irregular in some aspect and warrant greater scrutiny. The most often cited

reason for the implementation of a SAR system is that it is explicitly geared towards identifying transactions that may reveal money laundering, unlike the CTR system.

7.2.1 The Financial Intelligence Unit (FIU)

At the core of a transaction reporting regime is a financial intelligence unit (FIU), a specialized government agency created by countries to process and analyze suspicious and currency transaction reports. The need for an FIU as part of a national transaction reporting and money laundering enforcement regime was reflected in Article 7(1)(b) of the United Nations Convention against Transnational Organized Crime, which requires that each State Party:

> "Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering."[12]

The Financial Action Task Force, an international governmental committee originally formed as part of the G-8 to develop and promote policies to combat money laundering in countries throughout the world, has also recognized the importance of an FIU. Specifically, it urges member countries to establish an FIU:

> "Countries should establish an FIU, as defined by the Egmont Group of financial intelligence units, to serve as a national centre for the collection, analysis and dissemination of suspicious transaction reports and other information regarding potential money-laundering."[13]

7.2.2 The EGMONT Perspective

The establishment of the first FIUs in the early 1990s by the United States and Australia "was seen as a series of isolated events related to the specific needs of those jurisdictions which created them."[14] Since 1995, however, a number of the FIUs began working together in an informal organization known as the Egmont Group of Financial Intelligence Units (named for the location of the first meeting in the Egmont-Arenberg Palace in Brussels). The goal of the Egmont group is to:

[12] United Nations Office on Drugs and Crime, Web Site. http:// www. undcp.org/ pdf/ crime/ a_res_55/ res5525e.pdf

[13] Financial Action Task Force on Money Laundering. 2002. *Review of FATF Forty Recommendations*. Consultation Paper. Paris: FATF. May 30: p. 40.

[14] Financial Action Task Force web site, http://www1.oecd.org/fatf/Ctry-orgpages/org-egmont_en.htm#Contact

> …“ provide a forum for FIUs to improve support to their respective national anti-money laundering programmes. This support includes expanding and systematizing the exchange of financial intelligence, improving expertise and capabilities of the personnel of such organizations, and fostering better communication among FIUs through the application of new technologies.”[15]

In 1996, at a meeting in Rome, the Egmont Group released a succinct definition of an FIU as:

> “A central, national agency responsible for receiving (and, as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information (i) concerning suspected proceeds of crime, or (ii) required by national legislation or regulation, in order to counter money laundering.”[16]

According to the Egmont Group, the FIUs “have attracted increasing attention with their ever more important role in anti-money laundering programmes, that is, they seem to provide the possibility of rapidly exchanging information (between financial institutions and law enforcement / prosecutorial authorities, as well as between jurisdictions), while protecting the interests of the innocent individuals contained in their data.”

The *role of the FIU* is to facilitate one of the key issues involved in money laundering enforcement:

> “ ensuring that the critical piece or pieces of information make it to the right people -- the investigators and prosecutors charged with putting criminals behind bars and taking their illegally obtained wealth away -- in a timely and useful manner.” [17]

In an “Information paper”[18] on FIUs, the Egmont group identifies a particular void within the law enforcement community that can be filled by a specialized FIU: “Anti-money laundering investigations conceivably touch a number of law enforcement agencies within a particular jurisdiction. This along with the fact of ever-present resource limitations means that a completely effective, multi-disciplined approach for combating money laundering is often beyond the reach of any single law enforcement or prosecutorial authority.” (p. 1)

7.2.3 The FIU and the Private Sector

This “Information paper”[19] goes on to imply that a specialized FIU may address the reluctance among private sector financial institutions to provide information directly to law enforcement, as

[15] Financial Action Task Force web site, http://www1.oecd.org/fatf/Ctry-orgpages/org-egmont_en.htm#Contact

[16] Egmont Group. 2001. *Statement of Purpose of the Egmont Group of Financial Intelligence Units.* The Hague, June 13. http://www1.oecd.org/fatf/pdf/EGstat-200106_en.pdf

[17] Egmont Group. n.d. *Information Paper on Financial Intelligence Units and the Egmont Group*. http://www1.oecd.org/fatf/pdf/EGinfo-web_en.pdf

[18] Egmont Group. n.d. *Information Paper on Financial Intelligence Units and the Egmont Group.*

[19] ibid.

well as problems that may obstruct the rapid dissemination and sharing of information between the private sector and law enforcement and between countries. "In many cases, there is also a reluctance on the part of financial institutions to provide to government authorities information that might be related to but is not obviously indicative of a crime. One may add to these restrictions on information exchange in certain instances, the unwillingness or inability to share such information among relevant government agencies and the seemingly insurmountable obstacles to rapid exchanges of information with foreign counterparts." (P.1)

In short, the Egmont Group summarizes the need for a specialized FIU as follows:

First, while "most countries have implemented anti-money laundering measures alongside already existing law enforcement systems," certain countries, due to their size and perhaps the inherent difficulty in investigating money laundering, felt the need to provide a "clearinghouse" for financial information. "Agencies created under this impetus were designed, first and foremost, to support the efforts of multiple law enforcement or judicial authorities with concurrent or sometimes competing jurisdictional authority to investigate money laundering."

Second, through the 40 Recommendations of the FATF and other similar regional initiatives, "the concept of suspicious transaction disclosures has become a standard part of money laundering detection efforts." In creating a transaction disclosure system, "some countries saw the logic in centralizing this effort in a single office for receiving, assessing and processing these reports." As such, FIUs can play the role of a "buffer" between the private financial sector and law enforcement and judicial/prosecutorial authorities." (pp. 2-3)

The Egmont Group also notes that regulatory or oversight authority (with respect to anti-money laundering matters) has also increasingly become a function of a number of FIUs. "Since disclosing requirements necessitate that the receiving agency deal with the disclosing institution, it is only logical that some FIUs then become a primary force in working with the private sector to find ways to perfect anti-money laundering systems." (p. 3)

7.2.4 Some Key Attributes of an FIU

In the same "Information" paper, the Egmont Group highlights some of the attributes it considers to be central to the effective functioning of an FIU. One of the first attributes is **a multi-disciplinary approach**: "Countering money laundering effectively requires not only knowledge of laws and regulations, investigation, and analysis, but also of banking, finance, accounting and other related economic activities." (p. 1).

Another important characteristic of the FIU is **its analytical function**; the ability to turn a plethora of disparate information disclosed by different private and public sector organizations into meaningful intelligence information that can be used by law enforcement agencies. Moreover, information must be disseminated to law enforcement in a timely and efficient manner:

> "The crime of money laundering may not become completely obvious until many or all of the pieces are put together. Since money may transfer hands in a matter of seconds or be relocated to the other side of the world at the speed of an electronic wire transfer, law enforcement and prosecutorial agencies that investigate money laundering must be able to count on a virtually immediate exchange of information. This information exchange must also be at an early point after possible detection of a crime -- the so-called "pre-investigative" or intelligence stage." (p. 1)

At the same time, the **information on innocent individuals and businesses must be protected from potential misuse** by government authorities (p. 1). This includes the need to respect privacy issues in the collection, analysis, storage, and dissemination of information gathered as part of the reporting process.

7.3 Some General Evaluation Findings

Given the relative youth of most national transaction reporting regimes and FIUs in particular, it is not surprising that few formal evaluations have been conducted. Moreover, a literature search revealed few reports, scholarly research, or even deliberative commentary or critiques of such systems.

This section summarizes some of the general commentary, critiques, and evaluation findings in relation to transaction reporting regimes and FIUs. Literature specific to individual countries is summarized later in this report.

One of the international bodies that is in a key position to comment on the effectiveness of transaction reporting regimes is the FATF, which has been quite influential in establishing the normative principles of a transaction reporting regime. These principles are part of a broader framework recommended to combat money laundering by member countries. Since the formation of the FATF more than 10 years ago, its member nations, as well as prospective members, have been subjected to what the FATF calls a "mutual evaluation process," whereby each FATF member country is examined by a team of selected experts from other member countries.

> "The purpose of this exercise is to provide a comprehensive and objective assessment of the extent to which the country in question has moved forward in implementing measures to counter money laundering and to highlight areas in which further progress may still be required."[20]

Between 1992 and 1997, two rounds of mutual evaluations were conducted, which "provide the principal method by which the FATF has monitored the implementation of the Forty Recommendations, and has assessed the effectiveness of the anti-money laundering systems in FATF member jurisdictions."[21] The mutual evaluation process has been supplemented by an annual self-assessment exercise, and, to a lesser extent, by three cross-country surveys.

While the 40 recommendations issued by the FATF in 1990 were not all concerned with transaction reporting, Recommendations 8 through 19 directly and indirectly focused on the role that the private sector should play in identifying and detecting suspicious transactions. In a document released in 2001[22], which reviews the evaluations conducted between 1992 and 1997, the FATF provides some insights into the extent to which member countries have complied with these recommendations. Summarized below are excerpts that report on the evaluations with respect to suspicious transaction reporting and FIUs in FATF member countries.

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[20] Financial Action Task Force on Money Laundering. 2001. *Review of FATF Anti-Money Laundering Systems and Mutual Evaluation Procedures. 1992-1999.* Paris: FATF. February 16: p. 1.

[21] Financial Action Task Force on Money Laundering. 2001. *Review of FATF Anti-Money Laundering Systems and Mutual Evaluation Procedures. 1992-1999.* Paris: FATF. February 16: p. 1.

[22] ibid

7.3.1 Customer Identification and Record Keeping in the Private Sector

The need for proper customer identification and record keeping is a key element of the 40 Recommendations. In general, the only significant annual increase in compliance among reporting entities occurred between 1993 and 1994. The level of compliance for banks has always been higher than for *non-bank financial institutions* (NBFI). The level of compliance of NBFIs is "disappointing, with only 20 members complying with the customer identification requirements. One possible reason for these results is due to the assessment of compliance against money remittance/transfer companies and the bureaux de change, where traditionally there has been little supervision." (p. 5) There is an obvious need for more members to move to full compliance as soon as possible for these fundamental recommendations.

7.3.2 Suspicious Transaction Reporting

The obligation to report suspicious transactions (Recommendation 15) is another very important recommendation. The period between 1993 and 1996 shows the usual large jump in compliance from 1993 to 1994 and a slow increase thereafter. Since 1997, compliance levels have been generally flat or slightly increasing, with little change. (p. 5)

By the end of 1999, all members except Canada had a mandatory requirement for credit institutions and most other classes of financial institutions to report suspicious transactions. However, the precise extent of the obligation varies. In most cases, the obligation is to report a suspicion, but in some cases this must be a reasonable suspicion (e.g. New Zealand) or a "founded" suspicion (Switzerland). Norway has a system that requires reports to be made if the initial suspicion cannot be disproved, while the Dutch unusual transaction system introduces the issue of suspicion both as a primary subjective indicator that a transaction is unusual, and also at the second stage of the process. Initially, financial institutions are required to report unusual transactions on the basis of objective or subjective indicators, and the FIU then decides if the report is suspicious and should be forwarded on to law enforcement. Some countries also limit the criminality to which the suspicion must be linked. Thus in Greece, a suspicious transaction report is only made if there is a suspicion of money laundering, while in France it must be linked to drug trafficking or organised crime.

Given the difficulty in determining whether suspected illegal proceeds are from a particular crime, it was stated in several FATF evaluation reports that extending the reporting requirements to cover at least all serious offences, and preferably all criminal activity could strengthen systems. This recommendation is applicable even where the money laundering offence itself has a narrow scope. In a number of jurisdictions it is also the case that failure to report an STR is not subject to a sanction, and it would seem desirable that a clear obligation combined with an appropriate sanction would be a factor, which would contribute to an increased number of reports. An issue, which was also identified in more than one member country, was the lack of an obligation to report when a financial institution chose not to enter into a transaction, which they suspected was linked with money laundering, (i.e. attempted money laundering). While member countries do not prevent financial institutions from terminating a relationship with a suspicious client, or refusing to enter into a transaction, it is clearly desirable that attempts to launder money be reported. Indeed it is desirable in many cases that institutions report the suspicious transaction and then proceed in accordance with instructions from the FIU (in line with Recommendation 18).

A deficiency that was noted in more than half the evaluation reports was the lack of, or insufficient feedback, given by FIUs to reporting institutions. These insufficiencies applied

equally to general feedback and specific (case by case) feedback, and they suggest that many members are still having difficulty implementing the recommendations contained in the FATF Best Practice Guidelines on Feedback issued in 1998. In a subsequent document which reviews the FATF 40 recommendations, the FATF strongly recommends that FIUs provide feedback to reporting institutions, whether specific feedback on individual STRs or feedback of a general nature.[23]

A related issue to feedback that was raised in a several reports (e.g. Australia, France and Spain) was that financial institutions were concerned about the need to keep STRs confidential and to protect their staff. Concern was expressed about the subject of the report becoming aware of it, and that staff could be called as witnesses to attest in court that a disclosure was made. In Greece, it was suggested that no reports had been made with respect to drug trafficking cases because of these concerns. Some solutions have been developed which may help to alleviate the concerns of financial institutions staff. Australia enacted a specific legislative amendment that prohibits suspicious transaction reports being put in evidence or even being referred to in court. In France, the FIU does not put the name of the person making to the report into the police file, while in Greece, the FIU makes a request back to the institution to try to give the appearance that it was the FIU which initiated the inquiry. In addition, in most countries, all reports are made through one central reporting individual, normally the compliance officer, and can be sanitized by him/her. (p. 20)

Despite the fact that all member countries are now in compliance with Recommendation 16 (protecting reporting entities from legal action), financial institutions in a number of countries expressed concern about the adequacy of the protection. The issues that were raised were: (a) the lack of protection from criminal liability (United States); (b) whether protection should be provided if the report is made in good faith, or whether it requires due diligence by the institution (Finland); and (c) the need to provide legal protection to both the institution and the employee (Aruba). (p. 20)

With respect to the filing of STRs, the country evaluations generally indicate that the number of disclosures filed by the private sector is "low", "modest" or "moderate." For almost all members, the number of STRs is either more or less constant or is still increasing. Only in Austria and Finland does there appear to be a marked downward trend in recent years, though the results are still incomplete in some cases. It would also appear that significant increases in the numbers of reports for members such as Belgium; Hong Kong, China; and the United Kingdom tend to level off after a period of large increases. A number of countries received limited numbers of STR (less than 100). Based on the reports, factors that are likely to have contributed to the low numbers (but which do not necessarily explain them) were:

- The relative newness of the system, and a lack of familiarity by financial institutions with their obligations (Greece and Turkey).
- The restriction of the system to drug offences only (Japan, Luxembourg and Singapore).
- The small size of the country and its financial system (Iceland, Aruba and the Netherlands Antilles). (p. 22)

Another factor that may contribute to a low number of reports, but which can also increase the quality of the reports, is the degree to which compliance officers' filter out reports that are made to them by their staff. The United Kingdom evaluation report correctly identified the benefit of

[23] Financial Action Task Force on Money Laundering. 2002. *Review of FATF Forty Recommendations.* Consultation Paper. Paris: FATF. May 30: p. 41 http://www.fatf-gafi.org/pdf/Review40_en.pdf

compliance officers exercising an appropriate filtering role by eliminating reports that are truly not suspicious. However, an examination of the reports shows completely different approaches being taken by compliance staff, both between different institutions in the same country and also between countries. Some passed on less than 5 percent, while others passed on more than 90 percent. While it is not always possible to obtain completely consistent results, benefits could be obtained from the staff of the FIU ensuring that compliance officers are familiar with what can be regarded as suspicious, both as regards the types of transactions and the level of certainty. This may help to ensure that different institutions apply similar criteria when deciding whether to make a report or not. (p. 22)

In countries such as Belgium, the Netherlands and the United Kingdom, which have all had their reporting systems in place for some years, the number of STR received from banks has generally declined, while the number of reports from bureaux de change has increased considerably. This can be compared with Spain (which more recently implemented a transaction reporting regime) where the numbers of reports for banks were still increasing. This probably reflects the fact that the FIU and other authorities first concentrate their education, training and feedback efforts on banks, before seeking to better inform the NBFI sector. The training and education, which is conducted results in initial increases in reporting numbers before that stabilises at a particular level.

In a large majority of the mutual evaluation reports, the number of STRs from NBFIs was only a small percentage of the total number, with the securities and insurance industries making only a small contribution. This may reflect the relatively lower risk of these sectors being misused for money laundering, but it may also show the difficulties of identifying money laundering at the second and third stages of the process, where no cash is involved. (p. 22)

A review of the mutual evaluations shows that for many members, the types of difficulties and shortcomings that were experienced were similar, and that there were a number of common methods suggested for improving the effectiveness of the STR system:

- Increasing the level of feedback to reporting institutions, and also creating a closer working relationship between the FIU, the regulator and financial institutions.
- Increased education and training for front-line and other staff of financial institutions.
- Ensuring that compliance officers are filtering reports in an appropriate way.
- Ensuring that financial institutions and their staff have appropriate legal protection from criminal and civil proceedings, which will thus encourage them to make reports.
- Focussing increased attention on the NBFI sector, and also on non-cash transactions.
- Ensuring that all institutions within each sector make reports where appropriate. (p. 23)

While the number of reports received is an important part of the system's effectiveness, the ultimate test is whether the STRs lead to prosecutions, confiscation of illegal proceeds etc. Unfortunately, only a very small number of members have established systems, which allow the FIU to discover what happens to the STRs. In most countries, the reports are forwarded to other bodies to actually investigate the STR and to bring appropriate criminal proceedings, and there generally appears to be little feedback from those investigating agencies or prosecutors to the FIU, which makes it difficult for the FIU to then give useful feedback to reporting institutions. One way of solving this problem is to make it a condition of access to the STR that the recipient agency provides feedback on the reports used and accessed, as in Australia. (p. 23)

The United Kingdom has also estimated that over the last four years, about 4,800 STRs (about one-third) per annum provided added criminal intelligence value. Though obtaining and recording

feedback from other law enforcement agencies or prosecutors on a systematic basis is often difficult, it is necessary if the FIU intends to monitor and improve the effectiveness and efficiency of the system. (p. 24)

7.3.3 Training and Education

Most of the evaluation reports mentioned the issues of education, training and guidelines in the context of NBFIs. By the time the second round of evaluations was launched, there were guidelines and training programmes in place for banks in almost all member countries. Guidelines for banks are generally very satisfactory, and cover the issues that need to be dealt with, though some issues such as identification of customers in non-face to face situations or exemptions from identification were not so well covered. One issue, that is mentioned in some reports, (e.g. Austria and Iceland), as an area which could be tightened, is the issuance of guidelines by individual financial institutions, rather than the supervisory authority. This creates the possibility of discrepancy or conflict between the approaches that are taken by different institutions, and it is desirable that the supervisor and the FIU have a role in preparing, in conjunction with the financial institutions, a comprehensive set of guidance notes for the various types of institutions which are subject to the anti-money laundering laws. (p. 24)

However, the primary difficulty identified concerned the NBFI, where the level of awareness of money laundering issues was generally much lower than for banks, and where guidelines had not been prepared in many countries. In addition to those members, which had not prepared guidelines for the different NBFI sectors, recommendations were made for a number of members such as Italy, Portugal, Singapore, Sweden and Turkey, that guidelines should be prepared which are specifically tailored and targeted at specific NBFI sectors. The use of guidelines developed for banks and their business is neither useful nor appropriate for insurance companies, bureaux de change etc. The process of preparing the guidelines, which should include industry involvement, is also beneficial in building better understanding and relationships between all the relevant parties. The same comments could also be said of those members that have applied the anti-money laundering laws and regulations to non-financial bodies and professionals, except that there is even less guidance. (p. 24)

A useful example of a proactive approach to identifying potential money laundering problems for NBFI is given in the report on the Netherlands. In the insurance and securities sectors, reports were published by working groups composed of both government and sector representatives on measures that could be taken to improve the identification of unusual transactions and possible examples of how money laundering might take place. These reports were good example of seeking to identify the potential risk areas and agree upon solutions before the problems arose in real life. (p. 24)

While the official guidelines provide one source of educational assistance for financial institutions and other bodies, other methods can also be used. Australia has made a number of resources available to financial dealers concerning money laundering and anti-money laundering measures, including information circulars, guidelines, annual reports, videos, newsletters, brochures, fliers and posters. The Australian FIU, as in a number of other members, also operates a website on which all this information is readily available, and the website provides information for institutions on an immediate basis. (pp. 24-25)

Some regulatory authorities expressed concern that they should not have the primary responsibility for education and training. However, the approach that is taken in many member countries, at least for banks, is that the banking association, along with major banks are heavily involved in promoting training and education, and the FIU or the supervisor authority does not

need to initiate this program, but only to contribute to it. Since there is often already a close working relationship between compliance officers and the government authorities, efforts have often been targeted first at senior management so that they are willing to support the necessary initiatives that need to be undertaken (and paid for) within the bank. Education of front-line staff is then needed to improve the results from STRs, ensure the correct approach is taken to customer identification etc. The training also needs to be renewed on a regular basis, since a number of compliance officers observed that the effect diminished over time. Two interesting examples of anti-money laundering training programmes were a form of interactive CD-ROM based video training, developed by two large German banks, and the use by a Singaporean bank of interactive computer based training accessible through the bank's intranet. Both these training methods had been found to be very successful for bank staff. (p. 25)

7.3.4 Supervision and Internal Controls

The need for a proper system of checking that financial and other institutions are taking the correct action to implement anti-money laundering measures is an essential component of any system. The first part of that process is for institutions to implement the necessary internal control policies and procedures, the minimum measures being those laid out in Recommendation 19: compliance officers at management level, adequate screening procedures to ensure high standards when hiring employees, an ongoing employee training programme and an audit function. As in other areas, there is a high level of compliance by banks, with the most common defect being the lack of a requirement for new employees to undergo screening procedures. However, law or regulation should require the measures, and a comment in some reports was that it is left to institutions to decide whether they would implement the necessary measures. Even though in the banking sector this appears to have been largely done, it is desirable to take a more uniform and mandatory approach so that the supervisory authorities can take action in the NBFI sector if needed. In the NBFI sector, there is a widespread failure to require money remittance companies to implement internal controls, and steps should be taken to examine this. (p. 25)

In some jurisdictions, such as Aruba, Australia and Turkey, the supervision of all or part of the anti-money laundering obligations is the responsibility of the FIU. Those reports found that this had considerable resource implications for the FIU, which it was not able to properly meet, and recommended that the prudential supervisor or central bank exercise an enhanced role. As noted in the mutual evaluation report on Turkey, it does not seem either practical or efficient for the FIU to have a major role in conducting separate supervision for money laundering purposes. The FIU could continue to work closely with the mainstream regulators, and retain the capacity to conduct on-site examination for particular cases where it deems this is necessary. (p. 26)

A number of mechanisms were highlighted in different reports as regards supervision. Most supervisors check the anti-money laundering controls and procedures that the financial institution has in place. However, some also do random spot checks on individual files to determine whether the rules are being applied. Usually, money laundering checks are just a part of the regular overall prudential supervision, but some members also conduct specific anti-money laundering audits, while at least two members also issued questionnaires as a means of seeking further information on the controls in place. The statistical data available in the reports is limited, but it would appear that where regular on-site inspections are done, this occurs every one-three years. Specific anti-money laundering audits were only mentioned in a small number of reports, but appeared to be a useful tool for those countries that conducted them. Some reports also suggested there might be benefits in supervisors conducting random checks on the suspicious reports, which the compliance officer does not send to the FIU. (p. 26)

Only a few members indicated that they had applied sanctions against the institutions they supervised, with Italy and the United States both having been very active. The range of sanctions that were available to deal with institutions not in compliance varied from member to member. Some of the types of sanctions observed were an oral warning on-site, a written warning (separate letter or within an audit report), an order to comply with specific instructions (sometimes accompanied by daily fines for non-compliance), referrals to law enforcement authorities for criminal proceedings, ordering regular reports from the institution on the measures it is taking, or a suspension or withdrawal of the license. (p. 26)

7.3.5 Cross-border Reporting

Many FATF members have established monitoring or declaration systems that are intended to detect the movement of cash and monetary instruments across their borders. Many of the mutual evaluation reports have indicated that these reports are a valuable source of extra information for law enforcement. More than half the members impose a requirement to report amounts of cash, monetary instruments or valuables where this exceeds a certain amount. The systems are restricted to cash and monetary instruments in most cases, though some members also require reports of precious metals and gems. (p. 27)

In relation to international wire transfers, Australia requires all such transactions to be reported, and Norway requires reporting for transactions above the specified limits. For all these reporting systems to be efficient and effective, the report records need to be received in electronic form and held on a computer database, before being subject to sophisticated analytical programmes, so that only the relevant information is drawn out. The “Screen IT” programme in Australia is a good example of an automated monitoring system, which analyses the information and adds value to it. Though the information is often collected by Customs authorities in the first instance, the mutual evaluations suggest that it is desirable that analysis of such reports also be linked to STR databases, and that FIUs are usually the government agency which is best placed and equipped to handle that function. (p. 27)

Another issue that was mentioned in some reports concerns postal services. As was mentioned in the report on Norway, the reporting/declaration regime should also extend to such a service, since it is possible in some countries to send cash by insured letters though the post, without any obligation to declare the amount or to identify the customer. In Ireland the postal service does not have the power to open postal items. Members need to ensure that postal and courier services are not misused by money launderers in this way. (p. 28)

7.3.6 Cash Transaction Reporting

Controls or reporting systems for cash transactions are much less common than cross-border reporting systems, with only four members having cash reporting systems. Most countries have rejected such requirements on the basis of a cost-benefit analysis, though the countries that receive such reports believe they add value to the criminal intelligence held by an FIU. While there may be some doubt as to whether the costs of creating and operating such a system can be justified in all member countries, the costs of operating an efficient system based on electronic reporting have reduced in recent years, while the effectiveness of the systems has increased. An alternative approach is taken by France, which has legislation requiring transactions in excess of certain amounts to be conducted via bank instruments. Transactions between tradespersons in amounts over FRF 5,000 (about USD 800) have to be paid for by crossed cheque, bank transfer or credit card. In addition payments in excess of FRF 20,000 (about USD 3,200) by an individual not engaging in trade, in exchange for a good or a service, shall be made by crossed cheque, bank

or postal transfer or by debit or credit card. The French report notes that this is an innovative measure, which other FATF members might consider adopting. Belgium also has a similar law. Certain transactions (essentially transactions concerning real estate, company formation or mergers and acquisitions) must be performed through a notarial deed, and where the transaction involves payments in excess of EUR 25,000, it must be made by bank transfer or cheque. (p. 28)

7.4 Evaluation of Four Countries

7.4.1 United States of America

7.4.1.1 Overview

On October 26 1970, the U.S. Congress passed the *Financial Record keeping and Reporting of Currency and Foreign Transaction Reporting Act,* commonly referred to as the Bank Secrecy Act (BSA). This legislation represents the world's first currency and transaction reporting regime as a policy to combat money laundering. The BSA requires reporting and recording of certain transactions and the retention of specified reports and records. Broadly speaking, the BSA provides four basic tools to identify those who attempt to conceal their participation in crimes where substantial amounts of currency are generated:

- A Currency Transaction Report (CTR) must be filed by banks and other financial institutions whenever a currency transaction over (US)$10,000 occurs. CTRs are filed with Treasury Department agencies and all criminal violations of the CTR reporting requirement are investigated by the Internal Revenue Service (IRS) Criminal Investigation Section.

- A Currency of Monetary Instruments Report (CMIR) must be filed with U.S. Customs Service whenever the value of currency or monetary instruments over (US)$10,000 are transported across U.S. national borders.

- Foreign Bank Accounts Reports (FBAR) must be filed by persons subject to U.S. jurisdiction who have a financial interest in, or signature authority over, a foreign financial account in excess of (US)$10,000.

- Individuals as well as financial institutions may be required to keep certain records up to five years. The purpose of the record retention provision is to ensure a paper trail exists to facilitate money laundering investigations. These records include copies of cheques, drafts, money orders, and customer identification, among others.

Much of the responsibility for administering and enforcing transaction reporting in the United States falls under the Treasury Department, and more specifically, the Internal Revenue Service and the Financial Crimes Enforcement Network (FinCEN). In 1984, the IRS was given direct authority to ensure that reporting entities complied with the cash and suspicious reporting and record-keeping requirements of the BSA. In October 1994, the Treasury Department's Office of Financial Enforcement was merged with FinCEN to create a single agency for BSA reporting requirements. This includes responsibility for issuing regulations and imposing penalties for a failure to comply. Since 1996, FinCEN has been the sole location for financial institutions to submit cash transaction reports as well as suspicious activity reports.

While FinCEN is responsible for accepting and processing CTRs and STRs, at the federal level, the responsibility for ensuring compliance with the BSA falls under the Federal Reserve Board. Compliance audits are conducted by over 700 bank examiners, who are responsible for reviewing the operations of some 1,300 financial institutions in the United States. In addition, Federal Reserve regulations require financial institutions to provide for independent testing of BSA compliance by bank personnel or an outside party. The principal objective of the Federal Reserve Board BSA examination is to determine whether banks have established and maintain adequate compliance programs and management information systems to detect the possibility of money laundering. Specifically, the Federal Reserve conducts examinations to evaluate whether banks have adequate systems in place to:

- Detect and report suspicious activity;
- Comply with BSA requirements;
- Establish account opening and monitoring standards;
- Understand the source of funds for customers opening accounts;
- Verify the legal status of customers; and
- Identify beneficial owners of accounts.[24]

Since the BSA was enacted, a rash of legislation, regulations, and directives has been introduced, elaborating on and/or broadening the mandatory reporting and record-keeping requirements. In 1986, *The Money Laundering Control Act* increased penalties for violations of the BSA and added a specific prohibition against structuring transactions to avoid reporting. The U.S. government also broadened the coverage of mandatory reporting to non-bank financial institutions as well as businesses outside of the financial services sector (such as automobile dealerships, casinos, and jewellery stores). The types of transactions covered by CTRs and SARs were also expanded. Beginning in 1990, financial institutions were required to record the sale or issuance of certain monetary instruments of (US)$3,000 or more. Electronic wire transfers are now subject to a number of regulations regarding identification, record-keeping, and reporting. Beginning in 1997, financial institutions and money remitters were required to maintain records and verify the identity of those sending wire transfers of (US)$3,000 or more. The focus of new regulations in the 1990s also signalled a move away from currency reporting to suspicious activity reports. In 1996, federal regulations took effect that required banking institutions to report suspicious transactions.[25] The SAR regulations require U.S. banks and other depository institutions to report a transaction that the institution "knows, suspects, or has reason to suspect":

- "involves funds derived from illegal activities or is intended . . . to hide or disguise funds or assets derived from illegal activities . . . as part of a plan to violate or evade federal law or regulation or to avoid any (federal) transaction reporting requirement;"
- is designed to evade any BSA requirement (e.g., "structuring" any financial transaction, such as two deposits of $5,000, to avoid reporting requirements); and
- "has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and (the institution) knows of no reasonable explanation for the transaction after examining the available facts."[26]

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[24] Federal Reserve Board Internet web site www.bog.frb.fed.us // Board of Governors, Federal Reserve Board. 1997. *Bank Secrecy Act Examination Manual*, Washington, DC.; Small, Richard (1999) *Vulnerability of Private Banking to Money Laundering Activities*. Testimony before the Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate. November.

[25] *Money Laundering Alert*. 1996. "The Final Rule. Suspicious Activity Reporting: U.S. Suspicion Reporting System Gets Major Transformation." Vol. 7 No. 5. February: p. 5.

[26] *Money Laundering Alert. 1999.* ,"U.S. agencies clash with privacy groups over suspicion reporting." Vol. 10, No. 8. June: p. 8.

7.4.1.2 The U.S.A. PATRIOT ACT

Just 45 days following the September 11 2001 terrorist attacks in the United States, U.S. Congress passed the massive U.S.A. PATRIOT Act (officially title: *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*.)

Among a number of wide-reaching enforcement provisions, the legislation laid out an ambitious agenda of measures targeting money laundering and terrorist financing, including transaction reporting measures further to those already in place through the BSA. Title III of the PATRIOT Act is the *International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001*, which now requires all financial institutions to implement strict procedures and controls for screening client lists and transactions against government lists of suspected terrorists, drug dealers, money launderers and other criminals. [27] The legislation also extends reporting requirements and other anti-money laundering program requirements to financial and commercial sectors that were not previously covered by the BSA, including investment companies, insurance companies, mutual fund managers, as well as credit card operators, futures commission merchants and money services businesses.[28] Failure to comply can result in penalties of up to $1 million.

The Act, which generally applies to insured depository institutions as well as to the U.S. branches and agencies of foreign banks, does not immediately impose any new filing or reporting obligations for banking organizations, but requires certain additional due diligence and record keeping practices. Some requirements take effect without the issuance of regulations. Other provisions are to be implemented through regulations that will be promulgated by the U.S. Department of the Treasury, in consultation with the Federal Reserve Board and the other federal financial institutions regulators.[29] An open letter sent by the Federal Reserve Board's Director of Banking Supervision and Regulation spells out some of the sections of the PATRIOT Act that are most relevant to transaction reporting:

- Section 352 of the Act requires all financial institutions to implement an anti-money laundering program.
- Section 356 of the Act requires the Treasury Department, in consultation with the Federal Reserve Board and the Securities and Exchange Commission, to issue regulations requiring registered securities brokers and dealers to file SARs.
- The Act amends the BSA to authorize Treasury to impose penalties of up to $1 million for violations of new 5318(i) (due diligence for private banking and correspondent accounts) and new 5318(j) (accounts with shell banks).

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[27] *Money Laundering Alert*. 2002 "What did September 11 and the USA Patriot Act mean to you?" Vol. 13, No. 12. October: p. 5

[28] *Money Laundering Alert. 2002* "Anti-laundering duties extended to mutual funds, credit cards, MSBs." Vol. 13, No. 7. May: p. 1

[29] Richard Spillenkothen, Director, Division of Banking Supervision and Regulation, Board of Governors of The Federal Reserve System. 2001. Open Letter to the Officer In Charge Of Supervision And Appropriate Supervisory And Examination Staff at Each Federal Reserve Bank and to Each Domestic And Foreign Banking Organization Supervised by the Federal Reserve. Re: *The USA PATRIOT Act and the International Money Laundering Abatement And Anti-Terrorist Financing Act Of 2001*. November 26. www.federalreserve.gov/boarddocs/SRLetters/2001/sr0129.htm

- The Act directs the Treasury Department to establish, within FinCEN, a highly secure electronic network through which reports (including SARs) may be filed and information regarding suspicious activities warranting immediate and enhanced scrutiny may be provided to financial institutions.
- The Act amends the *Bank Holding Company Act* and the *Federal Deposit Insurance Act* to require that, with respect to any application submitted under the applicable provisions of those laws, the Federal Reserve Board and the other federal banking regulators must take into consideration the effectiveness of the applicants' anti-money laundering activities, including in overseas branches.
- The Act directs the Treasury Department to review the cash transaction reporting system to make it more efficient, possibly by expanding the use of exemptions to reduce the volume of reports.

7.4.1.3 Evaluation

While the literature review did not identify any one comprehensive evaluation of the American transaction reporting regime, it did uncover a number of smaller studies that examined specific aspects of the BSA and FinCEN. These studies, which were carried out by the federal Government Accounting Office, often at the request of Subcommittee on General Oversight and Investigations in the House of Representatives, are summarized below.

1. General Accounting Office. 1998. *FinCEN Needs to Better Manage Bank Secrecy Act Civil Penalty Cases*. Report # GGD-98-108. Washington, DC: GAO. June 15.

The Financial Crimes Enforcement Network receives civil penalty referrals for violations of the *Bank Secrecy Act* from several sources, including the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and other federal banking regulatory agencies. The problem of lengthy processing times for civil penalty cases is growing worse. According to FinCEN data for 1985 through 1991, the average processing time to close a case was 1.77 years, and the lengthiest time was 6.44 years. In comparison, FinCEN data for 1992 through 1997 show an average processing time of 3.02 years; the lengthiest time was 10.14 years. For cases closed in the two most recent years--1996 and 1997--the average processing times were 3.57 years and 4.23 years, respectively. Lengthy processing can negatively affect the public's perception of the government's efforts to enforce the Bank Secrecy Act, undermining the law's credibility and deterrent effects. Another result is that the six-year statute of limitations for Bank Secrecy Act civil penalties could expire. FinCEN has issued neither a notice of proposed rulemaking nor a final regulation to delegate civil penalty assessment authority to the banking regulatory agencies. FinCEN's current strategic plan indicates that such delegation may not occur before 2002, making FinCEN responsible for processing civil penalty referrals for several more years. Therefore, GAO recommends that FinCEN set timeliness goals for evaluating and disposing of each civil penalty case and monitor the progress of managers and staff responsible for meeting these goals.

2. General Accounting Office. 1998. *FinCEN's Law Enforcement Support, Regulatory, and International Roles. Statement of Norman J. Rabkin Director, Administration of Justice Issues General, Government Division Before the Subcommittee on General Oversight and Investigations, Committee on Banking and Financial Services, House of Representatives.* T-GGD-98-83 Washington, DC: GAO. April 1.

This Subcommittee asked the GAO to review aspects of FinCEN's law enforcement role; its regulatory role, including the processing of civil penalties for Bank Secrecy Act (BSA)

violations; and its international role. In supporting law enforcement, FinCEN has issued fewer analytical products in recent years. A primary reason FinCEN officials gave for this change is that FinCEN's staffing levels have remained fairly constant (at about 160 staff), while its overall mission has expanded. Also, FinCEN has been encouraging and training other federal, state, and local law enforcement agencies to access and analyze source data directly either through FinCEN resources or their own. Federal and state officials GAO interviewed indicated general satisfaction with FinCEN's products and services. Most non-users told the GAO that they rely on in-house capabilities or use intelligence or analytical support centers other than FinCEN. FinCEN needs to better communicate its regulatory priorities and time lines, particularly regarding regulations authorized or required by the *Money Laundering Suppression Act (MLSA)* of 1994. FinCEN did not meet any of the three statutory deadlines imposed by the 1994 act, and final regulations for several provisions of the act are still pending. The intended law enforcement benefits of the MLSA amendments cannot be fully achieved until all of the regulations are implemented. In 1992, the GAO reported that Treasury was taking about 21 months, on average, to process civil penalty referrals for BSA violations. Since then, the average has grown to about 3 years, according to FinCEN data. The GAO is working with FinCEN to identify reasons for the increase in processing time.

3. General Accounting Office. 1998. *FinCEN Needs to Better Communicate Regulatory Priorities and Time Lines.* Report # GGD-98-18. Washington, DC: GAO. February 6.

This report responds to a Senate Subcommittee request that the GAO review the regulatory role of FinCEN. In a May 1994 delegation memorandum, the Department of Treasury expanded FinCEN's anti-money laundering role to include responsibility for promulgating regulations under the Bank Secrecy Act), which has been amended various times since its enactment in 1970.2 Recent amendments were made by the Money Laundering Suppression Act of 1994. The MLSA, in general, directed Treasury to take certain actions regarding the use of money transmitting businesses by criminals involved in money laundering. Because the Subcommittee was concerned whether FinCEN had made progress in addressing this threat and accomplishing other directives of the MLSA, it asked the GAO to assess FinCEN's efforts to issue regulations pursuant to the BSA, as amended. In so doing, this report addresses the following questions, particularly in reference to the MLSA:

- What process did FinCEN follow for developing and issuing BSA regulations?
- What is the current status of FinCEN's efforts to develop and issue BSA regulations?
- More specifically, what regulations has FinCEN developed thus far, and what regulations has the agency been authorized or required to develop but has not done so?

To identify the regulatory or rulemaking process that FinCEN followed, the GAO interviewed FinCEN officials who are responsible for preparing BSA regulations and reviewed related agency documents. The GAO also interviewed Treasury and Office of Management and Budget (OMB) officials about their procedures for reviewing drafts of FinCEN's regulations before publication. The GAO examined relevant sections of the Administrative Procedure Act (APA) and Executive Order 128665 prescribing procedures that federal agencies are to follow when developing and issuing regulations.

FinCEN's process for developing and issuing regulations generally consisted of determining what regulations were required or needed, establishing priorities for which regulations it would promulgate first, and then promulgating the regulations within the context of applicable statutory and executive branch guidance. FinCEN published its annual regulatory priorities each fiscal year since 1995. FinCEN also published notices of proposed rulemaking and final rules in the Federal Register. Overall, FinCEN's regulatory process was designed to reflect APA standardized

procedures that federal agencies are to follow when developing and issuing regulations. Moreover, FinCEN follows a "partnership strategy," which emphasizes frequent consultations with representatives of the law enforcement, regulatory, and financial services communities.

Regarding the status of FinCEN's efforts to develop and issue regulations, as of December 1997, more than 3 years since passage of the MLSA, FinCEN had not promulgated final regulations for five of eight regulatory initiatives related to the 1994 BSA amendments. FinCEN has issued final regulations for three initiatives, has proposed regulations for four initiatives, and has not yet taken regulatory action on one initiative. It also missed all three statutory deadlines imposed by the MLSA.

FinCEN officials concluded that the need to issue quality regulations—i.e., substantively effective regulations—was important. The officials said that they recognized that the emphasis on issuing quality regulations had the effect of extending the time needed to develop and issue regulations. Thus, FinCEN followed a regulation-development process that emphasized quality over timeliness. A majority of the members of the BSA Advisory Group with whom we spoke generally concurred with this characterization of FinCEN's regulatory process. Furthermore, FinCEN officials told us that as part of its process, the agency prioritized its workload to work on two or three regulatory issues at a time because of the complexities of the issues and the number of agency staff with regulatory expertise. As previously mentioned, FinCEN officials told us that the agency had about 10 staff with regulatory expertise, who had worked on BSA regulations in recent years and none of these 10 staff had worked on the regulations exclusively.

The Bank Secrecy Act of 1970 (BSA), as amended, requires that financial institutions maintain certain records and reports for criminal, tax, or regulatory proceedings, including investigations of money laundering. The Money Laundering Suppression Act of 1994 required us to determine whether additional record keeping requirements, such as making copies of cashier's checks retrievable by customer information, should be imposed on those financial institutions issuing cashier's checks. Specifically, for financial institutions issuing cashier's checks, we agreed with the Committees to (1) identify the current record keeping requirements and (2) determine the views of federal government and financial industry officials on the need for additional record keeping requirements.

4. Illinois Criminal Justice Information Authority. 1998. *Targeting Drug Activity Through Cash Transactions*. Chicago, IL: Illinois Criminal Justice Information Authority.

This report presents the findings from an evaluation of Illinois' program of Cash Transaction Reporting Units (CTRUs), which were designed to collect, store, and analyze cash transaction data for subsequent identification, investigation, and prosecution of individuals involved in drug-related money laundering. The CTRU operated by the Illinois State Police (ISP) was designed to assist in multi-jurisdictional investigations and included a database for the identification of suspected offenders. The reporting unit operated by the Attorney General's Office (AGOs) provided prosecutorial expertise to support the investigation and prosecution of drug traffickers. The two units were designed to complement one another and also assist the Drug Conspiracy Task Forces (DCTFs) operated by both agencies. The evaluation of the program used case file information, activity reports, funding agreement documentation, correspondence, and interviews to establish assessment data and make program recommendations. Issues related to personnel, resource allocation, and location were the focus of the evaluation findings. The evaluation found that the strength of the program was in its effort to provide services for requesting agencies. Program weaknesses pertained to personnel issues and lack of goal-oriented activities. Recommendations are offered for improving CTRU operations for both the ISP and the AGO.

5. Cowles, E. L., L. A. Gransky M. Patterson and P. Hagner. 1998. *Evaluation of Illinois' Cash Transaction Reporting Units and Drug Conspiracy Task Forces*. Chicago, IL and Washington, DC: University of Illinois at Springfield Center for Legal Studies/ Illinois Criminal Justice Information Authority/ National Institute of Justice.

This report presents the methodology and findings of an evaluation of Illinois' two-pronged drug law enforcement effort the Cash Transaction Reporting Unit (CTRU) and the Drug Conspiracy Task Force (DCTF). Federal funds combined with State general revenue matching funds permitted the Illinois Attorney General's (IAG's) Office and the Illinois State Police (ISP) to launch four interrelated efforts in two enforcement arenas. The first, the CTRU, was designed to collect, store, and analyze cash-transaction data for the subsequent identification, investigation, and prosecution of individuals involved in drug-trafficking money laundering. Separate CTRUs were established in the IAG Office and the ISP. The second prong of the enforcement effort was the development of the DCTF in the two agencies. The purpose of the DCTF was to enhance the prosecution of mid-level narcotic traffickers operating on at least a multi-county level in the State. Similar to the CTRU, individuals from both the ISP and IAG offices were assigned to the DCTF function. These efforts were begun in 1992 and early 1993. An implementation and impact evaluation of the DCTF and CTR units was conducted in 1996. Data were obtained from program documentation records, and semi-structured interviews were conducted with individuals involved in the operation of one or more of the programs. A number of site visits were also conducted with each of the four units to collect case-level data and confer with unit administrators regarding unit operations and issues related to data interpretation. Person and telephone interviews were conducted with a sample of individuals in other agencies who had been users of the services provided by the ISP- CTR unit. Based on evaluation findings, the study recommends that three of the units (ISP-DCTF, IAG-DCTF, and ISP-CTRU) should maintain a clear focus on higher level drug conspiracies, particularly regarding case identification and development. Another recommendation is that units reassess their operation on three process dimensions communication, roles, and internal-external relationships. Further, information management needs to be examined in terms of data collection-retention, quality, and accessibility. Finally, The IAG and ISP should explore mechanisms to enhance the integration of the operations of the CTRU/DCTF units.

7.4.2 Australia

7.4.2.1 Overview

Like the United States, the Australian government has also predicated its regulatory enforcement of money laundering through cash and suspicious transaction reporting. Those obligations are contained in the Financial Transaction Reports Act 1988 (FTR) which requires “cash dealers” to report:

- Cash transactions of (AUS)$10,000 or more or the foreign currency equivalent;
- Cash transfers or international wire transfers into and out of Australia of AUS)$10,000 or more; and
- Suspicious transactions that the cash dealer has reasonable grounds to believe are relevant to evasion of a tax law, investigation, or enforcement of crime.

The legislation also sets standards that must be met by cash dealers, including records that must be completed and maintained, client identification procedures, and verification of the identity of

persons who are signatories to accounts. Failure to meet these standards may result in criminal and civil penalties, including imprisonment.

The legislation also stipulates penalties for avoiding the reporting requirements or for providing false or incomplete information by individuals or entities that are transferring or facilitating the transfer of funds. The penalties for non-compliance include both criminal and civil sanctions, including court-ordered injunctive remedies to secure compliance with the requirements.

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is the agency charged to oversee compliance with the legislative requirements of the FTR. The functions of this agency include the collection, retention, compilation, analysis, and dissemination of FTR information and the provision of advice and assistance to the Commissioner of Taxation in relation to FTR information. AUSTRAC is also responsible for issuing guidelines and circulars to cash dealers about minimum standards and their obligations under the FTR. AUSTRAC also acts as a source of financial information and financial intelligence, which it disseminates to the Australian Taxation Office (ATO) and law enforcement agencies.

AUSTRAC provides the ATO and specified law enforcement agencies with both general and specific access to the financial information it collects. The general access, governed by memorandums of understanding, is by way of controlled on-line (computer) access to the data and, where appropriate, by extracts of parts of the data holdings. AUSTRAC also provides training to authorized officers from other agencies. One of the unique features of the Australian FTR system, when compared to that in the United States, is that in addition to identifying the proceeds of crime, it is also geared toward identifying tax evasion.[30]

7.4.2.2 Evaluation

1. Financial Action Task Force (1997) *Annual Report (1996-1997),* June 1997: pp. 11-12.

The Australian Government has adopted a "whole system" approach to dealing with money laundering by putting in place appropriate law enforcement structures, legislation and operational techniques. Australia has taken the FATF philosophy and extended it to areas such as money laundering associated with tax evasion and extending the cross-border reporting requirements to international wire transfers. The Australian system gives high priority to the use of financial reports and related information to locating the money trail, particularly with regard to organised crime and serious criminal offenders. In this respect, the Australian Government has established AUSTRAC (Australian Transaction Reports and Analysis Centre), a specialised regulatory agency to work with the financial sector, to receive reports of significant and suspicious transactions and to analyse financial transaction data. That data in the form of intelligence is made available to Australia's major law enforcement agencies and the Australian Taxation Office (ATO) to assist them in their actions against criminal activity and tax evasion.

A major feature of the Australian use of financial transaction data is the operation of a Task Force of agencies. The members include the Australian Bureau of Criminal Intelligence (which represents the States and Territories), the Australian Customs Service, the Australian Federal Police, the Australian Taxation Office, AUSTRAC and the National Crime Authority. This process ensures that information of importance is quickly and efficiently distributed to relevant

[30] Australian Transaction Reports and Analysis Centre www.austrac.gov.au/contents.html // AUSTRAC. (1999). *1998/99 Annual Report.* Sydney: AUSTRAC. // John Walker Consulting Services (1999) *Estimates of the Extent of Money Laundering in and through Australia*. Sydney: AUSTRAC. September.

law enforcement agencies. Major law enforcement initiatives are takes as a result of this information being used by task forces co-ordinated by the National Crime Authority. It has particular importance in the investigation of organised criminal activity but also assists in dealing with major tax avoidance and in uncovering practices, which seek to defeat the reporting obligations of Australian law.

The Australian system has matured significantly since the first evaluation, which was conducted in March 1992. AUSTRAC has grown in importance and effectiveness. In this regard, it is to be commended for its untiring efforts in working closely with the financial sector, in receiving and analysing financial transaction data and in providing the data in the form of intelligence to the appropriate agencies. It is clear that, if AUSTRAC had not taken a major leading role, the anti-money laundering regime in Australia would have been far less successful. However, recognising that the integrity of financial markets depends on financial institutions establishing strong anti-money laundering practices and oversight, the financial supervisory authorities should take a more active role in counter money laundering programmes.

However, Australia can pride itself on a well-balanced, comprehensive and in many ways exemplary system, and must be congratulated accordingly. It meets the objectives of the FATF Recommendations and is constantly reviewing the implementation of their anti-money laundering provisions, simultaneously looking well ahead in the future. Of course, there is always room for improvement, but most of the weaker points of the system -- such as they control of the bureaux de change, the reliability of the identification and the extension of the FTR requirements to other operators such as solicitors -- have already been identified by the Australian authorities and are under consideration. Considering the high standard of the Australian system, there is however, a regrettable deficiency of clear and comprehensive statistical data on the performance of the system, of which the real effectiveness of the system is therefore difficult to assess 44. Finally, and most of all, in spite of Australia's active commitment to international anti-money laundering initiatives, in particular the sensitization of the Asian and Pacific countries, there is an uncharacteristic arrear in the international administrative co-operation between AUSTRAC and other financial investigation units which should definitely be made up in the near future.

2. Commonwealth of Australia. 2000. Commonwealth Legislation Review Program: *Report of the Taskforce on the Financial Transaction Reports Act and Regulations*. August.

In addition to the FATF Review, the Australian transaction reporting legislation and regulations have also been subject to parliamentary evaluations. In August 2000, the Commonwealth Legislation Review Program issued: *Report of the Taskforce on the Financial Transaction Reports Act and Regulations*. The findings of this report are summarized below.

The Taskforce reviewed the *Financial Transaction Reports Act 1988* and Financial Transaction Reports Regulations for the purposes of the Commonwealth Legislation Review Program under which legislation which restricts competition or imposes costs, or which confers benefits on business is to be reviewed. The Taskforce reported on the following issues:

- Whether and to what extent the legislation impacts on business by restricting competition or imposing costs or conferring benefits on business;
- Appropriate arrangements for regulation, if any, taking into account the following:
  - Legislation which restricts competition should be retained only if the benefits to the community as a whole outweigh the costs, and if the objectives of the legislation can be achieved only by restricting competition;

- Effects on: criminal activity, including money laundering; economic and regional development; consumer interests; competitiveness of business, including small business; and efficient resource allocation;
- Whether compliance costs can be reduced, including compliance costs and paperwork burden on small business; and
- The need to promote consistency between regulatory regimes and efficient regulatory administration, through improved coordination to eliminate unnecessary duplication.

- In undertaking the examination the Taskforce is to have regard to the analytical requirements for regulation assessment by the Commonwealth, including those set out in the Competition Principles Agreement. The Taskforce should:
  - Identify the problem the Financial Transaction Reports Act 1988 and the Financial Transaction Report Regulations seek to address;
  - Clarify the objectives of the Act and Regulations;
  - Identify the nature of any restriction that the Act or Regulations places on competition;
  - Analyse the likely effect of the restriction on competition and on the economy generally;
  - Consider alternative means for achieving the same result including nonlegislative approaches;
  - Assess and as far as reasonably practicable, quantify the costs and benefits of the requirements and overall effects of the legislation and alternatives identified in;
  - Identify the major groups likely to be affected by the Act and Regulations and alternatives, and list individuals and groups consulted during the review and outline their views or reasons why consultation was inappropriate; and
  - Examine mechanisms for increasing the overall efficiency, including minimising the compliance costs and paper burden on small business, of the Financial Transaction Reports Act and Regulations, and where it differs, the preferred option.

The Financial Transaction Reports legislation was developed in order to address concerns about the abuse of the facilities of financial institutions for the purposes of tax evasion, the underground cash economy, and the laundering of money. It regulates the collection of financial intelligence for use by revenue and law enforcement agencies in the pursuit of tax evasion, money laundering and serious crime. Major tax evasion, money laundering, revenue fraud and other serious crime constitute a serious threat to Australia's economy. That threat requires a strong and effective response in the form of legislation to deter and detect such activity. Money laundering is not only a crime in itself, but is also an adjunct to serious criminal activity. It is the process by which 'dirty' money is made to appear 'clean' by being converted to give the appearance that it had a legitimate source: its illegal source concealed and disguised to make it appear legitimate. Often, illicitly obtained funds are moved out of the underground economy and introduced and integrated into the mainstream legitimate economy to give them the appearance of legally acquired wealth, to which no suspicion attaches so that it is difficult to link those funds to the criminal activities from which they were generated.

The globalisation of organised crime and the information technology boom mean that money laundering is becoming more widespread and more difficult to detect. Laundering the proceeds of crime by transferring them out of the jurisdiction in which the crime occurred is standard practice to thwart the forfeiting of those proceeds if the criminal is detected and inquiries made about the location of the proceeds. Organised crime and money laundering go hand in hand.

The Taskforce found that the current form of the FTR legislation, including its imposition of both obligations on and protections for those within its scope is the only appropriate response to the problems posed by major tax evasion and money laundering.

The Taskforce found that the well-being of the Australian economy and the community as a whole are enhanced by the operation of the FTR legislation. It has brought significant benefits to the Australian Government's revenue protection and law enforcement programs, and also to cash dealers and the community because of its support of the social and economic structure. As a result of the requirements that are imposed by the FTR legislation financial institutions enjoy a higher standard of integrity, which in turn serves to increase consumer confidence and so is good for business. The financial intelligence that is generated as a result of the reporting obligations in the FTR legislation advances the programs, which support Australia's national security and economic growth policies. The FTR legislation is also important in that it enables Australia to meet its international obligations.

The Taskforce concluded that the regulatory requirements of the FTR legislation are applied, as far as practicable, consistently to all cash dealers, and across a range of cash dealers providing a range of disparate financial and other services. The Taskforce recognises that the FTR legislation imposes costs on cash dealers and hence on the community. The costs of compliance borne by cash dealers are dealt with in several parts of the Report. The Taskforce recognises that those costs are generally passed on to the community. Cash dealers also benefit from regulation, which limits their exposure to fraud.

The Taskforce has made a number of recommendations intended to reduce the costs while maintaining the integrity of the reporting and associated systems. Those recommendations address the retention of various documents and records by cash dealers, and the authenticating of the identity of persons who are signatories to accounts.

The Taskforce examined alternative means of achieving the objectives of the FTR legislation and concluded that the only appropriate means is a statutory approach. The costs and the benefits of the FTR legislation were analysed. The Taskforce then considered whether the benefits outweighed the costs, and concluded that the FTR legislation is warranted on the grounds of economic efficiency alone. The substantial benefits from the FTR legislation accruing to the Australian economy and the community significantly outweigh the administration, compliance and other resultant costs. The direct financial benefits resulting from the FTR legislation exceed costs associated with its operation. The Taskforce also noted that there are a range of other significant benefits accruing to the community, which are not quantifiable.

The Taskforce also examined the implications of technological change for the FTR legislation. Those implications include the increasing use of Internet banking and other electronic financial services. One of the most pressing areas for resolution is the need for updating of the means by which cash dealers meet their obligations to obtain signatory information and verify the identity of their customers. The Taskforce notes that concerns relating to identity verification and identity fraud are not unique to the FTR legislation but range across the whole of government including Commonwealth, State and Territory Governments, and also the private sector. The Taskforce recommends that further examination proceed on resolving this issue.

Finally, the Taskforce also examined a number of matters raised by submitters, which did not always fall precisely within its Terms of Reference, but which raised concerns about the operation of the FTR legislation. (p. ix)

7.4.3 United Kingdom

7.4.3.1 Overview

Since the start of the 1990s, several major pieces of legislation addressing money laundering have been enacted in the UK, creating new money laundering offences and strengthening the confiscation legislation. The Money Laundering Regulations 1993 lay down requirements as to customer identification, record-keeping, supervision and the reporting of suspicious transactions for a wide range of businesses. Active measures have also been taken with respect to international co-operation and many new bilateral confiscation agreements have been entered into. These measures have been complemented by administrative steps such as improving the guidance notes for financial institutions and the procedures relating to the reporting and investigation of suspicious transaction reports, improving feedback to financial institutions, and increasing the awareness of money laundering for non-financial businesses.[31]

Unlike most countries that established a stand-alone FIU, in the United Kingdom, this function was integrated into the existing National Criminal Intelligence Service (NCIS), is a national agency that provides criminal intelligence support services to the National Crime Squad and numerous other police agencies in the UK. A new unit, called the Economic Crime Branch, was established within the NCIS with the mandate to "to analyse the suspicious transaction reports (STRs) it receives from the financial sector and disseminate these to law enforcement."[32]

In addition to operational intelligence, the Economic Crime Branch liaises with financial institutions, trade associations, regulatory bodies and law enforcement agencies on money laundering and financial investigation. Members of the branch also provide training at individual firms and trade organisations. The Egmont Group Permanent Administrative Support is housed at NCIS within the Economic Crime Branch.

The branch also exchanges financial intelligence and training with its overseas partners, assisting with the formation of new financial intelligence units and the drafting of anti money laundering legislation.

The Terrorist Finance Team is a multi-agency unit established within the Economic Crime Branch after the terrorist attacks of 11 September 2001. It supports agencies charged with countering terrorism. Much of its intelligence comes from the suspicious transaction reports made to NCIS by financial institutions. It aims to identify and proactively develop intelligence on targets, and analyse links between finance for terrorist purposes and dirty money from drugs, corruption and other forms of organised crime. It also works on the strategic level to inform future work: for example, by developing typologies of terrorist financing.[33]

[31] Financial Action Task Force. 1997. FATF Annual Report 1996-1997. June 19: p. 12.

[32] NCIS web site: http://www.ncis.co.uk/ec.asp

[33] ibid

7.4.3.2 Evaluation

1. **Financial Action Task Force. 1997. *FATF Annual Report 1996-1997.* June 19: pp. 12-13.**

The National Criminal Intelligence Service has an important role in the United Kingdom's anti-money laundering initiative, and it is important that it has the human and technological resources, which are necessary for it to operate effectively. However, a lack of statistical information on the results from the suspicious transaction reports makes it difficult to properly analyse how effective the reporting system is, and this could be rectified. Other small areas for improvement could include widening the scope of the legislation dealing with the seizure and forfeiture of drug cash being smuggled across the border, and an extension of the Money Laundering Regulations 1993 to cover all financial activity conducted by lawyers. A thorough analysis should also be made of the situation regarding all the bureaux de change and whether there needs to be some form of formal registration or supervision.

Overall though, the United Kingdom anti-money laundering system is an impressive and comprehensive one, which has been subject to consistent review and improvement, which meets the FATF forty Recommendations and indeed in many areas goes beyond them. Many parts of the United Kingdom system provide a model, which could be followed by other countries, with the system of education, training and Guidance Notes for the financial sector seeming to be particularly successful. The active system of supervision, co-operation, education and training in the financial sector are complemented by strong and effective penal legislation. The attitude and measures taken in regard to co-operation and co-ordination, and the willingness to review the existing measures, even if they are relatively recent, could also provide a lead to other countries.

7.4.4 CANADA

7.4.4.1 Overview

In December 1999, proposed legislation to combat money laundering was introduced in the House of Commons. This legislation creates a mandatory reporting system for large volume cash and suspicious transactions as well as the cross-boarder movement of currency and monetary instruments. This legislation amends and expands upon the *Proceeds of Crime (Money Laundering) Act*, which is largely restricted to specifying record-keeping requirements of regulated financial institutions. The Bill was developed after consultations with the provinces, territories, and stakeholders throughout Canada.

According to Federal Government consultation documents, the principal objectives of the legislation are to help law enforcement officials deter and detect the cross-border movement of proceeds of crime by giving them the tools that they need to investigate these activities, and to enhance Canada's contribution to international efforts to deter and detect money laundering in conjunction with the standards set by the FATF.

Under the new legislation, regulated financial institutions, casinos, currency exchange businesses, as well as other entities and individuals acting as financial intermediaries are required to report large volume cash transactions and any financial transactions that they have reasonable grounds to suspect are related to a money laundering offence. As well, individuals and businesses that move large amounts of cash across the border are required to declare such movements to Canada Customs.

The legislation as passed by the House of Commons on May 4, 2000, includes both large volume currency transaction reporting and suspicious transaction reporting, whereby institutions and individuals report financial transactions where there are reasonable grounds to suspect it is related to money laundering. Failure to report will result in the seizure of the cash or monetary instruments being transported if considered to be related to money laundering or the payment of an administrative penalty.

The maximum penalties for failing to report designated transactions under the *Act* include fines of up to (CDN)$2 million and imprisonment for up to five years.

The legislation also establishes an independent government body to receive and analyze reported information about regulated transactions and cross-border currency movements. This new body, known as the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is a central repository for information about money laundering activities across Canada. FINTRAC also has primary responsibility for monitoring the compliance of financial intermediaries with the legislation.

In order to facilitate organized crime enforcement, FINTRAC has the authority to disclose information related to suspicious financial transactions in limited circumstances to:

- Canadian law enforcement agencies investigating a crime involving money laundering;
- CCRA taxation officials, if the information relates to a taxation matter arising from money laundering activity;
- Citizenship and Immigration Canada, if the information relates to immigration offences;
- Canadian Security Intelligence Service, if the information relates to a suspected threat to national security; and
- Foreign law enforcement agencies that officially request information pertaining to a money laundering investigation or if FINTRAC or the Minister of National Revenue has entered into an agreement with a foreign state or international organization regarding the exchange of such information.

7.4.4.2 Evaluation

1. Financial Action Task Force. 1998. *Annual Report (1997-1998)*. June 25: pp. 12-13.

The 1998 evaluation by the FATF concluded that Canada's voluntary suspicious transaction reporting regime "does not appear to be working effectively, and there needs to be an urgent resolution of the internal review process which has been continuing since 1993."

The examiners consider that the most essential improvements are to create a new regime, consistent with the Charter of Rights and Freedoms, which makes reporting mandatory, and to create a new financial intelligence unit which would deal with the collection, management, analysis and dissemination of suspicious transaction reports and other relevant intelligence data. Other measures which would assist are detailed guidance on what transactions may be suspicious, a penal or administrative sanction for failing to report, and improved general and specific feedback. In addition, detailed proposals need to be created and taken forward for a system of cross border reporting and ancillary powers for Customs officers. The adoption of these measures, when combined with the new IPOC units, should lead to a much more effective system.

Changes are also required in the financial sector, where the mixture of federal, provincial and self-regulation, the lack of uniformity and the combination of requirements laid down by law and also by guidelines, makes the system complex. The limited customer identification obligations in relation to corporations and beneficial owners of accounts are not in conformity with Recommendation 11, and additional measures should be enacted to remove this discrepancy. The legislation should also be extended to cover other types of non-bank financial institution such as money remitters and check cashers, as well as non-financial businesses such as casinos. The threat posed by professional facilitators of money laundering should also be examined. The regulations and systems for compliance review, internal controls, education and training for the different parts of the non-bank financial sector need to be more comprehensive and uniform, and there needs to be greater co-ordination and support by government agencies.

The Canadian anti-money laundering system as a whole is substantially in compliance with almost all of the 1990 FATF Forty Recommendations. In those areas where it has been proactive such as prosecutions, forfeiture, and general international assistance it has achieved considerable success. It now needs to expeditiously extend this proactive response, and resolve the deficiencies identified above. By doing so it will create a law enforcement and regulatory system, which should combat money laundering most effectively.

8.0 LIST OF CONTRIBUTORS

➢ DEPARTMENT OF FINANCE

Shannon Grainger
Rachel Grasham
Lynn Hemmings
Richard LaLonde

➢ FINANCIAL TRANSACTION AND REPORTS ANALYSIS CENTRE OF CANADA (FINTRAC)

Sandra Brown
Peter Bulatovic
Lucie Cardinal
Yvon Carriere
Shirley Cuddihey
Jacques Desjardins
Josée Desjardins
Janet DiFrancesco
Rachael Donovan
Lisa Douglas
Marc Gélinas
Chris Griffiths
Tom Hansen
Joanne John
Horst Intscher
Gary Nichols
Graham Pinner
Richard Sansom
John Schmidt
Tim Steen
Lisa Taylor
Randy Taylor
Kathy Thompson
Sandra Wing
Yuklin Wilson
Grant Woodward

➢ SOLICITOR GENERAL CANADA

Alison Rutherford

➢ RCMP

Jacques Beaulieu
Garry Clement
Michel Dubuc
Gord Mathieu
Don Panchuk
Brian Reteff
Keith Sherwood
John Sullivan

➢ DEPARTMENT OF JUSTICE

Francois Lanthier
Croft Michelson
Susan Mickus
Andre Morin
Dan Murphy
Fergus O'Donnell
Bob Prior
Simon William

➢ CANADA CUSTOMS AND REVENUE AGENCY

Tracy Annett
Bob Cranford
Richard LaBelle
Daniel Lagacé
Jim Roberts
David Snider

➢ CITIZEN AND IMMIGRATION CANADA

Louis Dumas
Julie Stock

➢ EXPERTS

Margaret Beare	Nathanson Centre, York University, Toronto
Chris Mathers	KPMG Forensics, Toronto
Graham Pinner	Formerly AUSTRAC
Steve Schneider	Ryerson University, Toronto

➢ STAKEHOLDERS

Martin Comley	UK, NCIS, Policy
John Kelleghan	U.S. Customs Money Laundering Section
Robert Rutt	U.S. Customs Money Laundering Section
Mike Ryan	Organized Crime Agency of BC (OCABC)
Jean Spreutels	Egmont Group - Belgium

➢ REPORTING ENTITIES

Pierre Beauchamp	Canadian Real Estate Association (CREA)
Larry Boyce	Investment Dealers Association (IDA)
Bill Denison	BMO
Steven Harvey	CIBC
Bernie Heitner	Cambridge Mercantile Corp. Foreign Exchange
Paul McGrath	Canadian Bankers Association
Bill Randall	Canadian Bankers Association
Mark Ross	Canadian Bankers Association
Paul Roy	Canadian Institute of Accountants (CICA)
Kelly Shaughnessy	Canadian Bankers Association
Eric Turner	Canadian Institute of Accountants (CICA)

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10.0 INTERVIEW & FOCUS GROUP GUIDES

Third Year Evaluation of the National Money Laundering Initiative

A: Department/Agency Interview Guide

This interview is confidential; no reference will be made in the final report to any individual. The interview is expected to last 45 minutes to one hour.

Introduction:

The Initiative has set down the following three objectives:

- To implement specific measures to detect and deter money laundering and facilitate the investigation and prosecution of money laundering offences;
- To respond to the threat posed by organized crime by providing law enforcement officials with the information they need to deprive criminals of the proceeds of their criminal activities, while ensuring that appropriate safeguards are put in place to protect the privacy of persons with respect to personal information about themselves; and
- To assist in fulfilling Canada's international commitments to participate in the fight against transnational crime, particularly money laundering.

In addition, the attached 'Evaluation Framework Logic Model' identifies the following seven Initiative activities: Operationalizing National & International Commitments; Liaison, Co-operation and Education; Promoting and Monitoring Compliance; Analysis; Disclosure; Investigation; and Adjudication and Sanctioning.

Using the 'Evaluation Framework Logic Model' as a guide, the following interview questions are intended to focus on examining four key aspects of the implementation process to date: (a) each Initiative partner's respective *role*; (b) the *extent* to which that role has been *implemented*; (c) the working relationships among the seven *partners* (i.e., Dept. of Finance, FINTRAC, DOJ, CCRA, RCMP, C&I, and the Sol. Gen.); and (d) issues concerning the operationalizing of Canada's national and international *commitments*.

Questions:

Role:

1. From your perspective, describe your department's/agency's/ unit's intended role in the Initiative?
2. How has this role evolved to date?
3. If that role has changed, describe those changes and why they have occurred? For example, any changes in workload and/or priorities.

Implementation:

1. Did you receive the resources assigned under the Initiative? When these resources were received, were they distributed appropriately (i.e., used for the Initiative as intended or other purposes)?
2. To what extent has your dept's/agency's designated resources under the Initiative been put in to place?
3. To what extent have the intended, relevant activities and outputs, as set out in the Initiative's Logic Model, been implemented/ achieved to date by your department/agency? (Refer to the attached logic model for activities/outputs).
4. During the implementation process, has your dept/agency/ unit experienced any difficulties or opportunities that weren't anticipated? If so, what were they, and how did they affect your implementation? For example, difficulties in staffing the positions allocated under the Initiative (i.e., knowledge, training, skill levels)?
5. Do you have any practices or mechanisms in place to monitor the effectiveness and impacts of your dept's/agency's/unit's activities under the Initiative? What are the criteria you use to determine success (e.g., for role and resource deployment)?
6. Has your dept/agency/unit been able to identify practices and mechanisms to measure effectiveness and impacts that might be or are being used by other partners? If so, how has this uniformity been achieved?

7. Could your implementation process operate in a more efficient manner? If so, specify how?

Partnerships:

1. Describe your current working relationships with the other Initiative partners based on the evolution of the Initiative to date (e.g., sharing of information, is the information viewed as useful, of benefit to your department, overall satisfaction)?
2. Are there any early indications of what effects these partnerships are having in working towards meeting the Initiative objectives and specifically your department's objectives?
3. How have you found the coordination and cooperation across the Initiative to date?
4. Was the process/results suitable and should continue or should adjustments be made? If so, on the basis of what information or evidence?
5. Are there any early indications of what effects these changes/or no changes in coordination and cooperation have made towards attainment of the Initiative objectives?
6. Is there evidence of overlap/duplication or complementary functions between partners?
7. Has there been increased collaboration among the partners as a direct result of the Initiative?
8. Is there opportunity for more collaboration with your dept/agency and the other partners (for example, for information exchange, joint ventures, in planning, programme design, decision making)? If so, how could that collaboration be enhanced?
9. Is there an opportunity for more coordination and cooperation within the Initiative Steering Committee or other Initiative Committees?
10. What types of risks do you face as a partner that could compromise the Initiative's objectives being met? How are these risks being managed? For example, privacy concerns, public reaction, and industry non-compliance.
11. Do these risks impact on other partners in this Initiative? If so, how could a common solution emerge?

Commitments:

1. To what extent has the Initiative contributed to improved national and international cooperation to date? If so how?

Third Year Evaluation of the National Money Laundering Initiative

B: Partners Focus Group Guide

This focus group is confidential; no reference will be made in the final report to any individual. To ensure efficiency in reporting the comments made during the session, it will be audiotaped. Be assured that only the evaluators will have access to the tapes and they will be destroyed once the key points from the discussion have been recorded for analysis. The focus group is expected to last a maximum of 2 hours.

Introduction:

The Initiative has set down the following three objectives:

- To implement specific measures to detect and deter money laundering and facilitate the investigation and prosecution of money laundering offences;
- To respond to the threat posed by organized crime by providing law enforcement officials with the information they need to deprive criminals of the proceeds of their criminal activities, while ensuring that appropriate safeguards are put in place to protect the privacy of persons with respect to personal information about themselves; and
- To assist in fulfilling Canada's international commitments to participate in the fight against transnational crime, particularly money laundering.

The achievement of these objectives will be impacted upon by the partnership established to implement the Initiative. As such, it is important to examine the partnership and the roles played by the various departments/agencies involved. Furthermore, given the multi-faceted nature of money laundering, it is essential to establish and maintain networks and processes to facilitate the sharing of information and enhance overall cooperation between the various partners. Consequently, the following questions are intended to focus on examining two aspects of the overall initiative implementation process to date, specifically: (a) each partner's respective

role within the partnership model and (b) the quality of the working relationship among the Initiative's seven *partners* (i.e., Dept. of Finance, FINTRAC, DOJ, CCRA, RCMP, C&I, and the Sol. Gen.).

Questions:

Role:

1. Describe your department's/agency's intended role in the Initiative?
2. If that role has changed, describe those changes and why they have occurred? For example, any changes in workload and/or priorities
3. Are there any early indications how this role has contributed to the achievement of the Initiative objectives to date?

Partnership/Coordination:

1. In your view, what are the key elements to a successful Initiative partnership (e.g., common objectives, regular meetings, liaison, communication, information sharing, cooperation, and coordination)?
2. Did you receive the resources assigned under the Initiative. When resources were received, were they distributed appropriately (i.e., used for the Initiative as intended or other purposes)?
3. What is going well in the partnership?
4. What have been the main challenges &/or barriers compromising the partnership to date (e.g., communication, sharing of information, timing, coordination, technology, sector court challenges)?
5. What are some of the ways these challenges/barriers could be or already have been overcome?
6. In your view, how have you found the coordination and cooperation of the Initiative to date? Was the process/results suitable or should adjustments be made? If so, on the basis of what information or evidence?
7. What is your view of the satisfaction of the partners with respect to the various Initiative processes?
8. Has there been increased collaboration among the partners as a direct result of the Initiative? Is there opportunity for more collaboration with your dept/agency (e.g., for information exchange, joint ventures, in planning, programme design, decision making)? If so, how could that collaboration be enhanced?
9. Is information shared among the partners? If so, is it useful, do you use the information provided? How?
10. Are information products/tools for policy, communication and education evident? What types of products/tools are needed? Why?
11. Are there any early indications as to what effects the use of these products/tools have made on the enhancement of the Initiative?
12. Have the disclosures made by FINTRAC resulted in any changes to groups or individuals targeted for investigation? Have targeting priorities changed as a direct result of the Initiative?

Third Year Evaluation of the National Money Laundering Initiative

C: FINTRAC Focus Group Guide

This focus group is confidential; no reference will be made in the final report to any individual. To ensure efficiency in reporting the comments made during the session, it will be audiotaped. Be assured that only the evaluators will have access to the tapes and they will be destroyed once the key points from the discussion have been recorded for analysis. The focus group is expected to last a maximum of 2 hours.

Introduction:

The Money Laundering Initiative has set down the following three objectives:

- To implement specific measures to detect and deter money laundering and facilitate the investigation and prosecution of money laundering offences;
- To respond to the threat posed by organized crime by providing law enforcement officials with the information they need to deprive criminals of the proceeds of their criminal activities, while ensuring that appropriate safeguards are put in place to protect the privacy of persons with respect to personal information about themselves; and
- To assist in fulfilling Canada's international commitments to participate in the fight against transnational crime, particularly money laundering.

These objectives are intended to guide the various efforts of the seven partners involved with the Initiative. FINTRAC, as a major partner, is tasked with a wide range of responsibilities as is evident from the Initiative activities set out in the program logic model. As such, it is deemed important that a focus group be set up to look at issues surrounding FINTRAC's implementation and operations process from various responsibility areas within the organization itself. To that end the following questions will guide the discussion.

Questions:

Role:

1. How would you describe FINTRAC's intended role in the Initiative?
2. Has the organization's current role changed from what was originally envisioned at the start of the Initiative? If that role has changed, describe those changes and why they have occurred? For example, any changes in workload and/or priorities?
3. How is the current role of FINTRAC capable of contributing to the achievement of the Initiative objectives?
4. Did you receive the resources assigned under the Initiative? When resources were received, were they distributed appropriately (i.e., used for the Initiative as intended or other purposes)?

Implementation:

1. Is FINTRAC organized to maximize its delivery of service to meet its role requirements?
2. To what extent have the intended activities and outputs, as set out in the Initiative's Logic Model, been implemented/achieved to date?
3. During the implementation process, has FINTRAC experienced any difficulties or opportunities that weren't anticipated? If so, what were they, and how did they affect your implementation?
4. In FINTRAC are there any relevant issues (e.g., serious difficulties) when it comes to staffing the positions allocated under the Initiative (i.e., knowledge, training, skill levels)?
5. What appropriate practices and mechanisms are in place to monitor the effectiveness and impacts of FINTRAC's activities under the Initiative?
6. Could your implementation process operate in a more efficient manner? If so, specify how?

Partnerships/Coordination:

1. Describe your current working relationships with the other Initiative partners based on the evolution of the Initiative to date (e.g., sharing of information, is the information

viewed as useful, of benefit to FINTRAC/other partners)?

2. Are there any early indications of what effects these partnerships are having in working towards meeting the Initiative objectives and specifically FINTRAC's objectives?
3. How have you found the coordination and cooperation across the Initiative to date?
4. Was the process/results suitable and should continue or should adjustments be made? If so, on the basis of what information or evidence?
5. What responsibility, if any, does FINTRAC have to assist compliance sectors with meeting their obligations under the law?
6. Has FINTRAC been able to meet those responsibilities or not in a timely fashion? If not, why not?

Third Year Evaluation of the National Money Laundering Initiative

D: Expert Interview Guide

This interview is confidential; no reference will be made in the final report to any individual. The interview is expected to last 45 minutes to one hour.

Introduction:

Canada's Money Laundering Initiative is currently undergoing a three-year review with respect to its implementation process to date. As part of that review we are interested in getting the perceptions of experts such as yourself with respect to an efficient and effective money laundering regime.

As such, we have developed a series of questions that are intended to focus on examining four key aspects of an implementation process, specifically: (a) the *role* of a *Financial Intelligence Unit (*FIU); (b) the *extent* to which that role is *implemented*; (c) the working relationships that arise between a FIU and law enforcement agencies *(e.g., police, customs, immigration, prosecutors, etc.)*; and (d) national and international *commitments.*

Questions:

Role:

1. From your perspective, describe the intended role of a FIU in combating money laundering through a suspicious transaction reporting regime?

Implementation:

1. In your opinion, can you identify any difficulties or opportunities that a FIU may experience during its implementation process?

2. What do you think are the best approaches to measuring the efficiency and effectiveness of an FIU?

Partnerships:

1. What are the critical elements of an ideal working relationship (collaboration) between a FIU and law enforcement agencies; and a FIU and its reporting entities?
2. Can you think of any possible overlap /duplication or complementary functions between FIUs and law enforcement agencies?
3. What types of risks could compromise core partnerships between a FIU and law enforcements agencies; and a FIU and its reporting entities?
4. How would you suggest that those risks could be managed? For example, privacy concerns, public reaction, and industry non-compliance.

Commitments:

1. To what extent can a National money laundering regime contribute to both, national and international commitments to participate in the fight against transnational crime, particularly money laundering?

Third Year Evaluation of the National Money Laundering Initiative

E: Stakeholder Interview Guide

This interview is confidential; no reference will be made in the final report to any individual. The interview is expected to last 45 minutes to one hour.

Introduction:

Canada's Money Laundering Initiative is currently undergoing a three-year review with respect to its implementation process to date. As part of that review, we are interested in getting the perceptions of stakeholders such as yourself with respect to an efficient and effective money laundering regime.

As such, we have developed a series of questions that are intended to focus on examining four key aspects of an implementation process, specifically: (a) the *role* of a *Financial Intelligence Unit (*FIU); (b) the *extent* to which that role is *implemented*; (c) the working relationships that arise between a FIU and law enforcement agencies *(e.g., police, customs, immigration, prosecutors, etc.)*; and (d) national and international *commitments.*

Questions:

Role:

1. From your perspective/ experience, describe the intended role of a FIU in combating money laundering through a suspicious transaction reporting regime?

Implementation:

1. From your perspective/ experience can you identify any difficulties or opportunities that a FIU may experience during its implementation process?
2. What do you think are the best approaches to measuring the efficiency and effectiveness of an FIU?
3. What criteria would determine success?

Partnerships:

1. What are the critical elements of an ideal working relationship (collaboration) between a FIU and law enforcement agencies; and a FIU and its reporting entities?
2. Can you identify any possible areas of overlap /duplication or complementary functions between FIUs and law enforcement agencies?
3. What types of risks could compromise core partnerships between a FIU and law enforcements agencies; and a FIU and its reporting entities?
4. How would you suggest that those risks could be managed? For example, privacy concerns, public reaction, and industry non-compliance.

Commitments:

1. To what extent can a National money laundering regime contribute to both national and international commitments to participate in the fight against transnational crime, particularly money laundering?

Third Year Evaluation of the National Money Laundering Initiative

F: Reporting Entity Interview Guide

This interview is confidential; no reference will be made in the final report to any individual. The interview is expected to last 45 minutes to one hour.

Introduction:

Canada's Money Laundering Initiative is currently undergoing a three-year review with respect to its implementation process to date. As part of that review, we are interested in getting the perceptions of representatives from a number of business sectors, required to report under Canada's new legislation, as to how they view the implementation process.

In particular, the questions we have chosen are intended to look at three key factors, specifically: (a) the *role* of FINTRAC; (b) the implementation of your industry's responsibilities under the legislation; (c) and the ongoing relationship between FINTRAC and your industry.

Questions:

Role:

1. In your perspective, describe the intended role of FINTRAC in combating money laundering.
2. Does your industry have a responsibility in helping FINTRAC achieve its role?

Implementation:

1. In your opinion, can you describe any difficulties or opportunities that have occurred as a result of your industry's efforts to meet the legislative/FINTRAC requirements?
2. In your perception, how far along is your industry in meeting its requirements under the legislation/FINTRAC?

3. What things have impeded and/or enhanced that progress?

4. Are there any risks that could impact directly on whether your industry can meet its compliance requirements? What avenues could be explored to reduce/eliminate those risks?

Partnerships:

1. FINTRAC has indicated that they want to use a partnership approach towards assisting each reporting entity to become compliant. In your perception has this been the case? If not, why not?
2. What do you think needs to be in place in a compliance regime or the legislation that would increase collaboration between FINTRAC and your industry?
3. Are there any barriers that could compromise the partnership between FINTRAC and your industry?
4. If so, how would you suggest that those barriers could be managed? For example, privacy concerns, public reaction, and industry non-compliance.