

Drug Intelligence Brief



DRUG ENFORCEMENT ADMINISTRATION
INTELLIGENCE DIVISION

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MONEY LAUNDERING IN CANADA

Financial Overview

The increased presence of organized crime in Canada, including the Russian Mafia and a variety of outlaw motorcycle gangs, has caused an increase in Canadian efforts to halt the laundering of illicit proceeds. According to the Canadian newspaper Globe and Mail, the amount of illicit proceeds

laundered in Canada each year is estimated at between CAN\$7 billion and CAN\$17 billion.



Legislation

The Anti-Smuggling Initiative, which began in 1994, allocates resources to the Royal Canadian Mounted Police (RCMP), the Department of Justice, and the Canada Customs and Revenue Agency (CCRA) for the purpose of combating cross-border smuggling.

The Witness Protection Program Act of 1996 established a national program to protect those who risk their lives to assist in police investigations.

The National Forum on Organized Crime took place in 1996. The Forum, a conference that included individuals from both the public and private sectors, suggested the need for more coordination among all related entities with regard to money laundering, criminal intelligence, and law enforcement.

Canada enacted the Controlled Drugs and Substances Act (CDSA) in 1997, which strengthened Canadian law enforcement's ability to target high-level drug traffickers and drug money launderers.

Five regional coordinating committees on organized crime and a National Coordinating Committee on Organized Crime were formed in 1997 to develop a multi-disciplinary approach to combating organized crime. The committees focus on legislation and regulations that relate to law enforcement issues.

Thirteen integrated proceeds of crime units were established in 1997 to target organized crime groups and seize their assets. The units combine the RCMP, local police, provincial police, the CCRA, the Crown Counsel, and forensic accountants.

The United States and Canada established the Cross-Border Crime Forum in 1997, which facilitates cooperation and information sharing between the two countries.

The Joint Statement on Organized Crime was signed by the Canadian federal and provincial governments in 1998. The Statement calls for increased cooperation among law enforcement entities and reinforces their commitment to combat organized crime.

The Extradition Act received Royal Assent in June 1999. This act streamlines Canada's extradition procedures. The act addresses the issue of "borderless" crime (organized crime, internet fraud, etc.) and expands Canada's capacity to extradite criminals.

The Proceeds of Crime (Money Laundering) Act was passed on June 29, 2000. This law accomplishes the following:

- mandates the reporting of suspicious financial transactions by banks, securities dealers, life insurance companies, casinos, currency exchange houses, financial intermediaries, high-end retailers, and lawyers acting as account trustees
- mandates the reporting of large financial transactions, which are defined as transactions totaling CAN\$10,000 or more
- prohibits the disclosure of these reports with the intent to prejudice money laundering investigations
- protects those filing suspicious financial transaction reports from civil and criminal prosecution
- provides penalties of up to 5 years in prison and fines of up to CAN\$2 million for failure to report suspicious financial transactions
- controls the cross-border movement of currency
- establishes a Financial Transactions and Reports Analysis Center (FINTRAC) to review reports of suspicious financial transactions and the cross-border transportation of large amounts of currency
- requires affected firms to appoint a compliance officer, establish record keeping procedures, develop a method to monitor and audit the aforementioned record keeping system, institute a staff training program dealing with anti-money laundering procedures, and write a firm compliance manual

Organized crime legislation was passed in June 2001. This law reinstates Canadian law enforcement's ability to conduct undercover investigations and expands the provisions of Canada's proceeds of crime legislation. It allows the seizure, freezing, and confiscation of the illicit proceeds, of nearly all indictable crimes. It also allows Canadian law enforcement to

carry out foreign criminal confiscation of illicit proceeds and expands the type of property that can be seized to include all property.

Canada published the Cross-Border Currency and Monetary Instrument Reporting Regulations in May and June 2002. These regulations require people to report the import and export of currency and/or monetary instruments over CAN\$10,000 to the CCRA. This requirement includes currency and monetary instruments that are mailed or shipped, as well as those carried across the border. Failure to cooperate with the CCRA during a search or falsifying a report could result in a maximum penalty of 5 years in jail and a fine of CAN\$500,000. These regulations are the last of the Proceeds of Crime and Terrorist Financing Act to be put in place.

As of November 2002, the Canadian government requires that banks, casinos, and real estate brokers report electronic or international transfers over CAN\$10,000.

Legislation was enacted in November 2002, which requires the declaration, via a written report to CCRA, of the import or export of currency or monetary instruments valued at CAN\$10,000 or more.

On February 27, 2003, FINTRAC and the Directorate General for the Investigation of Transactions, part of the Mexican Finance Ministry, signed a Memorandum of Understanding (MOU) to work together in exchanging financial intelligence in support of the fight against money laundering and organized crime. On February 5, 2003, FINTRAC also announced that it had concluded MOUs with the Financial Intelligence Units (FIU) in Australia, Belgium, the United Kingdom, and the United States. According to these agreements, FINTRAC will disclose information to foreign counterparts on a case-by-case basis. No direct access to FINTRAC databases and intelligence will be made available to foreign governments. Note that the U.S. FIU is more commonly referred to as FinCEN.

Proposed Legislation

At this time, there are no reports with regard to proposed anti-money laundering legislation for Canada.

Drug Law Enforcement Efforts

Law enforcement officers from 18 provincial police departments created an Anti-Biker Squad in 1998 to combat the growing threat of criminal activity perpetrated by outlaw biker gangs.

CCRA officers are in charge of enforcing cross-border currency and monetary instruments reporting. These agents have the power to open mail and courier packages in order to carry out these duties.

FINTRAC is an independent government agency that functions as the central repository for information regarding suspicious financial transactions. It is responsible for the collection, analysis, assessment, and disclosure of information in order to assist in the detection,

prevention, and deterrence of money laundering and the financing of terrorist activity in Canada and abroad. FINTRAC will release information to law enforcement agencies, when suspected money laundering activities are identified.

As of November 8, 2001, the following persons and entities are required to report suspicious financial transactions to FINTRAC:

- financial entities (i.e., banks, credit unions, trust companies, loan companies, etc.)
- life insurance companies, brokers, and agents
- securities dealers, including portfolio managers and investment counselors
- foreign exchange dealers
- money services businesses, including Canada Post, for the sale of money orders
- accountants (when carrying out certain duties)
- real estate brokers or sales representatives (when carrying out certain duties)
- some casinos
- employees of the aforementioned persons or entities

A conviction for failure to report suspicious transactions to FINTRAC could result in a sentence of 5 years in prison and/or a fine of CAN\$2 million. A conviction for failure to report a large cash transaction to FINTRAC could result in a fine of up to CAN\$500,000 for a first offense and CAN\$1 million for all subsequent offenses.

FINTRAC can, without a warrant, search law offices to audit their compliance with Canada's anti-money laundering legislation. It has full access to any data on any computer in those offices, and has the right to examine and copy any information in hardcopy or electronic formats. It should be noted that efforts are presently underway to change legislation with regard to the anti-money laundering legislation dealing with law offices; therefore, this function, presently delegated to FINTRAC, may be altered or eliminated in the near future. FINTRAC will not have law enforcement officers detailed to its headquarters. Its database may not be queried by law enforcement authorities without a court order.

According to Canadian Press, the United States has complained that the FINTRAC is too concerned with privacy protection to be truly effective. According to a FINTRAC official, the agency had reported approximately CAN\$100 million in suspicious transactions to the RCMP and other law enforcement agencies as of September 30, 2002.

A combined forces special enforcement unit (CFSEU) was established in 1977, to investigate, prosecute, and dismantle organized criminal enterprises. In 1999, the CFSEU and two RCMP units were combined into the Greater Toronto Area Combined Forces Special Enforcement Unit (GTA CFSEU) to investigate Italian, Eastern European, and Asian-based criminal organizations.

According to Canadian Press, Abdul Majid Sulaymankhil, an Afghan-born Canadian citizen, who helped run an international drug trafficking organization, was sentenced to 11 years in prison after pleading guilty to hashish conspiracy and money laundering conspiracy charges. Sulaymankhil changed his plea, from not guilty to guilty, after learning that a

number of his co-conspirators had pleaded guilty. Sulaymankhil was involved in the laundering of approximately CAN\$6 million in proceeds from the sale of hashish that had been imported by his organization from Asia, Africa, and the Middle East. The investigation resulted in the seizure of 4,000 kilograms of hashish, 175 kilograms of cocaine, and cash and weapons worth approximately CAN\$900,000. The investigation also netted 21 arrests in India, South Africa, and France, as well as Canada.

A Canadian, Mohamed Hussein, was arrested in the United States for operating an unregistered money transfer business. In April 2002, Hussein was convicted for illegally sending money abroad. He was sentenced to 18 months in prison.¹

During 2002, more than 50 people were arrested in Canada and Europe in connection with an Italian-led operation, which targeted money laundering by Russian organized crime groups. Approximately half of those arrested were Russian nationals. During the operation, law enforcement officers seized luxury properties, cars, and other property worth approximately EUR100 million and froze approximately 300 bank accounts. Two of these accounts contained around EUR4 million. Law enforcement officials estimate the amount of illicit proceeds laundered by this group to be billions of euros.²

Bernard Tremblay, owner of Transfert Express Incorporated, was sentenced to 3 years in prison for money laundering. Tremblay used his check cashing business to launder drug proceeds for a Dominican Republic-based cocaine trafficking organization. Tremblay's business manager, Rejean Denis, also pleaded guilty to charges connected with the operation. Transfert Express Incorporated electronically transferred funds and sent couriers with suitcases full of illicit proceeds to the trafficking organization in the Caribbean. As a result of the investigation, approximately CAN\$1.7 million was seized at Transfert's Montreal office or frozen in its bank accounts. Transfert was also fined CAN\$750,000.³

Canadian Martin Chambers was one of 60 people arrested on August 14, 2002, as part of the joint RCMP and Federal Bureau of Investigation (FBI) Operation BERMUDA SHORT. Also arrested were Chambers' associates Jack Purdy, Kevan Garner, and offshore business facilitator Michael Hepburn. These four individuals were charged with the laundering of money provided by undercover agents posing as Colombian drug traffickers. A Miami judge rescinded Chambers' bail when evidence was presented indicating that Chambers was a flight risk. Evidence also was presented indicating that Chambers had threatened to have Hepburn killed, if he were to testify against him. Prosecutors associated the threat with Chambers' connection to the Hells Angels motorcycle gang. Hepburn's bank, Keywest Swiss Investment Bank, deposited and transferred drug proceeds. On August 22, 2002, the Central Bank of Barbados took over the bank and revoked its license.⁴

During 2002, police task forces in the three largest Canadian cities began targeting money transfer businesses. Most of the arrests associated with these operations were lead by Canada's largest anti-fraud unit known as Project Colt. Project Colt and government auditors

¹ The Globe and Mail, July 23, 2002

² Reuters News Service

³ The Montreal Gazette

⁴ The Vancouver Sun, October 5, 2002

closed down 45 Montreal money transfer businesses in 2002. The task forces in Toronto and Vancouver have also shut down several of these businesses. The RCMP has indicated that, in addition to perpetrating fraud, these businesses are often used by outlaw motorcycle gangs and traditional organized crime groups to launder illicit funds.⁵

Money Laundering Methods

Due to the recent merger of several Canadian outlaw biker gangs, law enforcement officials predict an increase in auto theft, credit card fraud, insurance fraud, truck hijacking, gun running, prostitution, extortion, and money laundering.

Asian triads, Colombian drug cartels, the Italian Mafia, the Russian Mafia, Nigerian criminal organizations, and the Hells Angels outlaw motorcycle gang are operating in Canada. These groups are frequently involved in drug trafficking, prostitution, money laundering, and other crimes.

The Russian Mafia is using legitimate businesses to conceal and launder criminal proceeds, as well as to project an image of legitimacy.

According to the Solicitor General of Canada, economic crime costs Canada at least CAN\$5 billion per year and between CAN\$7 billion and CAN\$17 billion is laundered in Canada each year.

Drug Enforcement Administration (DEA) intelligence indicates that bulk drug money is being shipped into Canada for deposit in Canadian banks. Bulk currency is also shipped from Canada to the Caribbean and/or South America concealed in vehicles or other modes of transportation. Some legitimate business concerns, operating money remittance businesses as sidelines, are also being used to launder traffickers' funds. These businesses include jewelry stores, travel agencies, video rental stores, and courier services.

DEA intelligence also indicates that Canadian drug traffickers are using casinos to launder drug proceeds. The trafficker purchases chips or opens an account at the casino for gambling purposes. He/she then gambles, but is careful only to lose a proportionally small sum of money. The trafficker, or an associate, will then cash in the chips or withdraw the funds, which appear to be legitimate winnings from the account.

The Canadian press indicates that Russian organized crime groups are using import-export companies, as well as businesses that sell clothing, cosmetics, and household goods as fronts for their illegal activities. The Russian organized crime groups in Canada are known to participate in the arms trade, immigrant smuggling, and drug trafficking. Their criminal proceeds are then invested in and/or laundered through legitimate businesses.

According to several open reporting sources, the newest organized crime trends in Canada point to the use of international computerized networks to launder illicit proceeds or to

⁵ The WTN News, November 29, 2002

perpetrate information/identity theft (cyber-crime) and the purchase of legal business enterprises to legitimize the proceeds of criminal activity.

The RCMP has indicated that Afghan and Pakistani terrorist groups are financed by approximately US\$20 million of illicit funds, which are derived from the sale of hashish in Canada. The RCMP also indicates that cocaine sales earn Colombian terrorist groups between US\$1.5 million and US\$7.5 million per annum.⁶

OUTLOOK

Canada appears to be steadily increasing the emphasis it places on combating money laundering. It has substantially strengthened its anti-money laundering and organized crime legislation. These changes are likely to enhance law enforcement's ability to successfully investigate and prosecute the organized crime groups that were attracted to Canada early on, because of its previously ineffective anti-money laundering laws and enforcement effort.

Analyst Note: Any updated or additional information regarding money laundering in Canada would be appreciated. Please contact the Financial Investigative Intelligence Unit.

⁶ The Associated Press, July 14, 2002