

**PROCEEDINGS AT HEARING
OF
JANUARY 18, 2021**

COMMISSIONER AUSTIN F. CULLEN

INDEX OF PROCEEDINGS

Witness	Description	Page
	Proceedings commenced at 9:30 a.m.	1
Michael Cox (for the commission)	Examination by Mr. Davis	2
	Examination by Ms. Friesen	64
Joseph Iuso (for the commission)	Examination by Ms. Magonet	76
	Examination by Mr. Rauch-Davis	82
Megan Nettleton (for the commission)		
	Proceedings adjourned at 11:21 a.m.	89
	Proceedings reconvened at 11:35 p.m.	89
Donna Achimov (for the commission)	Examination by Mr. Davis	91
	Examination by Ms. Friesen	171
Barry MacKillop (for the commission)	Examination by Ms. Magonet	180
	Examination by Mr. Rauch-Davis	184
Annette Ryan (for the commission)	Examination by Mr. Brongers	193
	Proceedings adjourned at 1:45 p.m. to January 19, 2021	195

INDEX OF EXHIBITS FOR IDENTIFICATION

Letter	Description	Page
	No exhibits for identification marked.	

INDEX OF EXHIBITS

No.	Description	Page
437	CISBC/YT – Provincial Threat Assessment 2018	27
438	CISBC/YT - Report - Money Service Businesses – Nov 1, 2018	32
439	Email exchange between Christian Nordin and Joseph Iuso, March and April 2020	36

440	Money Services Businesses Public Consultation Paper – March 2020	58
441	Money Laundering and Terrorist Financing (ML/TF) Typologies and Trends for Canadian Money Services Businesses (MSBs) FINTRAC Typologies and Trends Reports - July 2010	102
442	Professional Money Laundering in Canada - March 2019	106
443	“Trends in Canadian Suspicious Transaction Reporting (STR) FINTRAC Typologies and Trends Reports” - April 1, 2011	116
444	Trends in Canadian Suspicious Transaction Reporting (STR) - Part II – October 1, 2011	117
445	Financial Intelligence Report Criminal Informal Value Transfer Systems (IVTS) – February 2016	124
446	FINTRAC Statistics Letter – January 15th, 2021	140
447	FINTRAC Report to the Minister of Finance on Compliance and Related Activities – September 30, 2017	155
448	2018 FINTRAC’s Report to the Minister of Finance on Compliance and Related Activities – September 2018	158
449	List of Compliance Engagement Activities from April 2017 to December 2020	168

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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January 18, 2021

(Via Videoconference)

(PROCEEDINGS COMMENCED AT 9:30 A.M.)

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Thank you, Madam Registrar.

MR. DAVIS: We can't hear you, Mr. Commissioner.

MR. COMMISSIONER: Can you hear me now?

THE REGISTRAR: Yes.

THE COMMISSIONER: Okay. Yes. Thank you, Madam Registrar.

Mr. Martland or Mr. Davis, whichever of you has conduct of this panel, please proceed.

MR. DAVIS: Yes, Mr. Commissioner. That would be me. The next witnesses will be Mr. Michael Cox, Mr. Joseph Iuso and Ms. Megan Nettleton testifying as a panel.

Madam Registrar, all three witnesses have indicated they will affirm today.

THE REGISTRAR: Witnesses, will you please unmute yourselves. Thank you. Would each of you please state your full name and spell your first name and last name for the record. Let's start with Mr. Cox.

THE WITNESS: (MC) Michael Cox, M-i-c-h-a-e-l C-o-x.

Michael Cox (for the commission)
Joseph Iuso (for the commission)
Megan Nettleton (for the commission)
Exam by Mr. Davis

2

1 THE REGISTRAR: Thank you. Mr. Iuso.

2 THE WITNESS: (JI) Joseph Iuso, J-o-s-e-p-h I-u-s-o.

3 THE REGISTRAR: Thank you. And Ms. Nettleton.

4 THE WITNESS: (MN) Megan Nettleton, M-e-g-a-n

5 N-e-t-t-l-e-t-o-n.

6 THE REGISTRAR: Thank you.

7 MICHAEL COX, a witness

8 called for the

9 commission, affirmed.

10 JOSEPH IUSO, a witness

11 called for the

12 commission, affirmed.

13 MEGAN NETTLETON, a

14 witness called for the

15 commission, affirmed.

16 EXAMINATION BY MR. DAVIS:

17 Q Ms. Nettleton, I'm going to start with an
18 overview of your background and experience. Can
19 you see and hear me okay?

20 A (MN) I can, yes.

21 Q And you're currently employed as a supervisor
22 with the RCMP Financial Crime Analysis Unit; is
23 that right?

24 A (MN) I am the acting supervisor of that unit,
25 yes.

1 Q And how long have you held that role?

2 A (MN) Approximately a month and a half.

3 Q And what are your responsibilities in that role?

4 A (MN) My responsibilities in this role are to
5 supervise approximately seven staff in the
6 production of tactical and strategic
7 intelligence and analysis products, to advance
8 resource allocation and operational
9 decision-making within financial crime within
10 the RCMP.

11 Q And throughout the year of 2020 you held the
12 role of project manager, program development
13 with the now Counter Illicit Finance Alliance of
14 British Columbia, that's CIFA-BC; is that
15 correct?

16 A (MN) That's correct.

17 Q And at the time that was known as Project
18 Athena; is that right?

19 A (MN) That is correct.

20 Q And I won't take you through the entirety of
21 your CV, but is it accurate to say that you've
22 worked as a federal policing intelligence
23 analyst in various capacities with the RCMP from
24 2013 through till 2020, including three years in
25 Australia as an intelligence analyst deployed

1 abroad?

2 A (MN) That is correct, yes.

3 Q And in terms of your qualifications and
4 education, Ms. Nettleton, you hold a master of
5 arts in human security and development from
6 Carlton University; is that right?

7 A (MN) That is right.

8 Q And you hold a graduate certificate in criminal
9 intelligence from Australia?

10 A (MN) I do, yes.

11 Q And finally, you're certified anti-money
12 laundering specialist. That's the CAMS
13 designation. Is that right?

14 A (MN) Correct.

15 Q Mr. Iuso, I'm going to turn to you for a moment
16 now. Can you see and hear me okay?

17 A (JI) Yes, I can.

18 Q You currently hold, Mr. Iuso, in addition to
19 other roles that we'll briefly discuss, the
20 position of executive director of the Canadian
21 Money Services Business Association; is that
22 correct?

23 A (JI) Yes, that is.

24 Q And what are your responsibilities as executive
25 director, Mr. Iuso?

1 A (JI) It's to oversee the association to make
2 sure that the activities and assignments that
3 are reviewed and done by the board of directors
4 are executed and done by the association for the
5 association.

6 Q And how long have you worked as executive
7 director of the Canadian MSB Association?

8 A Since 2018.

9 Q And you concurrently hold the role of business
10 development and compliance specialist for a
11 company called KYC2020. Is that right,
12 Mr. Iuso?

13 A (JI) Yes, that is correct.

14 Q And briefly, what is KYC202?

15 A (JI) KYC2020 is a sanctioned screening tool for
16 terrorist watchlists, criminals, regulatory and
17 is really used by regulated entities to check
18 for those persons or entities to be -- if
19 they're on the list or not and it's part of
20 their compliance program.

21 Q And you also hold the roles of chief anti-money
22 laundering officer, so CAMLO, with Bitbuy, as
23 well as chief compliance officer of Payment
24 Source; is that right?

25 A (JI) Yes, that is correct.

- 1 Q And, Mr. Iuso, you also hold your CAMS
2 designation; is that correct?
- 3 A (JI) That is correct.
- 4 Q And in terms of education, you have a degree in
5 computer systems technology; is that correct?
- 6 A (JI) Yes, from Mohawk College.
- 7 Q Thank you. And, Mr. Cox, turning lastly to you.
8 Can you see and hear me okay?
- 9 A (MC) Yes, I can.
- 10 Q And you are currently the chief compliance
11 officer and director of finance and risk
12 management with the Vancouver Bullion & Currency
13 Exchange; is that right?
- 14 A (MC) That's correct.
- 15 Q How long have you worked with VBCE?
- 16 A (MC) I've been there since 1994.
- 17 Q What you are your responsibilities as chief
18 compliance officer and director of finance and
19 risk management?
- 20 A (MC) As chief compliance officer, I'm
21 responsible for effectively implementing all the
22 elements within Vancouver Bullion's compliance
23 program, including policies and procedures,
24 ongoing training, risk assessment and
25 effectiveness reviews. And as finance director,

Michael Cox (for the commission)
Joseph Iuso (for the commission)
Megan Nettleton (for the commission)
Exam by Mr. Davis

7

1 I'm responsible for oversight of the
2 implementation of finance and accounting
3 department business strategies.

4 Q And, Mr. Cox, you formally held trading roles
5 with the Globex Financial Services and Citizens
6 Trust Company; is that right?

7 A (MC) Correct.

8 Q And you've sat on the Canadian MSB Association
9 board of directors since 2013?

10 A (MC) Correct.

11 Q And, Mr. Cox, you hold a Bachelor of Commerce
12 from the University of British Columbia; is that
13 right?

14 A (MC) Correct, yes.

15 Q And you're also a certified anti-money
16 laundering specialist?

17 A (MC) Yes, I am.

18 Q Thank you. Mr. Iuso, I'd like to start on a
19 substantive note with you discussing the
20 landscape of money services businesses in Canada
21 as well as British Columbia, and I'll start by
22 asking what is a money services business or an
23 MSB, Mr. Iuso?

24 A (JI) A money service business in Canada is made
25 up of four different activities. The first one

1 is money transmission, which is basically
2 remission and transmission of funds through any
3 electronic means or otherwise. The second one
4 is foreign exchange dealing, basically
5 conversion of, let's say, US dollars to Canadian
6 or Canadian to US dollars as an example. The
7 third one is issuing and redeeming negotiable
8 instruments. Those are things like money
9 orders, travellers cheques, although many of
10 those things don't happen anymore. And the
11 fourth one is dealers in virtual currencies,
12 which is the newest addition to that category as
13 of June 1st, 2020.

14 Q Mr. Iuso, do you have a sense -- considering
15 those four main activities, what are the primary
16 services today that are offered by MSBs in
17 Canada, if you have a sense of that?

18 A (JI) So FINTRAC attended our conference, the
19 annual conference for the Canadian MSB
20 Association, and we had asked them to provide
21 overview information on the money service
22 industry in Canada. And they informed us -- and
23 I'm sorry, I'm reading this from paper. So they
24 informed us that there's -- altogether there's
25 1,903 money service businesses in Canada that

1 are registered. 1,569 of them are money
2 transmission and remission, 1,430 are to deal
3 with foreign exchange, 226 deal in issuing and
4 redeeming negotiable instruments and 471 of them
5 are dealers in virtual currency.

6 Now, the primary one is the 1,930, and then
7 each one of them has maybe money transmission in
8 negotiable instruments or money transmission and
9 foreign exchange. So an MSB -- they didn't
10 split out how many MSBs are doing multiple
11 activities. They just gave us the overall for
12 each of the four categories. As well there's a
13 new category of MSBs called foreign MSBs. Those
14 added as of June 1st, 2020, and there's 65 of
15 those.

16 Q Do you have any sense of how many registered
17 MSBs operate in British Columbia? Is that data
18 available to the Canadian MSB Association?

19 A (JI) We haven't requested it nor have we done
20 the research to find it, but it's something that
21 if we asked I'm sure they would provide to us.

22 Q And, Mr. Iuso, what is the role of the Canadian
23 MSB Association?

24 A (JI) So the Canadian MSB Association was founded
25 to provide advocacy for the members as well as

1 training and networking opportunities.

2 Q And who are the Canadian MSB Association's
3 members, Mr. Iuso?

4 A (JI) so they're made up of those types of
5 services, money transmissions, foreign exchange,
6 negotiable instruments and dealers in virtual
7 currency which we just started late last year.

8 Q And are all of the Canadian MSB Association's
9 members, to your knowledge are they all members
10 of the registered with FINTRAC as money service
11 businesses?

12 A (JI) So we have three categories of membership.
13 The first one are the registered MSBs, which we
14 make sure and verify when they sign up as
15 members. And then we also have partial and full
16 advisory members or consulting firms and
17 consulting companies or regulated -- sorry, or
18 businesses that provide services to the money
19 service industry. So we have three levels of
20 categories and we make sure the ones that are
21 supposed to be registered are registered before
22 we take them on as members. And then the other
23 ones we just use the industry to vet them to
24 make sure that we do know that they're servicing
25 that industry -- or our industry, the money

1 service businesses.

2 Q And for those members that you verify their
3 registration before letting them in, is that
4 just done by checking FINTRAC open source
5 website to see if they're registered?

6 A (JI) Yeah, that's correct. And we also do some
7 just limited background checks for open source
8 intelligence to see if there's anything that we
9 should be concerned with. But for the most part
10 we just check to make sure that they're
11 registered with FINTRAC and are in good
12 standing.

13 Q And, Mr. Cox, turning to you for a moment, we've
14 heard about the kind of general landscape of
15 MSBs in Canada from Mr. Iuso. Hoping you can
16 tell the Commissioner about what the VBCE does,
17 how many branches it has. You know, provide a
18 sense of its operations kind of in a general
19 way.

20 A (MC) Sure. First of all, thank you for inviting
21 me to the panel. Vancouver Bullion & Currency
22 Exchange is a large FINTRAC-registered,
23 full-service MSB in Greater Vancouver. We try
24 and focus on having superior exchange rates and
25 best-in-class customer service. It was opened

1 in 1989 with just two employees and has expanded
2 to about 70 staff in four retail branch
3 locations and one corporate head office.

4 Q And what sorts of services does VBCE offer to
5 its customers with reference to the four
6 categories that Mr. Iuso just testified about?

7 A (MC) Yes. VBCE is likely best known for
8 exchanging cash bankouts for local and visiting
9 travellers, but the majority of the business is
10 in serving individual and corporate clients with
11 currency exchange involving drafts, cheques and
12 electronic transfers, domestic and foreign
13 banks. VBCE is also registered with FINTRAC as
14 a dealer in precious metals and stones as they
15 buy and sell physical gold, silver, and platinum
16 bars and coins.

17 Q Mr. Cox, to your knowledge is that typical that
18 an MSB like VBCE would offer both kind of those
19 typical MSB services as well as dealing in
20 precious metals and stones?

21 A (MC) No, I wouldn't say that's common. I'd say
22 most of our MSB competitors provide one or two
23 of them. Some focus on just the cash exchange,
24 others on foreign remittance or precious metals.
25 Some others have only corporate clients. Really

1 our main competitors are the big five Canadian
2 banks that provide all the same services that
3 VBCE does.

4 Q And are there any products or services that your
5 competitors might offer or that you're aware of
6 are offered in the MSB market that VBCE chooses
7 not to offer for any reason?

8 A VBCE does not offer cryptocurrency services.
9 There's also some particular groups of clients
10 that we don't deal with. Those whose primary
11 business is in cannabis, online gambling or
12 cryptocurrency exchange. At the request of our
13 banking partners VBCE does not provide services
14 to other MSBs either.

15 Q And that's at the request of your banking
16 partner, Mr. Cox?

17 A (MC) That's correct.

18 Q And is that -- do you know if that's over fear
19 of the risks of banking MSBs? We're going to
20 get to that topic of de-risking later, but maybe
21 you can explain your understanding of why VBCE
22 can't offer its services to other MSBs.

23 A (MC) Yes. MSBs are an inherently high-risk
24 industry. You know, there is the potential for
25 money laundering as is well known. So the --

1 our banking partners seem to be comfortable with
2 vetting VBCE. They have reviewed our system and
3 are comfortable that we are handling our clients
4 and transactions appropriately. I believe their
5 concern is that although they have vetted our
6 company, they are not able to vet our customer's
7 customers, the clients of another MSB that we
8 might have onboarded. So just one level removed
9 from what they are comfortable with.

10 Q Thank you. And you mentioned that MSBs are at
11 risk of becoming, you know, used, involved in
12 money laundering schemes. I'd like to turn to
13 that topic right now.

14 Ms. Nettleton, I have some questions for you
15 here. The group of analysts that you supervise
16 at the Financial Crime Analysis Unit, it
17 develops -- they develop products focusing on,
18 among other things, money services businesses
19 and informal value transfer systems; is that
20 right?

21 A (MN) That is correct, yes.

22 Q Ms. Nettleton, what can you tell the
23 Commissioner about why MSBs might be targeted
24 for -- by criminals for money laundering
25 purposes?

1 A (MN) Well, one of the prevalent money laundering
2 typologies that we have observed in law
3 enforcement by collaborating with our Five Eyes
4 partners and our international counterparts as
5 well as with FINTRAC is the idea of money
6 controllers. So that typology has really become
7 something that we have observed as prevalent in
8 the money laundering space and is a very
9 large -- a significant risk to Canada and other
10 jurisdictions in the Five Eyes.

11 So as you would have heard from -- likely
12 from others who study this topic, you have a
13 number of different levels to those types of
14 organizations. They're really -- they really
15 are professional money launderers in the sense
16 that they are far removed in some cases from the
17 predicate offence. So you have controllers,
18 coordinators and collectors. We -- through our
19 analysis and through my personal experience
20 working on other team -- intelligence teams
21 within the RCMP over the years is that this
22 methodology is prevalent in Canada. So you may
23 have controllers located in Canada. You may
24 also have controllers located overseas that are
25 directing MSBs in Canada.

1 The risk. The risk becomes that MSBs can
2 become a location for cash pools, so the
3 commingling of licit and illicit funds that
4 are -- basically you have cash collectors who
5 arrive at those MSBs and drop off that cash and
6 that cash has -- that cash pool is now licit and
7 illicit funds that have to be disbursed of.

8 So the first stage of legitimacy is the
9 placement. So you've now placed the money in
10 the MSB. Either you've done a foreign exchange
11 or you place the money in the MSB and then it is
12 then bulk transferred offshore. The bulk
13 transfers offshore can be more than one
14 transaction. So you're not looking at
15 necessarily one person showing up at the MSB and
16 then that turning into a singular transaction
17 overseas to a foreign jurisdiction. You are
18 looking at transactions that are periodically
19 done in order to stabilize cash pools across
20 multiple jurisdictions. So they're meeting a
21 need.

22 Where the risk is there is that some of
23 these MSBs that we've observed that are likely
24 involved in high-level criminal activity are
25 largely compliant with FINTRAC. So when they're

1 transferring the money offshore, they're doing
2 it in amounts that are just below reporting
3 thresholds or are done in such a manner that
4 they appear to be payments for items. Or if
5 they are staying -- if they're receiving the
6 funds, they're disbursed to shell companies that
7 have either -- either are registered in the name
8 of nominees and could be doing business or at
9 least purportedly doing business in an industry
10 and not actually doing that business.

11 So there are multiple risks associated with
12 MSBs, even if we have multiple compliance
13 regimes that are either in place or being
14 proposed. It's, I guess, not just -- in my
15 opinion from the work that I've done, not just
16 about compliance. Compliance is one tool in the
17 toolbox.

18 Q And a lot a unpack there. The first question I
19 have, you mentioned that they're doing -- that
20 often these sorts of transactions the money
21 transfers are done in smaller amounts. Are you
22 in effect describing structuring the
23 transactions to avoid reporting thresholds? Is
24 that accurate?

25 A (MN) That is correct. We have seen that, yeah.

1 Q And is it -- is your evidence that of those -- I
2 think you used, you know, criminal activity
3 MSBs, that the RCMP -- that you in the course of
4 your work have verified that not only are they
5 registered as an MSB with FINTRAC but they're
6 often compliant. Is that right?

7 A (MN) That's correct.

8 Q And do you have any specific examples -- of
9 course without getting into names or specifics
10 or anything that might at all jeopardize an
11 ongoing investigation, but do you have any
12 examples from British Columbia that could
13 illustrate the sort of threat that you've just
14 described?

15 A (MN) I can explain to you in generalities how
16 one of these scenarios could take place. I
17 can't explain it in the sense of an ongoing
18 investigation or provide any specifics on any of
19 our investigations. But if you allow me to
20 reference my notes, I can explain to you step by
21 step how this might occur.

22 MR. DAVIS: Mr. Commissioner, I have no issue with
23 that.

24 THE COMMISSIONER: Very well. Please do.

25 THE WITNESS: (MN) Okay. The first step is finding

1 the document.

2 MR. DAVIS:

3 Q Take your time. Thank you, Ms. Nettleton.

4 A (MN) Okay. So when we talk about something like
5 a high -- a Chinese -- so we are talking about
6 someone who is a Chinese citizen who has come to
7 Canada and they are in need of a service in
8 order to facilitate the transfer of funds from
9 China into Canada. So they're trying to
10 facilitate capital flight due to the Chinese
11 restrictions on foreign capital flight, so only
12 a certain amount of money can leave in a certain
13 amount of time -- a time frame. And off the top
14 of my head I can't recall how much that money is
15 right now, but ...

16 So what will happen is a deposit would be
17 made in the foreign jurisdiction. So let's say
18 we're using the jurisdiction of China, a deposit
19 could be made in that jurisdiction within a bank
20 account that is controlled by those who are
21 associated with a money service business in
22 Canada.

23 The second step is the money service
24 business in Canada would then lend money to the
25 Chinese citizen. That Chinese citizen now has

1 the money -- has money from the money service
2 business. The money service business could be
3 dealing in both licit and illicit cash, so it
4 essentially has a cash pool at the money service
5 business that it's lending money to. It's not
6 necessarily using the money that's still located
7 in the foreign jurisdiction. That money has
8 still not left China. The money within the
9 money service business, it -- like I said, it's
10 commingled.

11 So before that Chinese citizen arrived and
12 received the loan or the bank draft or cash from
13 the money service business, someone else may
14 have come to that money service business as a
15 cash courier working on behalf of organized
16 crime and dropped off cash to that money service
17 business. So that Chinese citizen unknowingly
18 now -- knowingly or unknowingly has illicit cash
19 which they are now laundering -- or they are now
20 laundering on behalf of the organization;
21 they're gambling within the casino.

22 That money is loaned at a commission and
23 then paid back to the organization, the
24 professional money laundering organization or
25 the money service business. In this case we're

1 presuming that the money service business is
2 owned by a criminal entity or a professional
3 money launderer.

4 Another aspects of this scheme might be that
5 the money service business, again having that
6 pool of cash that is both licit and illicit,
7 they need to get rid of some money in Canada.
8 So what they do to further integrate that money
9 into Canada's legitimate economy is provide
10 loans as private mortgage lenders to Chinese
11 citizens who then use that money to purchase
12 houses in Canada. That's another way of them
13 disbursing the money. And new Canadians may not
14 know our rules yet in terms of -- or our
15 interest rates, our competitive interest rates,
16 so they may go to lenders within their
17 communities.

18 They also would use lawyers in order to set
19 up companies so that they can purchase their own
20 real estate with minimal detection and use,
21 like, registered numbered companies in order to
22 purchase that real estate as well. So that's
23 just a broad example of how it could work.

24 Q And, Ms. Nettleton, is that broad example,
25 that's based on real life examples that you as

1 an RCMP intelligence analyst have seen in
2 Canada?

3 A (MN) Yes. I've monitored numerous
4 investigations across the country in my time
5 within criminal intelligence as well as while I
6 was overseas in Australia because in Australia,
7 working with a liaison officer, we would assist
8 investigations in Canada. I have seen this
9 happen within the course of my duties, yes.

10 Q And what sorts of dollar amounts are you talking
11 about? I mean, appreciating you're not
12 describing a single transaction, but do you have
13 a sense of how much money is moving in some of
14 these files that you've seen?

15 A (MN) Yes. So I cannot give you holistic dollar
16 amounts in terms of, like, how much we see on an
17 annual basis. But if we're talking about one
18 cash courier working on behalf of an organized
19 crime group in Canada, so if we're talking about
20 someone going into casinos and laundering funds
21 using bank drafts, we're talking one individual
22 in the millions. Just to give you an example.

23 Q And we discussed earlier that your group
24 develops intelligence products. My next
25 question is what would -- a product that focuses

1 on money service businesses, what would that
2 look like? Could you describe that for the
3 Commissioner, please.

4 A (MN) Sure. So we focus on -- so we'll have
5 approved templates with caveats and dates and
6 file numbers and all of those things. We have a
7 very extensive quality control system to our
8 intelligence products with multiple iterations
9 and a review process instilled within.

10 Our intelligence products come in various
11 forms. So they might be tactical intelligence
12 products which would be association charts,
13 short reports that analyze surveillance
14 vis-à-vis FINTRAC disclosures. We would do
15 longer strategic reports that forecast out two
16 to five years, looking at the implications of
17 certain criminal activity on -- for Canada or
18 for the RCMP or for our resource allocation.
19 We -- I'm trying to think of other intelligence
20 reports we do. We would do PowerPoint
21 presentations.

22 And the structure of those reports is really
23 to look at key findings, background of the issue
24 and really focus on the what and the what now
25 and which did we do. So our real focus is to

1 encapsulate an issue and the potential threat of
2 that issue and then to inform RCMP senior
3 management of potential ways forward, given we
4 don't have control over decision-making. We are
5 there to inform decision-making, and not just
6 RCMP senior management but we also deal very
7 closely with FINTRAC and the development of
8 things like typology reports.

9 We also work with our Five Eyes counterparts
10 in order to develop comprehensive pictures of
11 what the money laundering threat is and what
12 jurisdictions of risk we should be looking at.
13 So really to focus on what we do, it really is
14 to look at the what, the so what and the what
15 now.

16 Q And has your group produced any sort of
17 forward-looking report on, you know, the
18 perceived risks of MSBs? Are you aware of
19 whether that's been done?

20 A (MN) There are particular reports we have done
21 that focus on particular MSBs. From a strategic
22 sense that's not -- we have a different unit
23 that does strategic intelligence within the
24 RCMP. However, we have contributed to Five Eyes
25 reports on the subject at a strategic level.

1 Q And what are the sources, then, of intelligence
2 on money services business that your group
3 receives? Where do you get your intelligence
4 from?

5 A (MN) Yeah, so as you likely know, we have a very
6 good relationship with FINTRAC, and it's not
7 just the disclosure of suspicious transactions
8 but it's the ongoing dialogue back and forth in
9 collaboration together to ensure that we're
10 seeing the big picture. So definitely FINTRAC.

11 We look at what we're seeing in our law
12 enforcement holdings. So we have access to
13 numerous records management systems across the
14 country, so we look at -- it can be extremely
15 minute details that are just from a licence
16 plate to a driver's licence to a seized passport
17 to whatever is in our records management system
18 that we can use in order to conduct our network
19 analysis. So surveillance reports.

20 The thing I would like to bring up here,
21 though, is that a lot of the information that
22 we're using to analyze is historic. So we
23 receive information from FINTRAC in the form of
24 a disclosure. That has already happened. The
25 same thing with -- at our unit, you know, most

1 of the things that we're looking at in our
2 records management system are not lifetime
3 investigations. We're looking at things that
4 have already happened. So past investigations
5 that have happened, past source reporting,
6 past -- yeah, so ...

7 But in terms of our Five Eyes partners and
8 our ongoing investigations, we do get live
9 time -- information from our live time
10 investigations and we do receive intelligence
11 from our law enforcement partners on these risks
12 as well. And Canada Border Service Agency
13 because we're looking at -- when you're talking
14 about things like controller networks, you're
15 talking about how people move, how they move
16 money, where they are going, who's coming in.
17 It's all about asking the right questions based
18 on the money service business or the issue
19 you're dealing with, so ...

20 MR. DAVIS: Madam Registrar, if I could ask that you
21 please pull up CAN-000168 from the list of
22 documents, please.

23 Q Ms. Nettleton, if you could let me know when you
24 see that on the screen, please.

25 A (MN) I see it.

1 Q Are you familiar with this Criminal Intelligence
2 Service, British Columbia & Yukon Territory
3 report? It's a provincial threat assessment
4 published in 2018.

5 A (MN) I just received it last week, but I have
6 read it over, yes.

7 MR. DAVIS: Mr. Commissioner, if I could ask that
8 this be marked as the next exhibit, please.

9 THE COMMISSIONER: Very well. I think we're at --

10 THE REGISTRAR: 437, Mr. Commissioner.

11 THE COMMISSIONER: Thank you, Madam Registrar.

12 **EXHIBIT 437: CISBC/YT - Provincial Threat**
13 **Assessment 2018**

14 MR. DAVIS: Madam Registrar, if we could go to page 2
15 of this PDF, please.

16 Q And there's a second bullet point there,
17 Ms. Nettleton, that starts with "OC groups in
18 BC" do you see that?

19 A (MN) Yeah.

20 Q I'm going to read that paragraph to you. It
21 says:

22 "OC groups --"

23 That organized crime. Is that right?

24 A (MN) That's correct.

25 Q "[Organized crime] groups in BC use OC

1 professional money launderers and illegal
2 MSBs, however, the amount of this activity
3 that is occurring is estimated to be
4 underreported. MSBs that are controlled
5 or manipulated by [organized crime] groups
6 offering financial services and money
7 laundering for [organized crime] have
8 historically surfaced in police
9 investigations, but some of these are no
10 longer included in the PTA --"

11 That's the provincial threat assessment.

12 "-- due to a lack of recent information
13 and intelligence."

14 Is that true from your perspective, Ms.

15 Nettleton, that the use of MSBs by organized
16 crime is underreported?

17 A (MN) There's a few reasons why I would comment
18 on this as true, and one of them is that FINTRAC
19 is only reporting suspicious transactions or
20 transactions over \$10,000. The reporting is a
21 piece of the puzzle, so -- and there's other
22 pieces of the puzzle that are missing from that,
23 and it's not -- it's no fault of FINTRAC.
24 There's things like bulk cash that are coming
25 and going, being transferred in some

1 instances -- like, across Canada in order to
2 meet the organized crime group or to be placed
3 within the legitimate financial systems. That's
4 not captured. So you're not seeing domestic
5 transfers. We don't have direct access to
6 FINTRAC, so we're not seeing live time what's
7 happening. Let me just think about this.
8 There's other things I want to mention here.

9 So in terms of intelligence, criminal
10 intelligence within the RCMP, we don't direct
11 operations; we inform operations. And so the
12 intelligence that we're receiving is not from a
13 criminal intelligence, like, separate agency in
14 Canada that collects solely on money laundering
15 in Canada. So FINTRAC covers what meets their
16 threshold, but we're working on numerous
17 different offences at any one given time, so
18 we're not just focused on the money. And so if
19 you're not shining a light on it, it will go
20 underreported, and we're often focusing on the
21 predicate offence.

22 Q Thank you. And maybe -- sorry, maybe you could
23 again explain and take your time in doing this.
24 What's missing from that intelligence picture?
25 I think you mentioned bulk cash domestic

1 transfers. Do you mind unpacking those a little
2 bit.

3 A (MN) Sure. So in -- you've probably -- so I --
4 you've probably heard of -- I know the
5 commission has heard of Simon Lord. There's
6 also an Australia federal police analyst who
7 does a lot of work on this, and they really
8 perfected that typology of the controller,
9 coordinator, collector methodology. But how
10 they did that was not based on FINTRAC or
11 AUSTRAC or FinCEN or NCA reporting from their
12 FIU. That reporting and those typologies are
13 created based on all source intelligence. So
14 FINTRAC provides part of that picture, but what
15 you need is the phones. A lot of times what you
16 see with these networks is they're using token
17 exchange mechanisms from \$5 bills and matching
18 up tokens when they're passing cash from one
19 another.

20 In order to be able to see and understand
21 what are the motives behind these groups or the
22 surreptitious nature of these transactions you
23 need the phone data, and that's a lot of the way
24 that they developed that understanding. The
25 other thing that they used is things like human

1 sources and intercepts.

2 As you know, in Canada we have very
3 stringent privacy legislation that we should be
4 very proud of. It also -- these jurisdictions
5 that we're talking about that are arable to
6 understand this, they have different
7 legislation. And for us, we use these very
8 invasive techniques as -- I want to say almost
9 last resorts. So we're not using them to
10 understand -- the only way we get to an
11 understanding of these networks is if we're
12 actively investigating them with invasive
13 techniques so that we can gain all sorts of
14 intelligence and triangulate the FINTRAC data
15 and substantiate it through warrants.

16 Q And your helpful explanation of what they're
17 doing in Australia, that obviously -- does that
18 come in from your experience three years
19 deployed abroad in Australia, that knowledge?

20 A (MN) It does.

21 MR. DAVIS: Madam Registrar, if I could ask that you
22 please pull up CAN-0002 from the list of
23 documents, please. Sorry, Madam Registrar, I
24 might ...

25 Q Ms. Nettleton, do you recognize as a

1 November 2018 report on professional money
2 launderers who own and control money service
3 businesses produced by CIS BC & Yukon Territory?

4 A (MN) Yes. Again I received it last week, but I
5 have read it.

6 MR. DAVIS: Mr. Commissioner, if I could ask that
7 this please be marked as next exhibit.

8 THE COMMISSIONER: 438.

9 THE REGISTRAR: Exhibit 438.

10 **EXHIBIT 438: CISBC/YT - Report - Money Service**
11 **Businesses - Nov 1, 2018**

12 MR. DAVIS: Madam Registrar, if you could please
13 scroll to about the middle of page 8 of the PDF,
14 please.

15 Q There's a paragraph there, Ms. Nettleton, that
16 begins with "historically." Do you see that?

17 A (MN) I do.

18 Q Going to read that paragraph to you. It says:
19 "Historically there are several MSBs with
20 suspected connections to [organized crime]
21 groups that have surfaced in police
22 investigations, however, due to the lack
23 of recent information and intelligence, it
24 is unknown if they are still operating in
25 a criminal capacity. It is assessed that

1 the full extent of [organized crime]
2 groups in BC who hire professional money
3 launderers who own/control MSBs is
4 unknown, as is the identity of
5 professional money launderers who own/
6 control MSBs in BC and Yukon noted as an
7 intelligence gap."

8 Ms. Nettleton, is that still true, and you might
9 have answered this earlier, that there is a lack
10 of information and intelligence regarding MSBs?

11 A (MN) Yes, that is still true.

12 Q Thank you. And, Ms. Nettleton, are there any
13 other challenges from a law enforcement
14 perspective that you can speak to in terms of
15 investigating MSBs?

16 A (MN) Just in my personal opinion would be
17 capacity. Definitely the capacity in which to
18 do so. In my experience within the RCMP,
19 particularly before I went on maternity leave
20 in -- I believe it was October of 2018, I
21 convened a number of investigators at national
22 headquarters where we spoke about the different
23 resource -- the amount of resources it takes to
24 successfully investigate one of these types of
25 networks. And I think the focus is often on

1 investigators, and we need experienced and
2 capable investigators. We also need the ability
3 to have translators and civilian staff such as
4 analysts and we need to think outside the box --
5 this is my personal opinion and not necessarily
6 that of the Government of Canada -- in order to
7 effectively investigate these types of networks
8 that require extensive techniques,
9 investigational techniques in order to
10 investigate, much of which require very lengthy
11 ITOs in order to lawfully obtain and eventually
12 obtain charges.

13 Q Is that information to obtain, an ITO?

14 A (MN) Yeah.

15 Q Thank you. And you mentioned capacity. Is your
16 group, the -- do you manage seven analysts? Did
17 I get that number right?

18 A (MN) Yes.

19 Q Is your group the only team -- putting aside the
20 investigative bit, but is your team of analysts
21 the only team that would analyze information or
22 intelligence related to MSBs?

23 A (MN) Not necessarily. So we also, as I
24 mentioned previously, have a strategic team. So
25 they'll be looking at intelligence kind of like

1 two to three, five years out. So a
2 comprehensive kind of national picture of
3 different issues. We at the RCMP also have a
4 federal policing national intelligence unit,
5 which is currently in transition on their
6 mandate, so I don't really feel comfortable --
7 I'm not really in a position to speak about kind
8 of what they're going to focus on. But in the
9 past that unit has focused on MSBs.

10 And we also have -- again, we -- there's the
11 whole terrorist financing side which doesn't
12 fall under us as well. So there are multiple
13 different units that have a piece to play. Then
14 there's also divisional criminal analysis units
15 in each of our bigger divisions in Canada. And
16 then there's CISC, Criminal Intelligence Service
17 Canada, and they're more and more, as you can
18 see by this report from one of their bureaus,
19 getting involved in the analysis of professional
20 money launderers and money laundering and
21 therefore MSBs. So there are a number of pieces
22 to that puzzle.

23 MR. DAVIS: Madam Registrar, I won't need that
24 document displayed for the time being.

25 Q Mr. Iuso, I'd like to ask you a few questions

1 about a record prepared by the Canadian MSB
2 Association. You were at least part of
3 preparing a document on behalf of the
4 association for the BC Ministry of Finance
5 consultation on money service businesses; is
6 that right?

7 A (JI) That's correct.

8 MR. DAVIS: Madam Registrar, if I could ask that you
9 please pull up MOF2841 from the list of
10 documents. That has a .0001 on the end.

11 Q Mr. Iuso, do you see that document before you?

12 A (JI) Yes, I do.

13 MR. DAVIS: Madam Registrar, if you could kindly
14 scroll to page 5 of that PDF.

15 Q Mr. Iuso, do you recognize this as your
16 submission to the BC Ministry of Finance dated
17 April 29th, 2020?

18 A (JI) Yeah, that is a combination of the advocacy
19 committee and the board of directors.

20 MR. DAVIS: Thank you. Mr. Commissioner, if I could
21 ask that this please be marked as the next
22 exhibit, please. That should be 439. 440?

23 THE REGISTRAR: 439, yes.

24 THE COMMISSIONER: Thank you.

25 **EXHIBIT 439: Email exchange between Christian**

1 registration process."

2 What's the source for this belief, Mr. Iuso,
3 that a gap exists in the registration process?

4 A (JI) We've seen how the AMF in Quebec closed
5 that gap for all registered entities, and it
6 seems to have cleaned up what was happening in
7 Quebec with regard to money laundering and other
8 criminal activities, although it still continues
9 but not as much from what we've seen on the
10 surface and based on what the members have
11 provided input. So -- and I know FINTRAC also,
12 if there's some sort of alert or those MSBs are
13 reporting, they do take an initiative to close
14 that gap.

15 But with regard to what happened in Quebec
16 prior to the *Money Service Business Act*, there
17 was a lot of activity that was happening where
18 people were absconding from money or they were
19 dealing with money through their businesses and
20 that act seems to have closed that gap.

21 Q And did you -- appreciating that you're speaking
22 about closing the gap, did you have any
23 particular insight as to this issue described in
24 the paragraph here that those registered were
25 operating for two years without being examined?

1 Where did you get that information?

2 A (JI) We sought with regard to just the news
3 articles and things that were happening prior to
4 the *Money Service Business Act* in Quebec under
5 the AMF, and it was just the observations by
6 many of the board members and advocacy
7 committees.

8 Q And, Mr. Iuso, what measures, in your view,
9 would assist in closing that gap, assuming that
10 it exists here in British Columbia?

11 A (JI) Many of the things that the *Money Service*
12 *Business Act* in Quebec does, which is do a
13 little bit more background check on the persons
14 and entity, making sure there's certain types of
15 obligations that are met with regard to the *MSB*
16 *Act* in Quebec and really just being able to be
17 more upfront with the way the MSB is operating
18 and how they operate and what they're reporting
19 and things like that. I also understand based
20 on the discussions with the board members and
21 the advocacy committee that there's a little bit
22 of interaction too that happens between FINTRAC
23 and AMF when it comes to this. So it just puts
24 a little bit more onus on upfront reviews and
25 vetting of those MSBs.

1 Q Thank you. And on that subject of specific
2 MSBs, Mr. Cox, you're responsible for the
3 implementation and maintenance of the anti-money
4 laundering compliance program at VBCE; is that
5 right? I'm sorry, Mr. Cox, you might be muted.

6 A (MC) Thank you. Yes, that is correct.

7 Q And what can you tell the Commissioner in a
8 general way about what VBCE's compliance program
9 looks like? You might have a sense of what a
10 larger MSB in the province is doing.

11 A (MC) Yes. Sure. The efforts are significant
12 and ongoing. We are preparing risk assessments
13 and updating them. Policies and procedure
14 manuals which we generally update semi-annually,
15 identifying all our clients, individuals and
16 corporations. We run through transaction
17 monitoring scenarios. We have between 50 and a
18 hundred cases a day generated which are
19 reviewed. We do extra due diligence when it's
20 required. We file reports with FINTRAC and the
21 BC Securities Commission. We do external
22 compliance reviews. Although FINTRAC requires
23 these biannually, we do them every year. And
24 ongoing training for our staff.

25 Q You mentioned there that your policies differ in

1 some ways from those required by FINTRAC. Can
2 you explain for the Commissioner the extent to
3 which VBCE's policies might differ from FINTRAC
4 and how they do so.

5 A (MC) Yes. The one I mentioned about the annual
6 external compliance reviews is one. This is
7 recommended by our banking partners. Some other
8 ones that we have done on our own is identifying
9 cash clients at \$2,000 threshold rather than
10 FINTRAC's 3,000. In addition, we have a policy
11 that clients that attempt to alter their
12 transaction to avoid showing identification are
13 not permitted to do any exchange until they are
14 identified. So they can't just say it's -- oh,
15 I'm just over the threshold; let me change that
16 down to 1,950 instead of 2,000. We won't do
17 those transactions unless we can identify the
18 client.

19 Q And you mentioned, Mr. Cox, the transaction
20 monitoring services that VBCE employs daily. Do
21 you mind describing what that looks like for
22 the Commissioner. I think you said 50 to a
23 hundred a day were necessary.

24 A (MC) Yeah, it's -- a number of scenarios are
25 created. Ones that we have found in the past

1 are potential for money laundering. Ones that
2 we want to review more than just letting them go
3 through the system. For example, we have some
4 that show all of the transactions by our
5 high-risk clients, and we are looking for notes
6 in the system about what the purpose of payment
7 was and that type of information.

8 Another one is potential structuring for
9 clients that we've seen come in on multiple
10 occasions with amounts under reporting
11 thresholds to see if there's a pattern there, if
12 they're just trying to avoid having a large cash
13 transaction report or EFTIs or EFTOs put on
14 themselves. So those are the two biggest ones.
15 We have about six or seven that we run through
16 that the system automatically generates each
17 night.

18 Q And, Mr. Cox, maybe I might have missed this,
19 but do you mind explaining how -- you mentioned
20 generating these hypotheticals based on their
21 perceived risk for money laundering. How are
22 those generated? How does VBCE know what
23 situations in the past were more risky than
24 others?

25 A (MC) Some is from our own observations. Some is

1 from feedback from banking partners or from
2 FINTRAC on their reviews and from our external
3 compliance reviews. Through the MSB Association
4 there's been more connections with other
5 compliance officers and other MSBs, particularly
6 in Ontario there's a lot, to know what scenarios
7 they are seeing, that they're finding has risk
8 or that they are concerned about and these are
9 ones that we'll try and incorporate into our
10 transaction monitoring scenarios. For the way
11 they're actually generated, it's just putting in
12 particular parameters into the computer software
13 and it will auto-generate based on those
14 parameters.

15 Q And, Mr. Cox, considering that, can you explain
16 to the Commissioner, if you're able, what sorts
17 of trends that you're seeing in your role at
18 VBCE? Without getting into any specifics, you
19 know, in terms of new typologies or technologies
20 is there anything you might want to put on the
21 Commissioner's radar?

22 A (MC) Sorry, are you speaking with regards to
23 suspicious transactions?

24 Q Yes, I am. I mean, Mr. Cox, I'm very cognizant
25 of the fact that you're unable to speak to any

1 particular client or any particular report
2 filed, but I suppose what I'm asking is in a
3 general way what sorts of trends, you know, in
4 suspicious activity are you seeing at VBCE?

5 A (MC) Perfect. Yes, I understand. We have seen
6 an increasing number of fraud-related suspicious
7 transaction report. We see client impersonation
8 applications for online accounts. These are bad
9 actors who are pretending to be clients that
10 they likely have banking information for.
11 There's also fraudsters that have been -- that
12 have impersonated bank clients and tricked the
13 banks into preparing bank drafts for the bad
14 actors. They make the drafts payable to VBCE,
15 or Vancouver Bullion, and bring them to our
16 office and attempt to buy precious metals.

17 So we've seen a number of these scenarios
18 and recognize the red flags and have been able
19 to save Canadian banks hundreds of thousands of
20 dollars over the last couple of years by
21 intercepting these drafts that the bank has
22 already given to the bad actor, but we intercept
23 before they can turn it into a negotiable item,
24 particularly gold in these cases.

25 Q And to what degree is VBCE communicating that

1 bank draft-related information to its banking
2 partners? Is there an ongoing communication
3 channel about that, or ...

4 A (MC) Yes. We have channels with most of the
5 banks, not all of them. It is a challenge with
6 the fraudulent bank drafts to get to speak to
7 the correct person. If we call the branch that
8 has issued the draft, they will tell us a
9 hundred percent they are confident this is the
10 real person and everything is fine with it. If
11 we -- for the ones that we have networks set up
12 with the fraud department at the particular
13 banks, it's much easier. Particularly if they
14 have dealt with us before. They know that we
15 are competent and understand what the scenario
16 is and that we're trying to help them. And
17 usually we get a lot quicker reaction on those.

18 Our policy generally is to wait 48 hours
19 before paying out precious metal on this type of
20 transaction or ones that we're concerned about.
21 It gives the banks a little bit of time to
22 assess, is this legitimate or not. But we
23 can't -- if someone's just given us some real
24 money, we can't hold off forever before paying
25 it out.

1 Q Then, Mr. Cox, is -- that 48-hour policy, is
2 that one required by FINTRAC or is that VBCE's
3 own decision?

4 A (MC) Yeah, there's nothing from FINTRAC on this.
5 This is our -- the Vancouver Bullion & Currency
6 Exchange's decision.

7 Q Thank you. Mr. Iuso, I'm going to turn back to
8 you for a moment. You had mentioned the Quebec
9 regime dealing with money services businesses.
10 And are you familiar with the Quebec
11 *Money Services Businesses Act*, Mr. Iuso?

12 A (JI) Just on the surface and what I've had to
13 deal with some of the MSBs through the
14 association in Quebec and some of the comments
15 from them and from the board members and
16 advocacy committee.

17 Q Well, maybe you can tell the Commissioner,
18 instead of diving into what the regime does --
19 that can be dealt with at another time -- maybe
20 you can explain what the feedback has been you
21 received from your members on the Quebec *Money*
22 *Services Businesses Act* whether it's working,
23 how well.

24 A (JI) The ones that have reached out to me and
25 talked to me, they think it's good because it's

1 gotten rid of a lot of the ones that they felt
2 were competing with them unfairly because they
3 weren't following the regulations. So they are
4 thankful on that side. On the other side
5 they're not so thankful to the spot checks and
6 the periodic reviews where they're doing mystery
7 shopping, where the regulator comes in and tries
8 to catch them to see if they're doing something
9 wrong or they're not following procedures or
10 they are not reviewing for suspicious. So it
11 gives them a little bit more heightened
12 awareness and they are not too keen on it, but
13 it seems like it's working to the sense that
14 it's pushing them to be more available and ready
15 for suspicious when they do come in.

16 MR. DAVIS: Madam Registrar, if I could ask that you
17 pull up exhibit 311 from the list of documents,
18 please.

19 And for the benefit of participants, that
20 was the record I identified in my email as
21 MOF2401.0001 which I didn't realize at the time
22 of circulation had been entered as an exhibit.

23 Q Mr. Iuso, are you familiar with this document?
24 It's a summary of the BC Ministry of Finance MSB
25 consultation?

1 A (JI) I received it on Friday from you. I hadn't
2 received it before, but I did do a quick look
3 over it.

4 MR. DAVIS: Madam Registrar, if we scroll to page 2
5 of that document. The bottom half of page 2.
6 Oh, sorry. Yeah. Sorry, you've got it right.
7 Page 2. "Regulatory Burden and Overlap" at the
8 bottom of the page there.

9 Q The first bullet point, Mr. Iuso, it says:
10 "The Canadian MSB Association and other
11 medium-sized BC-based MSBs are generally
12 not opposed to BC adopting a licensing
13 regime similar to Quebec's. However, they
14 had some concerns that a BC licensing
15 regime may increase regulatory burden on
16 existing MSBs."

17 Is that an accurate summary of the Canadian MSB
18 Association's position?

19 A (JI) Yep, yep.

20 Q And what can you tell the Commissioner about
21 that concern about regulatory burden on existing
22 MSBs?

23 A (JI) It's really that back-end piece where MSBs
24 are put more under a microscope than maybe
25 sometimes they need to. They're -- even though

1 they've been mystery shopped or the regulator's
2 come in and checked in on them without telling
3 them they're regulating yet, or a regulator
4 checking in on them. It seems too excessive at
5 some times, and that's what I've been told by
6 those MSBs in Quebec.

7 Q And, Mr. Cox, is that -- do you share any of
8 these concerns on the part of Vancouver Bullion
9 & Currency Exchange, or do you have a view on
10 that sort of regulatory burden?

11 A (MC) What I will say that we -- Vancouver
12 Bullion & Currency Exchange does not deal in
13 Quebec because we had very limited business
14 there and it wasn't worth the extra effort to
15 become registered.

16 Q So the existence of a licensing regime was in
17 part a dissuading factor for VBCE to operate in
18 Quebec?

19 A (MC) Yeah, I'll say that's correct. I think in
20 BC the extra regulatory burden is a concern, but
21 I think it can be lessened by having as few
22 additions and changes from the current rules as
23 possible. But really the key is will the
24 increased regulation meet the primary goal,
25 which is reducing money laundering in BC. To

1 discourage money laundering these new
2 regulations have to capture the ones that are
3 the bad actors that Ms. Nettleton had described,
4 and if they're not being captured, it really
5 isn't meeting the goal. So we're hoping to
6 avoid an increased burden for the legitimate
7 money service businesses. But if the
8 unregulated ones and the bad actors are
9 captured, any extra burden is going to be fine.
10 I have no difficulty with that.

11 MR. DAVIS: Madam Registrar, can you please scroll to
12 the next page of this document, please.

13 Q And, Mr. Cox, you may not have read this yet,
14 but the second bullet point is a list of seven
15 lessons learned that FINTRAC provided to the BC
16 Ministry of Finance with respect to the Quebec
17 regime. Do you see that second bullet point
18 there?

19 A (MC) Yes, I do.

20 Q I can give you a moment to review its main
21 points, but my question is whether or not on
22 your last point of reducing overlap, compliance
23 overlap, would you agree with most of these
24 lessons learned from FINTRAC?

25 A (MC) I haven't seen this document previously.

1 If it was one that I was sent, I must have
2 missed it.

3 Q Do you mind taking a quick read over of those?

4 A (MC) Yeah.

5 Q And, Mr. Iuso, while Mr. Cox is doing that, I
6 can ask you, is that something -- if you
7 reviewed this, would you be in agreeance with
8 these seven lessons learned?

9 A (JI) A hundred percent.

10 Q Thank you.

11 A (MC) Yes, I agree. I mean, avoiding duplication
12 is a positive. To me the key is can we have as
13 few disruptions as possible with the maximum
14 benefit of reducing money laundering. If we can
15 get that combination, that would be perfect.

16 MR. DAVIS: Thank you. Madam Registrar, I won't
17 need -- actually I still do need that displayed.
18 Sorry. Cancel that.

19 If we could turn briefly to the subject of
20 unregistered MSBs.

21 Q And, Ms. Nettleton, I'll look to you here. What
22 visibility does the RCMP currently have into
23 unregistered MSBs?

24 A (MN) In terms of unregistered MSBs I'm going to
25 have to refer to my notes on this one. So we

1 recently did a project looking at unregistered
2 MSBs, and what we found was that most of the
3 unregistered MSBs are difficult to find in the
4 way that they're not going to be advertising
5 themselves online.

6 Sometimes an MSB is subject to regulatory
7 action. It is then -- it then just simply
8 reregisters with a different address. So even
9 though an MSB is considered FINTRAC compliant,
10 they, like -- and they are registered, they
11 could still be doing illegal activity. That's
12 another thing.

13 Some of them don't know they have to
14 register because of cultural and language
15 barriers. So, again, just -- like. I want to
16 emphasize the importance of associations, like
17 those participating on this panel, for knowledge
18 and awareness.

19 What else did we find? So I think one of
20 the most important points was that those that
21 are unlicensed, again, it goes to the point of
22 meeting that education and awareness piece.
23 Most of the MSBs that we looked at were in fact
24 registered.

25 What else can I tell you?

1 Q Ms. Nettleton, maybe if I could jump in right
2 there.

3 A (MN) Yeah.

4 Q The project you're referring to, is that the
5 RCMP's Money Service Businesses Compliance
6 Project?

7 A (MN) Yeah.

8 Q And when was that started?

9 A (MN) I'm not quite sure on the exact date for
10 you, so I don't feel comfortable -- this
11 happened while I was on maternity leave, so I
12 just have the key findings in front of me.

13 Q Sure. And maybe, then, before the key findings,
14 what -- do you know what the Money Service
15 Businesses Compliance Project, what it intends
16 to accomplish?

17 A (MN) It intended to look at basically the issues
18 around -- if most MSBs -- if there were -- if
19 there was a lot of non-compliance occurring.
20 And what we found was most of these MSBs were
21 largely compliant. So I think we looked at over
22 579 MSBs, and most of them were registered. In
23 the way I'm saying they're compliant, they were
24 registered, so ...

25 Q I take it from your evidence today, then, that

1 from the RCMP's perspective the fact that an MSB
2 is registered and compliant doesn't necessarily
3 indicate the money laundering risk associated
4 with that MSB. Is that a fair statement?

5 A (MN) That is correct. Registration and a
6 compliance regime are only one tool in the
7 toolbox of combatting money laundering.

8 Q Thank you. And, Mr. Iuso, I'm going to turn
9 back to you here. Looking at the document
10 that's on the page now under "Unregistered MSBs"
11 there, that second list. Do you see that?

12 A (JI) I see that.

13 Q The first bullet reads, Mr. Iuso:

14 "CMSBAs and mid-sized BC MSB's main
15 concerns with were with unlicenced --"
16 With FINTRAC.

17 "-- MSBs operating without any oversight
18 and skirting existing laws/regulations,
19 although they have some skepticisms that
20 further regulation will solve the issue."

21 What can you tell the Commissioner about these
22 concerns from the Canadian MSB Association's
23 perspective, Mr. Iuso.

24 A (JI) So in particular when we've held events --
25 and I guess the last one was in 2019, so it's

1 been a while. We've held events in BC, in
2 Toronto and in Montreal. In Toronto, for
3 example, there is a larger Iranian community and
4 what a lot of the exchanges that are registered
5 and regulated by FINTRAC have said that they've
6 seen a lot of them that -- like Ms. Nettleton
7 had indicated, a lot of them didn't understand
8 that there are the requirements or maybe they're
9 just ignoring them from a money service
10 perspective.

11 We see the same thing, discussions from MSBs
12 in British Columbia with regard to Asian or
13 Chinese exchanges as well that they're operating
14 in a way that makes it look like they're legit,
15 but they are not. And I'm not too privy to
16 which ones. We always tell our members that if
17 you find that there's something there, report it
18 to FINTRAC either through a voluntary disclosure
19 or through some other program with the local
20 police or regional or federal RCMP.

21 But those were the concerns that we heard
22 when we had events at the particular locations.
23 So in Toronto it's more Middle Eastern. In
24 BC we found that it was more -- the comments
25 were more towards the Asian or Chinese

1 community.

2 Q Mr. Cox, do you have anything to add on these --
3 the unregistered, unlicensed MSBs, do you have
4 anything to add to Mr. Iuso's point?

5 A (MC) No, I do not.

6 Q And looking then, Mr. Iuso, at the second bullet
7 point in that list. It says:

8 "They -- "

9 I take it that being the CMSBA and mid-sized BC
10 MSBs.

11 "-- support any specialized local unit
12 that could effectively investigate,
13 prosecute and shut down unlicensed MSBs."

14 Mr. Iuso, what can you tell the Commissioner
15 about that?

16 A (JI) Yeah, that's in relation to the dedicated
17 whistle-blowing program in the next bullet point
18 that we'd love to be able to provide it to
19 somebody that's a little bit more closer to
20 home, and not just in BC but other parts of the
21 country as well.

22 Q Is there anywhere currently where your members
23 report if they discover an unregistered MSB?

24 A (JI) From what I've heard it's mostly in Toronto
25 and the GTA area where they have reported it.

1 Some of them get frustrated because year over
2 year some of them have -- some of the
3 unregistered MSBs haven't been prosecuted yet.
4 But I do realize that it does take time for law
5 enforcement to get this information to create a
6 package and basically go after them and
7 prosecute. So sometimes they do it quickly,
8 sometimes it takes a while, but we don't have
9 any insight into that other than what our
10 members are telling us.

11 Q Thank you. And I'd like to close the questions
12 today by asking you all about engagement with
13 other anti-money laundering stakeholders and
14 some policy issues.

15 MR. DAVIS: Madam Registrar, if I could ask that you
16 please pull up document 2398.0001 from the list
17 of documents, please.

18 Q Mr. Iuso, do you see this document before you?

19 A (JI) Yeah.

20 Q Have you seen this before? It's -- this is a
21 copy of the MSB consultation paper put out by
22 the BC Ministry of Finance in, I believe,
23 March 2020?

24 A (JI) Yeah, you sent it to me. I didn't get a
25 chance to review it yet.

1 MR. DAVIS: Mr. Commissioner, if I could ask that
2 this be marked as the exhibit.

3 THE COMMISSIONER: Very well, 440.

4 THE REGISTRAR: Exhibit 440.

5 **EXHIBIT 440: Money Services Businesses Public**
6 **Consultation Paper - March 2020**

7 MR. DAVIS: Madam Registrar, if I could ask that you
8 scroll to page 6 of this document. The bottom
9 half of the page under heading "De-risking."
10 That's brilliant. Thank you.

11 Q Mr. Iuso, looking at this second paragraph under
12 "De-risking," and I'm starting with the third
13 sentence here. And it says "the Canadian Money
14 Services Businesses Association has reported."
15 Do you see that?

16 A (JI) Yes, I do.

17 Q So that sentence reads:

18 "The Canadian Money Service Businesses
19 Association (CMSBA) has reported that
20 de-risking actions by Canadian financial
21 institutions have led to the number of
22 MSBs in Canada shrinking from over 2400 to
23 approximately 800 over a 5-year period."

24 What can you tell the Commissioner about that.

25 A (JI) That period was from about 2009 to

1 2014/2015 where we saw a significant decrease in
2 the number of MSBs because they weren't able to
3 continue with their banking relationships. I
4 actually ran an MSB during that period and had
5 lost a couple of my banking relationships after
6 many reviews and -- yearly reviews, and there
7 seemed to be a concerted effort in -- near the
8 end of 2014 to de-risk a lot of MSBs.

9 And maybe it's to the point that Mikey
10 was -- Michael Cox was talking about with regard
11 to they didn't have any insight into the MSBs
12 serving other MSBs or even the activities that
13 they were servicing.

14 So we don't know exactly why that was
15 happening. Some speculate it could be a
16 competition thing and such. But at the end of
17 the day we don't know exactly what the
18 reasonings for the de-riskings were, whether
19 they were competitive or whether they were a
20 regulatory burden on behalf of the banks.

21 Q And do you recall, Mr. Iuso, what the Canadian
22 MSB Association offered to the BC Ministry of
23 Finance to address the de-risking problem? Do
24 you have any views on that?

25 A (JI) So we suggested that some sort of

1 regulation come in effect, that if an MSB were
2 to meet a certain criteria or a certain level of
3 criteria, they should be given the right to have
4 bank accounts and access to banking services
5 because it is -- to us it's like a utility, like
6 a telco providing the phone line service or an
7 internet provider providing the internet
8 service. It's necessary for us to operate.
9 Otherwise the MSBs end up going further
10 underground or further obfuscating their
11 business practices, which leads to, we believe,
12 more activity that isn't caught or isn't
13 reported.

14 Q Mr. Iuso, my last question for you is to what
15 degree does the Canadian Money Services
16 Businesses Association receive information
17 relating to anti-money laundering from other
18 stakeholders like the RCMP or FINTRAC? What's
19 the relationship there?

20 A (JI) So we don't receive any of that. As a
21 matter of fact it would probably be illegal
22 without -- it is illegal without some sort of
23 MOU or other legal document that allows that
24 disclosure. So we don't receive any of that
25 information with regard to money laundering

1 activities other than the annual reports that
2 FINTRAC provides on a number of STRs and TPRs
3 reported, the MSBs that have been through
4 examination and the like. So that's really
5 where we get the information is when FINTRAC
6 makes it public on their annual report.

7 Q And so there's no MOU that currently exists
8 between the Canadian MSB Association and
9 FINTRAC?

10 A (JI) No.

11 Q And, Mr. Cox, from the perspective of the VBCE,
12 what can you tell the Commissioner about your
13 relationship with those federal stakeholders, so
14 the RCMP and FINTRAC, appreciating that VBCE is
15 a reporting entity? Again I'm not asking for
16 any specifics here, but just curious if you can
17 comment on the level of information sharing,
18 feedback, training that occurs.

19 A (MC) Yes. If I could just to have a comment
20 about the de-risking as well.

21 Q Yes, please.

22 A (MC) For those Canadian money service businesses
23 that have bank accounts, being de-risked by
24 their bank is their primary concern. At the MSB
25 Association conferences this is the primary

1 concern. This is the difference between staying
2 open or closing your business. I realize the
3 banks are in a difficult situation. They've got
4 to show their own regulators that they've
5 mitigated the risk of an inherently high-risk
6 client, which is any MSB, down to an acceptable
7 level. Mitigating this risk is a time consuming
8 and expensive for them and the banks may decide
9 that the risk cannot be mitigated sufficiently
10 or that the revenue generated by the MSB client
11 doesn't justify the cost of that risk
12 mitigation.

13 I know that the expectations of VBCE's
14 banking partners have significantly exceed
15 FINTRAC regulations and that VBCE's compliance
16 regime is made stronger by having these banking
17 relationships and the restrictions they put on
18 the company. For security, VBCE applies for new
19 accounts with banks every few years without
20 success.

21 If new provincial regulations require banks
22 to maintain accounts for MSBs that successfully
23 meet the requirements, this would help to offset
24 any burden of new regulations. I realize that
25 the banks are federally regulated. Credit

1 unions are provincially. That would be good
2 too. But the banks would be better. I think
3 few credit unions are able to facilitate things
4 like US dollar or euro, electronic transfers.
5 But I just can't stress enough that to the MSBs
6 this de-risking is definitely the primary
7 concern of everybody involved.

8 With regard to your question about
9 information sharing.

10 Q Yes.

11 A (MC) Vancouver Bullion receives requests for
12 information from RCMP and CRA a few times a
13 year, maybe every few months. They're just
14 random. Occasionally we receive them from
15 securities commissions or lawyers for particular
16 cases that are ongoing. When they request
17 information, they're looking for details about
18 specific clients or transactions.

19 We don't get very many requests from FINTRAC
20 due to -- when they are contacting us, it's more
21 about having a comment from us on future
22 guidelines or rules that are coming up. They
23 don't ever share information about clients or
24 that type of thing.

25 MR. DAVIS: Thank you, Ms. Nettleton, Mr. Cox and

1 Mr. Iuso.

2 Mr. Commissioner, those are my questions for
3 these witnesses.

4 THE COMMISSIONER: Thank you, Mr. Davis. I will now
5 call on Ms. Friesen for the province who has
6 been allocated 15 minutes.

7 MS. FRIESEN: Yes. Thank you, Mr. Commissioner.

8 **EXAMINATION BY MS. FRIESEN:**

9 Q My name Cherisse Friesen. I'm counsel for the
10 province, as the commissioner said. Can you
11 hear me all right?

12 A (MC) Yes.

13 Q Thank you. My first questions will be to
14 Mr. Iuso and Mr. Cox. I have some questions for
15 you regarding the MSB industry's experience with
16 working with FINTRAC. In your experience how
17 proactive is FINTRAC with respect to education
18 and outreach?

19 A (JI) Okay. So as far as the Canadian MSB
20 Association, we're involved in a number of
21 working groups with regard to updating of
22 legislation, reviewing policy interpretations
23 and providing guidance through the advocacy
24 committee that we've set up. So they provide
25 us -- usually it's on a monthly basis and

1 there's usually two or three different committee
2 that we participate on, and so we're always
3 being asked to help them review that guidance
4 and provide feedback. So that's number 1.

5 Number 2, we always are looking to them to
6 provide education and information to our members
7 during our training sessions. So that typically
8 happens in the spring and fall. And they also
9 have an outreach person now dedicated to dealing
10 with the association and any requests that we
11 may have for clarity or any other things like
12 that.

13 What else? There's a few other things that
14 we do with the -- with FINTRAC, but we
15 organize -- like, last year we organized the
16 dealers in virtual currency to participate in
17 the new legislation updates that came into
18 effect June 1st, 2020, as well as putting
19 together a committee on the large virtual
20 currency transaction reporting and how to do
21 those kind of things. So we're always engaging
22 with FINTRAC on a number of fronts when it comes
23 to the act and regulations, policy
24 interpretation and guidance. They also provide
25 us with notices and alerts which we also forward

1 to members with maybe some comments here and
2 there.

3 Q And in those communications that you've
4 described and perhaps even in the notices and
5 alerts, is FINTRAC making efforts to tell MSBs
6 how to register or describe their obligations
7 regarding how to register?

8 A (JI) They're always making sure that at least
9 the members that we know of or are part of our
10 community are told what they need to do. Their
11 website -- they have done a lot of good updates
12 this year or last year and they continue --
13 they've got 65 other policy interpretations that
14 are coming through 2021 and 2022 that describe
15 all the different obligations. They recently
16 upgraded their risk assessment manual for
17 members to review and make sure that they're up
18 to date with the latest trends and typologies.

19 Q Thank you. Do you have anything to add to that,
20 Mr. Cox?

21 A (MC) Yes. On a broad spectrum I would say at
22 the early days of FINTRAC I found the
23 relationship adversarial. That they were coming
24 in to find out what we'd done wrong. That was
25 their focus. In the last five years, maybe a

1 little bit longer, that seemed to shift to
2 being -- looking at MSBs and perhaps other
3 partners as partners and that we were on the
4 same side, both looking to fight money
5 laundering and terrorist financing. And the
6 support has been much improved. The information
7 sharing has been improved.

8 One caveat to that, I would say, is if we
9 ask FINTRAC for a policy interpretation or a
10 clarification on something that is vague in the
11 rules or a scenario we've come up with, they are
12 very slow to respond, if they respond at all.

13 (JI) And I have to sit on the other side of
14 that because I've done a number of policy
15 interpretations, and what I've found is the easy
16 ones, the easy questions, they're answered
17 quickly. The ones that require further
18 clarification or find a hole in the rules or the
19 act and regulations, they take a little bit of
20 time.

21 I remember doing one last year on behalf of
22 another client and it took probably about three
23 months to get it. But I had a few phone calls
24 with them to determine what was really being
25 asked and how we were to make that

1 interpretation based on the policy
2 interpretations that were already provided, the
3 guidance and the regulation and act. So I think
4 it's a little bit of balancing act from what
5 we've seen.

6 I've had interpretations come back in as
7 little as 30 days and sometimes take longer than
8 90 days. So I think it's all based on the type
9 of questions being asked.

10 Q Thank you. Mr. Iuso, you described the various
11 ways in which FINTRAC and CMSBA connect to share
12 information. And earlier in your evidence you
13 described the various tiers, I suppose, of
14 membership within your -- within that
15 organization. And correct me if I'm wrong, but
16 my recollection is that there were a number of
17 advisory roles within CMSBA or were connected
18 with CMSBA that involved MSBs that were
19 unregistered; is that correct?

20 A (JI) So -- no. The only ones we have are three
21 categories. The first one is registered MSBs.

22 Q Correct.

23 A (JI) And then the other two categories are
24 partial and full associate members, which are
25 consulting firm, law firms and corporate

1 entities such as Grant Thornton, MNP, Outlier.
2 We have a lot of lawyers that are in the MSB
3 community and provide their services as an
4 offering to the MSB community. So we leverage
5 those legal aspects of those people's knowledge
6 and expertise.

7 Q Thank you for that clarification.

8 I was wondering with respect to smaller MSBs
9 and the communication efforts that you've
10 described with your group and between FINTRAC,
11 is there any extra effort that FINTRAC engages
12 to engage those smaller MSBs to -- with respect
13 to education regarding registration?

14 A (JI) Yeah, so all MSBs basically subscribe to
15 FINTRAC's feeds by default. When they sign up
16 they provide an email address, so they all get
17 the communications that FINTRAC issues. And
18 they issue them frequently sometimes and other
19 times there's little gaps where there's nothing
20 new.

21 But they've -- in the last six months off
22 the top of my head they've put out notices on
23 how to deal with -- what are the indicators for
24 romance scams, what are the indicators for
25 virtual currency scam, what the indicators for

1 all kinds of different activities and as well as
2 guidance in other papers. So every entity
3 that's registered has a registered email, so
4 they're getting these communications just like
5 we are as the association. And from time to
6 time the association may put some additional
7 information on that and send it out to our
8 mailing list as well.

9 But I know I'm involved in a number of MSBs
10 and they get those communications through those
11 channels as well. So I don't think it matters
12 whether it's large or small, they're all getting
13 the communications and it's really up to those
14 registered entities to actually review it and
15 deal with it as part of their risk-based
16 approach and reviewing their policies and
17 procedures internally.

18 Q Okay. So if the entity is not registered, they
19 would not be getting those communications,
20 obviously.

21 A (JI) No, they wouldn't probably. They can still
22 subscribe.

23 Q They could still subscribe voluntarily.

24 A (JI) Yeah.

25 Q Are you aware of any extra -- any efforts to

1 communicate with unregistered MSBs between --
2 any efforts on behalf of FINTRAC to connect with
3 unregistered MSBs to -- as a part of outreach to
4 educate these entities regarding compliance?

5 A (JI) So in 2020 -- 2019 and the first part of
6 2020 they did do communications out to. For
7 example, the dealers in virtual currencies to
8 let them know that they would have to register
9 before June 1st, 2020. So they did do a lot of
10 communication through different outreaches.
11 Even including the MSB Association, we did a
12 couple of email blasts for them. And we've also
13 encouraged members of that community to be part
14 of the Canadian MSB Association. So I think
15 when it's something new they tend do that.

16 With regard to traditional MSBs, I don't
17 know how much I've seen of that, although
18 there's always news releases and things like
19 that where FINTRAC has participated with RCMP
20 and other law enforcement and other
21 jurisdictions and how they've combatted money
22 laundering. But I haven't seen anything
23 targeted to small MSBs in particular.

24 Q Thank you. And, again, my next question is for
25 Mr. Cox and Mr. Iuso. In your view are there

1 any specific actions that FINTRAC or law
2 enforcement could take to assist BC MSBs to be
3 compliant with registration?

4 A (MC) I'm sorry, compliant with FINTRAC
5 registration?

6 Q Correct.

7 A (MC) Not that I'm aware of. It is my guess that
8 those MSBs in British Columbia and elsewhere
9 that are not registered are not registered on
10 purpose.

11 (JI) And from an MSB perspective we always
12 seek out for all our training events law
13 enforcement, whether it be local or national.
14 For example, we've had RCMP come to our national
15 conference in Toronto. We've had RCMP come up
16 to the conferences out in Vancouver. So we're
17 always seeking to have the view of law
18 enforcement to the members so they understand
19 that law enforcement is not against them but
20 here to help combat money laundering and
21 terrorist financing.

22 Q Thank you for that. I have just a few questions
23 regarding the membership of CMSBA. In your
24 experience are there certain types of MSBs that
25 generally choose to become members of the

1 organization? Is there a certain sort of
2 homogeneity, I suppose, in the group, and do you
3 find that -- for example, do you find that MSBs
4 of a certain size or of a certain type are less
5 likely or are not -- or do not become members of
6 CMSBA?

7 A (JI) Yeah, surprisingly it's the inverse of what
8 you would think. The larger MSBs seem to want
9 to go on it alone. It seems like a lot of them
10 want to deal with -- not deal with all the other
11 smaller MSBs, and maybe that's to the point that
12 Mike Cox brought up with regard to MSBs not
13 being able to bank other MSBs or service other
14 MSBs. But most of our members to date -- and
15 remember, we -- I don't know if I didn't tell
16 you this, but we changed from a you're a member
17 if you attended our events to now you have to
18 register as a member, and that's only been about
19 a year and a half.

20 Right now we are about 80 to a hundred,
21 somewhere in between there, registered members
22 and I would say a majority of them are medium-
23 to small-sized MSBs with the exceptions the
24 likes of Mike Cox and the VBCE and Ria, and we
25 also have Canada Post as one of our members. So

1 there's a few of the larger ones but most of
2 them are small to medium-sized MSBs.

3 We're looking for education, looking to show
4 that that part of the risk-based approach is
5 getting education, which is what one of the main
6 pillars of the Canadian MSB Association is all
7 about.

8 Q Thank you. My next question is for
9 Ms. Nettleton. Through your work have you
10 observed whether BC MSBs have any increased
11 vulnerabilities to money laundering compared to MSBs
12 in other provinces? Is that something that you
13 have insight into?

14 A (MN) I do not. From personal opinion I think
15 this is a nationwide issue when we're talking
16 about MSBs, so I wouldn't say that I have seen
17 anything that makes BC more vulnerable, but I
18 don't have facts or evidence to really
19 substantiate that in a holistic sense. Just
20 from what I've -- what I can say is MSBs are an
21 issue across the country.

22 Q Thank you for that. Earlier in your evidence
23 you gave -- you commented on the unregistered --
24 you gave some visibility that you and your team
25 had in unregistered MSBs in BC. And I was

1 wondering whether you had any data with respect
2 to the number of unregistered MSBs there are in
3 either -- well, I suppose in British Columbia?

4 A (MN) Offhand I do not have any data on
5 British Columbia. However, I want to clarify my
6 comments from earlier. I was going to send an
7 email, but now you're bringing it up. We looked
8 at 529 money service businesses across Canada
9 that were either unregistered, revoked or their
10 registration had lapsed. So in that study we
11 didn't find significant criminality based on our
12 research into open source and our registered --
13 like, our records management systems.

14 So based on our intelligence that we had, so
15 our records management systems hold all of the
16 criminal intelligence holdings from either past
17 investigations, surveillance, FINTRAC
18 disclosures, human source reporting, et cetera.
19 From those 529 MSBs that we found that were
20 either unregistered, the registration had been
21 revoked or it had lapsed. We did not find
22 significant criminality. That doesn't mean it
23 doesn't exist; it just means that in our
24 holdings we didn't see it.

25 So I can't say that there wasn't any

1 criminality in that space, but also I need to
2 highlight our limitations and those limitations
3 are that we were looking at what we had in our
4 data banks and we're not doing door knocks and
5 surveillance on those specific entities. That
6 would require a lot more resources and lot more
7 extensive of an effort.

8 Q Thank you for that. That's very helpful. In
9 terms of the 529 MSBs that were part of that
10 analysis, was there a breakdown with respect to
11 region or province?

12 A (MN) Yes. I do not have that handy, but I can
13 confirm there was a breakdown.

14 MS. FRIESEN: Okay. Thank you. Those are all my
15 questions.

16 THE COMMISSIONER: Thank you, Ms. Friesen.

17 Ms. Magonet for the British Columbia Civil
18 Liberties Association has been allocated
19 ten minutes.

20 MS. MAGONET: Thank you, Mr. Commissioner.

21 **EXAMINATION BY MS. MAGONET:**

22 Q My questions for Ms. Nettleton. Can you hear
23 me, Ms. Nettleton?

24 A (MN) I can, yes.

25 Q Thank you. So my questions relate to what was

1 formally known as Project Athena, currently
2 known as CIFA-BC. And my first question is I
3 was wondering if you could explain the types of
4 information that the RCMP would share with banks
5 and other reporting entities in the context of
6 this project, obviously not specific
7 information, just the general types that could
8 be shared.

9 A (MN) Sure. So we would be looking at trends and
10 typologies, not specific personal identifying
11 information. And we'd be looking at those
12 trends and typologies and sharing best practices
13 and lessons learned in order to try and fill
14 gaps in the regime or present opportunities for
15 either legislative policy or regulatory change
16 at the provincial or federal level.

17 Q Thank you. And in the context of this project,
18 would banks or other reporting entities ever
19 directly share information with law enforcement?

20 A (MN) Are you talking about personal information
21 or are you talking about trends and can you
22 clarify?

23 Q Well, that was going to be my next question
24 actually, was did they share information? And
25 if so, what was the nature of that kind of

1 information?

2 A (MN) Well, CIFA-BC just started, so it's only
3 had its first meeting on November 20th. And
4 that meeting was very much focused on
5 administrative logistics around advising on who
6 had certain types of status in terms of partner
7 status, how often the meetings would take place
8 and the management structure. So within the
9 context of CIFA-BC, no information of any nature
10 has been shared yet. In fact, their information
11 sharing arrangement is still in draft form and
12 they are consulting with the office of the BC
13 commissioner.

privacy

14 Q And can you provide me any insight into what
15 types of information would have been shared by
16 banks, law enforcement under Project Athena.

17 A (MN) Under Project Athena I believe it was
18 trends and typologies. However, I was not
19 directly involved in Project Athena during that
20 time as I was on maternity leave.

21 Q Okay. Thank you. And I appreciate that you may
22 not be able to answer this question if you were
23 on maternity leave, but do you know if during
24 Project Athena banks ever directly shared
25 information with law enforcement in response to

1 a specific request from law enforcement?

2 A (MN) In the context of Project Athena I'm not
3 aware.

4 Q Thank you. Do you know whether -- within the
5 context of either Project Athena or
6 CIFA-BC whether reporting entities share
7 information with each other?

8 A (MN) Under the context of CIFA-BC, I believe
9 that would be the intent as per the draft
10 information-sharing arrangement. Again, that
11 will be reviewed by the legal counsel of each
12 entity, including the RCMP and the Office of the
13 Privacy Commissioner.

14 Q Thank you. For either Project Athena or
15 CIFA-BC does the -- did the RCMP previously or
16 does the RCMP intend to measure the impact of
17 this project?

18 A (MN) For both Project Athena and CIFA, or ...

19 Q Yes, for both of them.

20 A (MN) Well, I'm not sure what the performance
21 measurements are for Project Athena. That's
22 probably best directed at that team, but for
23 CIFA-BC, we have come up with a logic model and
24 are currently working on a performance
25 measurement framework for that project as

1 CIFA-BC is seen as a pilot project that could
2 potentially roll out on a more national scope,
3 and we also wanted to align it with the federal
4 anti-money laundering regime and the performance
5 metrics that are there.

6 Q And do you know what types of performance
7 metrics are contemplated for CIFA-BC? Would it
8 be something like the number of STRs filed -- or
9 sorry, suspicious transaction reports or the
10 number of refers to law enforcement from
11 FINTRAC? Would it be something of that nature?

12 A (MN) Yeah, that's very accurate.

13 Q Is there any intent to also attempt to measure
14 how much crime is actually disrupted? And if
15 so, do you know how they might intend to do
16 that?

17 A (MN) That's a very good question, and the
18 CIFA-BC team is contemplating how they might
19 measure those types of -- that type of data.
20 And they're currently working with the
21 provincial -- I might get this wrong --
22 Provincial Tactical Enforcement -- the PTEP
23 team. I have to look up the acronym. But they
24 are associated with CISC BC and they have some
25 very well researched metrics for measuring

1 disruption. So they'll be working alongside
2 that team to look at their performance
3 measurement as well as their potential
4 prioritization issues.

5 Q Thank you. I have just one last question. Do
6 you know what efforts or measures are taken, if
7 any, by the RCMP to ensure that its information
8 sharing in the context of CIFA-BC is compliant
9 with the *Privacy Act* and the *Charter*?

10 A (MN) Yeah. So again that goes into a reference
11 in the information-sharing arrangement to our
12 internal policies which are built off of our
13 legislative regime, including the *Charter of*
14 *Rights and Freedoms* and the *Privacy Act*, so --
15 our information manual and our operation manual.

16 So the ISA for the RCMP would be grounded in
17 those policies and procedures which reference
18 that legislation and then would -- the ISA would
19 be -- is currently in review by the BC legal
20 team and will also be looked at by the RCMP
21 federal legal team. And we will continue our
22 consultations with the Office of the Privacy
23 Commissioner as well.

24 MS. MAGONET: Thank you. Those are my questions.

25 THE COMMISSIONER: Thank you, Ms. Magonet.

1 I'll now call on Mr. Rauch-Davis, who's
2 been -- on behalf of Transparency International
3 Coalition, who has been allocated 15 minutes.

4 MR. RAUCH-DAVIS: Thank you, Mr. Commissioner.

5 **EXAMINATION BY MR. RAUCH-DAVIS:**

6 Q My first batch of questions is related to the
7 MSB registry, and I'm going to direct them at
8 you, Mr. Iuso, but if any of the other panel
9 members know or want to chime in, please do so.

10 So I take it that part of the response the
11 money laundering risks associated with MSBs was
12 the creation of a centralized MSB registry under
13 FINTRAC. Do I have that correct?

14 A (JI) That was part of the act, yes.

15 Q Yeah. And do you know what year the MSB
16 registry came into effect?

17 A (JI) Sometime after 2002 and before 2008, but I
18 don't know exactly the date. Maybe -- Mr. Cox
19 might know. That's probably a better question
20 to direct at FINTRAC.

21 Q Yeah. And I appreciate that these might be
22 questions better directed at FINTRAC, but do you
23 have an opinion on how the registry helps to
24 mitigate money laundering risks associated with
25 MSBs?

1 A (JI) The registry is just an open disclosure for
2 MSBs that are registered. There is no other
3 information other than what -- the activities
4 that they provide. It does help other MSBs or
5 entities that are regulated to check to make
6 sure that these entities are registered, but I
7 don't think it does anything concretely anyway
8 other than confirming they're registered to
9 deter money laundering.

10 Q Thank you. Perhaps switching topics, then. I
11 take it that FINTRAC doesn't -- or let me put it
12 this way: does FINTRAC provide proactive
13 guidance on targets or operational priorities to
14 MSBs?

15 A (JI) Not that I'm aware of.

16 Q And, Mr. Cox, I wonder if you are aware of any
17 proactive guidance or operational priorities
18 that FINTRAC provides.

19 A (MC) Not specifically. They seem to make
20 suggestions that if you're not reporting enough
21 suspicious transaction reports, they'll tell you
22 to report more or that your threshold for what
23 is suspicious is off. But I have never been
24 provided targets.

25 Q Do you think that that would be helpful if

1 FINTRAC provided some sort of operational target
2 or guidance?

3 A (MC) I don't know that I would say yes to that.

4 Q Why? Why don't you know that?

5 A (MC) Well, I don't think I would answer yes. I
6 don't think I would say that would be helpful.
7 I think if they are putting targets on something
8 like suspicious transaction reports, then people
9 will just aim for that. And if there are more
10 suspicious transactions, they may leave them
11 out.

12 Q Mr. Iuso, do you have an opinion on that?

13 A (JI) So FINTRAC does provide operational alerts
14 with regard to sectors or activities that
15 they're seeing or have seen. They recently
16 provided updates to the dealers in virtual
17 currencies in what to look for. They provided
18 information on casinos back in 2019. So they do
19 provide operational alerts, but it's a one-way
20 street. We don't actually communicate to them
21 so say okay, we found this, this or this.

22 It really comes in the form of an STR or a
23 TPR or a voluntary disclosure for some of the
24 entities that aren't governed by the *Proceeds of*
25 *Crime (Money Laundering) Act* and regulations.

1 Q So -- yeah, when you describe it as a
2 "one-way street," that's information coming from
3 FINTRAC to the MSBs or stakeholders and then no
4 real opportunity to engage on what that might
5 look like or more specifics. Is that fair?

6 A (JI) Yes. Correct.

7 Q Okay. And do you think that -- pardon me. Go
8 ahead.

9 A (JI) No, I think that would be a great addition
10 to the regime here in Canada, although I don't
11 know how it would be implemented due to the
12 privacy regulations and everything else. But an
13 information-sharing type channel like other
14 jurisdictions would probably be a worthwhile
15 exercise.

16 Q Thank you. That was my next question.

17 My next group of questions is for
18 Ms. Nettleton. So, Ms. Nettleton, I have your
19 evidence that you supervise seven staff in
20 financial crime analysis units within the RCMP.
21 My first question is who do you report to? Not
22 the name, just the rank or title.

23 A (MN) I report to a superintendent.

24 Q Okay. And I'm wondering, do you have a
25 territorial jurisdiction? Are you province --

1 just for BC or is this -- is your group
2 Canada-wide?

3 A (MN) Our group is Canada-wide, and we have
4 oversight over all of the current federal
5 investigations in Canada. So the tiered
6 investigations. So those would be tier 1,
7 tier 2 and tier 3 which are -- they're RCMP
8 investigations that is are prioritized.

9 Q And is there any other -- and I understand that
10 your group delivers tactical and strategic
11 intelligence products. That's the primary
12 function of your unit. Is that right?

13 A (MN) Yeah.

14 Q Is there any other group in Canada that delivers
15 a similar type of product?

16 A (MN) Federal policing national intelligence
17 within the RCMP headquarters as well as the
18 divisional criminal analysis units which are
19 situated within each RCMP division.

20 Q Thank you. And so you gave evidence about the
21 intelligence products that your unit produces,
22 and my question is who are those products
23 delivered to? Is it to your -- the person you
24 report to?

25 A (MN) It depends on the issue. So our products

1 can have a very varied audience. We do provide
2 some operational support to the divisions, which
3 means our products would go direct to the
4 primary investigator on certain investigations.
5 If it's something more -- if it's more of an
6 operational analysis, which is not necessarily
7 strategic, but we're looking, let's say, at,
8 like, a specific money service business, that
9 product might -- it would go to our director,
10 our director general. It just depends on the
11 nature of the product and the nature of the
12 recommendations.

13 So really we -- our audience changes, but if
14 we're looking at something like legislative or
15 policy change or we're looking at a few
16 different investigations and we're noticing a
17 trend, then that type of information would go to
18 RCMP senior management and it would go through
19 the chain of command, which would be my
20 superintendent.

21 Q And after it goes through the chain of command I
22 take it sometimes it goes to FINTRAC?

23 A (MN) So what we usually do in those instances is
24 we'll have multiple versions of products. So if
25 we do something that is external just as FINTRAC

1 likely would do is we would vet that product for
2 the decision-makers at other agencies.

3 Q Does your group ever -- or after it goes through
4 the chain of command, do these products of go to
5 the office of Superintendent of Financial
6 Institutions, OSFI?

7 A (MN) Not in my experience. It may be the case,
8 but not in my experience.

9 Q And the same question with regards to the
10 BC Financial Services Authority?

11 A (MN) Again not in my experience. May be the
12 case, though.

13 MR. RAUCH-DAVIS: Okay. Thank you very much. Those
14 are my questions for this panel. Thank you.

15 THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

16 Now Mr. Brongers on behalf of Canada, who
17 has been allocated five minutes.

18 MR. BRONGERS: Thank you, Mr. Commissioner. I have
19 no questions in re-examination.

20 THE COMMISSIONER: Thank you, Mr. Brongers.

21 Ms. Magonet, anything arising?

22 MS. MAGONET: No, Mr. Commissioner.

23 THE COMMISSIONER: Thank you. Ms. Friesen?

24 MS. FRIESEN: No, Mr. Commissioner.

25 THE COMMISSIONER: Thank you. And, Mr. Davis?

1 MR. DAVIS: Nothing, Mr. Commissioner. Thank you.

2 THE COMMISSIONER: All right. Thank you to the
3 members of the panel. We very much appreciate
4 your time and insights into the money services
5 business. You're now excused from further
6 testimony.

7 And I think we'll take a 15-minute break now
8 while we assemble the next panel. Thank you.

9 MR. DAVIS: Thank you, Mr. Commissioner.

10 THE REGISTRAR: This hearing is adjourned for a
11 15-minute recess until 11:35 a.m. Please mute
12 your mic and turn off your video. Thank you.

13 **(WITNESSES EXCUSED)**

14 **(PROCEEDINGS ADJOURNED AT 11:21 A.M.)**

15 **(PROCEEDINGS RECONVENED AT 11:35 A.M.)**

16 THE REGISTRAR: Thank you for waiting. The hearing
17 is now resumed. Mr. Commissioner.

18 THE COMMISSIONER: Thank you, Madam Registrar. Yes,
19 Mr. Martland.

20 MR. MARTLAND: Yes, in fact Mr. Davis has conduct of
21 the panel. Thank you.

22 THE COMMISSIONER: Thank you. You are doing double
23 duty today, Mr. Davis.

24 MR. DAVIS: I am, Mr. Commissioner, and the next
25 witnesses will be Ms. Donna Achimov, Barry

1 MacKillop and Ms. Annette Ryan testifying as a
2 panel on behalf of FINTRAC.

3 Madam Registrar, all three witnesses have
4 indicated they will affirm today. Thank you.

5 THE REGISTRAR: Witnesses please unmute yourselves.

6 Would each of you state your full name and spell
7 your first name and last name for record. Let's
8 start with Ms. Achimov.

9 THE WITNESS: (DA) Hello, Donna Achimov. D-o-n-n-a
10 A-c-h-i-m-o-v.

11 THE REGISTRAR: Thank you. And Mr. MacKillop.

12 THE WITNESS: (BM) Barry MacKillop B-a-r-r-y
13 M-a-c-K-i-l-l-o-p.

14 THE REGISTRAR: Ms. Ryan.

15 THE WITNESS: (AR) Good morning. Good afternoon.
16 Annette Ryan, A-n-n-e-t-t-e R-y-a-n.

17 **DONNA ACHIMOV, a witness**
18 **called for the**
19 **commission, affirmed.**

20 **BARRY MACKILLOP, a**
21 **witness called for the**
22 **commission, affirmed.**

23 **ANNETTE RYAN, a witness**
24 **called for the**
25 **commission, affirmed.**

1 THE REGISTRAR: Thank you. Mr. Davis.

2 **EXAMINATION BY MR. DAVIS:**

3 Q I'll begin with an overview of your backgrounds
4 and experience. And, Ms. Achimov, I'll begin
5 with you. Can you see and hear me okay?

6 A (DA) Yes, I can. Good afternoon, good morning.

7 Q Good morning, good afternoon. Ms. Achimov,
8 you're currently the deputy director and chief
9 compliance officer at FINTRAC; is that right?

10 A (DA) Yes, that's correct.

11 Q And how long have you held that role?

12 A (DA) I've been in this role for a little over a
13 year but been with FINTRAC for over two years.

14 Q And what are your responsibilities as deputy
15 director, chief compliance officer at FINTRAC?

16 A (DA) I'm responsible for the compliance function
17 and within that role I'm also responsible for
18 three regional offices: Vancouver, Toronto and
19 Montreal. The regional officers actually
20 conduct our exams. And in the headquarters
21 operations I have a variety of supports that
22 help with the compliance function, policy
23 interpretation, guidance, outreach and regional
24 support.

25 Q And you previously held the roles of deputy

1 director of FINTRAC's corporate management
2 services sector as well as chief financial
3 officer of FINTRAC; is that right?

4 A (DA) Yes, I did.

5 Q And you've also held a number of positions
6 within the Government of Canada. And I won't
7 list them all, but I'll list three here and ask
8 if you can confirm them. First is the CEO of
9 the Government of Canada's Translation Bureau.
10 You held that position?

11 A (DA) Yes, correct.

12 Q The second is assistant deputy minister for human
13 resources at Public Services and Procurement
14 Canada?

15 A (DA) Yes, that's correct.

16 Q And the third is the acting assistant deputy
17 minister, Receiver General and Pensions. Is
18 that a role you held as well, Ms. Achimov?

19 A (DA) Yes, that was with Public Services
20 Procurement Canada as well.

21 Q And in terms of education, Ms. Achimov, you hold
22 an honours bachelor degree in journalism and you
23 are a graduate of the directors education
24 program at the University of Toronto; is that
25 right?

- 1 A (DA) That's correct.
- 2 Q Mr. MacKillop, turning to you. Are you able to
3 see and hear me?
- 4 A (BM) I am, sir.
- 5 Q Mr. MacKillop, you are currently the deputy
6 director of intelligence at FINTRAC; is that
7 correct?
- 8 A (BM) That's correct.
- 9 Q And how long have you held that role?
- 10 A (BM) Essentially nine years.
- 11 Q And what are your responsibilities in the role?
- 12 A (BM) I'm responsible for tactical intelligence,
13 disclosures as well as strategic -- targeted
14 strategic intelligence looking at operational
15 alerts, those types of things.
- 16 Q And like with Ms. Achimov, you previously held a
17 number of roles at Public Safety Canada, senior
18 positions. And I'm going to go through those
19 and ask you to confirm. One of those jobs was
20 the director of general law enforcement of
21 organized crime and border strategies; is that
22 right?
- 23 A (BM) Correct. Director general of law
24 enforcement border strategies, yes.
- 25 Q And you also held the position of Senior

1 director of national strategies, serious and
2 organized crime; is that correct?

3 A (BM) Correct.

4 Q And you also held the role of director of summit
5 security, contract policing and firearms policy;
6 is that right?

7 A (BM) That is correct.

8 Q And, Mr. MacKillop, can you explain to the
9 Commissioner in your roles with Public Safety
10 Canada what sorts of anti-money laundering work
11 you might have engaged in?

12 A (BM) With Public Safety Canada I would have been
13 involved in the overall Canadian strategy. I
14 would have played a liaison role between Public
15 Safety and Finance Canada and other regime
16 partners in the anti-money laundering regime in
17 Canada.

18 Q And, Mr. MacKillop, in terms of your education,
19 I understand you hold a Master of Arts degree in
20 Criminology from the University of Ottawa?

21 A (BM) That's correct.

22 Q Thank you. And, Ms. Ryan, turning to you, can
23 you see and hear me okay?

24 A (AR) I can.

25 Q You're currently the chief financial officer as

1 well as the deputy director of the enterprise
2 policy research and program sector of FINTRAC;
3 is that right?

4 A (AR) That's correct.

5 Q And how long have you been in that position?

6 A (AR) Since September of 2019.

7 Q And what can you tell the Commissioner about
8 your job responsibilities?

9 A (AR) So as the title suggests, I'm responsible
10 for a number of crosscutting functions within
11 the centre. So I'm responsible for the policy
12 group that provides liaison from both our
13 compliance function, our intelligence function
14 to the Department of Finance and other policy
15 leads across the federal AML regime. That
16 policy group is also responsible for a number of
17 international relationships, coordinating our
18 input to FATF, to the Egmont Group and similar
19 bodies.

20 In terms of the research group I think
21 that's pertinent for today's discussion. It
22 comprises both our analytics lab as well as our
23 strategic intelligence function.

24 In terms of my role as chief financial
25 officer, I lead the finance administration team.

1 I also lead corporate planning, security and
2 communications within the agency.

3 Q And, Ms. Ryan, you previously worked as the
4 associate assistant deputy minister of the
5 finance sector, policy branch at Finance Canada;
6 is that correct?

7 A (AR) Yes, I did.

8 Q And how did that work involve money laundering,
9 if it did at all?

10 A (AR) So that branch is the branch that supports
11 the Minister of Finance for money laundering
12 policy, legislative and regulatory changes,
13 coordination of the regime on a number of
14 fronts. So I held that role for roughly two and
15 a half years and, for example, would have
16 supported the five-year legislative review of
17 the program during that time.

18 Q And, Ms. Ryan, in terms of your education, I
19 understand you hold a masters degree in
20 economics from Oxford University which you
21 attended as a Rhodes Scholar; is that correct?

22 A (AR) Correct.

23 Q Mr. MacKillop, I'd like to start off
24 substantively by asking you some questions about
25 FINTRAC's insight into money service businesses,

1 MSBs. And to begin, in your current role,
2 Mr. MacKillop, you're responsible for both
3 tactical financial intelligence and targeted
4 strategic financial intelligence; is that right?

5 A (BM) That's correct.

6 Q What is tactical financial intelligence?

7 A (BM) That would be intelligence related to
8 specific targets of police investigations. So
9 it would be work that we do with our law
10 enforcement, national security partners across
11 Canada and/or internationally as well with
12 international financial intelligence units with
13 whom we have MOUs, memorandums of understanding.

14 Q And what about targeted strategic financial
15 intelligence? What's the difference between
16 those?

17 A (BM) The difference between those is rather than
18 focus on a specific individual or an individual
19 or entity that we would use in a disclosure on
20 the tactical intelligence side, it's looking at
21 a group of disclosures that we may have made
22 related to a specific target. Often it leads to
23 an operational alert similar to our
24 public-private partnership alerts. Project
25 Athena, for example, is one that you would be

1 familiar with as well as Project Protect,
2 Project Shadow. So it's looking at developing
3 indicators based on the disclosures that we've
4 made in the past to assist our reporting
5 entities in future reporting related to the
6 predicate offences linked to money laundering.

7 Q And when it comes to money services businesses,
8 what are the sources of intelligence for your
9 group that allows it to make those specific, you
10 know, referrals or disclosures as well as the
11 more broad analysis?

12 A (BM) It would be any of the reporting that we
13 receive from the money service businesses
14 themselves as well as reporting that we receive
15 that's mandated through the *PCMLTFA*, through our
16 legislation, that we would receive from other
17 financial institutions, for example, on
18 suspicious behaviour or suspicious transactions
19 that they may see going through a money service
20 business, for example.

21 Q And do you in your group receive information
22 from Ms. Achimov's group? I anticipate asking
23 her about that compliance group, but do you have
24 that information at hand?

25 A (BM) No, sir, we don't -- we're prohibited from

1 sharing compliance information with
2 intelligence, for example. So if Ms. Achimov's
3 group does an assessment or an exam on an MSB,
4 the results are not shared with intelligence
5 because the information that they receive is
6 actually warrantless that they looked at when
7 they're doing an assessment. They do those
8 assessments to determine the level of compliance
9 of the MSB in this particular case with the
10 reporting requirements and the transaction
11 requirements that are under the *PCMLTFA*. So
12 that information is not shared with
13 intelligence.

14 Q And how about the other way? Can intelligence
15 share information it uncovers with the
16 compliance group, say, with respect to a
17 particular MSB?

18 A (BM) We can share limited information. It's
19 usually related to the reporting so that if we
20 see reporting that's not coming through or we
21 see suspicious reporting on an MSB or an MSB
22 perhaps that is flagged by -- or a potential MSB
23 flagged by another reporting institution, like a
24 bank, for example, we could send an intelligence
25 notice to our compliance folks to let them know

1 that this entity or this person seems to be
2 acting like an MSB. And that would allow the
3 compliance folks to then check and see if they
4 are registered or to reach out to them if
5 they're not registered and to see if they can
6 get them registered.

7 Q Do you have a sense of how often that occurs
8 where you might discover an entity that's
9 looking, acting like an MSB that you refer to
10 Ms. Achimov's group?

11 A (BM) I don't have an actual number. It wouldn't
12 occur that often. During the course of a year,
13 if we look at yearly statistics, it wouldn't
14 occur that often. Quite often the intelligence
15 notices, which is what we call these, tend to
16 link at lack of reporting or insufficient
17 information perhaps provided in an STR, for
18 example, a suspicious transaction, report that
19 we would want them to go back and verify the
20 level of compliance with reporting and perhaps
21 provide some awareness and some understanding on
22 what is required or what more could be required
23 in an STR. But it's not specific to an
24 individual; it's a trend within the reporting of
25 that particular MSB.

1 Q Thank you. And, Mr. MacKillop, do you have a
2 sense -- and this might not be something that
3 you can answer today, but what portion of your
4 work and output -- for example, disclosures
5 made, do you have a sense of how much that of
6 that work relates to money service businesses or
7 involves money service businesses?

8 A (BM) I don't have a number. I could say that
9 the -- you know, we did well over
10 2,500 disclosures last year. So within any
11 individual disclosure there may be a number of
12 different reports that are included in there.
13 Often they may be reports from MSBs. That
14 doesn't mean the MSB is complicit in money
15 laundering, simply that they're actually
16 following what is required under the PCML and
17 providing us that information so we can turn it
18 into intelligence.

19 In terms of specific MSBs that may be
20 complicit, if that's what you're looking at, I
21 can't give you a number of disclosures that would
22 have been on that in particular because we tend
23 to look at what it is that the police are
24 dealing with in terms of voluntary information
25 records on individuals. Those particular

1 individuals would be using MSBs but they also
2 may be using banks and other types of other
3 entities as well to launder money, so ...

4 MR. DAVIS: Madam Registrar, if I could ask that you
5 please pull up the document CAN-0012432 of the
6 documents, please.

7 Q Mr. MacKillop, do you see that document
8 displayed on your screen?

9 A (BM) I do.

10 Q Do you recognize this as a FINTRAC typology and
11 trend report dated July 2010 on money service
12 businesses?

13 A (BM) I do.

14 MR. DAVIS: Mr. Commissioner, if I could ask that
15 this please be marked as the next exhibit.

16 THE COMMISSIONER: Very well.

17 THE REGISTRAR: 441, Mr. Commissioner.

18 **EXHIBIT 441: Money Laundering and Terrorist**
19 **Financing (ML/TF) Typologies and Trends for**
20 **Canadian Money Services Businesses (MSBs)**
21 **FINTRAC Typologies and Trends Reports - July**
22 **2010**

23 MR. DAVIS:

24 Q Mr. MacKillop, to your knowledge is this the
25 most recent typology report that's been issued

1 by FINTRAC on money service businesses?

2 A (BM) From a strategic intelligence side I

3 believe it is, yes.

4 Q And we're not going to look at this document
5 right now in particular, but this with this in
6 mind, what can you tell the Commissioner about
7 the risks associated with MSBs from a money
8 laundering prospect? Why are they of interest?

9 A (BM) I think they're -- well, they're of
10 interest generally because they're used -- they
11 are a mechanism to move money from one country
12 to another. So MSBs, if they're registered, if
13 they're reporting to FINTRAC, then we will see
14 all the reports on all the transactions that
15 they're required to report. I think the -- as
16 you've seen, there is a possibility of
17 unregistered MSBs in existence and they have
18 access to the financial system and they can move
19 money without necessarily reporting to FINTRAC
20 if they're not registered. So there is a risk
21 there.

22 It is an opportunity, if we look at hawalas
23 and others, where they may be moving money from
24 one diaspora back to a country, there could a
25 perceived risk there if there is a criminal

1 element that wants to insert themselves in that.
2 But the risk of money laundering through an MSB
3 is -- it exists as does the risk of money
4 laundering through credit unions and banks and
5 other financial entities as well.

6 Q So would you rank the risks of money laundering
7 through MSBs as equal to those through credit
8 unions and financial institutions like banks?

9 A (BM) It's hard to rank it. I guess when you
10 look at the potential criminal element there my
11 may be a higher risk with an MSB if it's an
12 unregistered MSB for example, but if you look at
13 the quantity of money being moved, there's much
14 more money being moved through the formal
15 financial system with banks than there would be
16 with an MSB.

17 Q And do those considerations, the threats you've
18 just described, do those apply equally to
19 British Columbia or is there anything specific
20 about MSBs in British Columbia that you can tell
21 the Commissioner about?

22 A (BM) I think the threat exists equally across
23 Canada, across MSBs in Canada as well as
24 internationally. I don't think it's limited
25 certainly to British Columbia.

1 Q But is there any particular nuance or typology
2 that you're seeing out of BC that you might not
3 see elsewhere in the country?

4 A (BM) The typologies surprisingly are quite
5 similar. It's like our Project Athena. When we
6 did this we very quickly realized while it may
7 have been led initially or initiated in BC, the
8 typology actually is applicable across Canada
9 and it has been rendered into an operations
10 alert that's applicable across Canada. So if
11 you're looking at MSBs that are being used to
12 facilitate money moving in and out of a casino,
13 for example, with visitors to the country, you
14 could see that in Quebec, Ontario, Alberta,
15 anywhere where there's large casinos and
16 there's, you know, people that are coming in and
17 out of the country or people who may want to use
18 that particular mode of moving money.

19 MR. DAVIS: Madam Registrar, if I could ask that you
20 please pull up the document CAN-001276 from the
21 list of documents, please.

22 Q Mr. MacKillop, do you see that on the screen
23 there?

24 A (BM) I do see that.

25 Q Do you recognize this as a March 2019 FINTRAC

1 financial intelligence report on professional
2 money laundering in Canada?

3 A (BM) I see that, yes.

4 MR. DAVIS: Mr. Commissioner, if I can ask this
5 please be marked as the next exhibit.

6 THE COMMISSIONER: 442.

7 THE REGISTRAR: Exhibit 442.

8 **EXHIBIT 442: Professional Money Laundering in**
9 **Canada - March 2019**

10 MR. DAVIS:

11 Q Mr. MacKillop, what can you tell the
12 Commissioner about the link between money
13 launderers and money service businesses and
14 informal value transfer systems?

15 A (BM) I think the link really is with
16 professional money launderers they will use any
17 method that they can in order to move the money
18 and they're moving it on behalf of other
19 criminals or criminal organizations. They will
20 not typically use one single method, so they may
21 use a trade-based money laundering approach, for
22 example. They may use shell companies. They
23 may use banks, MSBs, casinos. They will use any
24 method possible and they will vary their methods
25 as well so as not to establish a pattern in the

1 hope of not getting caught.

2 Q Thank you. And, Mr. MacKillop, I'm going to
3 take you to a portion of this document in a
4 moment.

5 But, Ms. Ryan, if I could pause here to ask
6 you. Mr. MacKillop has just outlined a number
7 of threats and issues that are on FINTRAC's
8 attention. Do you have any specific policy
9 initiatives or otherwise that you might be able
10 to tell the Commissioner that might reflect or
11 show how FINTRAC is trying to deal with some of
12 these threats?

13 A (AR) Certainly. So from our policy function I
14 think it's important to start by saying that we
15 work with both our intelligence and compliance
16 colleagues as well as the Department of Finance
17 to flag some of these policy priorities. I
18 would draw your attention to last fall's
19 economic and fiscal snapshot where the
20 government indicated that it would continue to
21 focus on penalties and administration related to
22 MSB registration to improve the policy going
23 forward.

24 Q And were those items, penalties and registration
25 issue, were those ones flagged by FINTRAC?

1 A (AR) I would say as part of ongoing
2 conversations, you know, the nature of the
3 dialogue that we have is with law enforcement
4 through the tactical side, as Barry described.
5 From my sector we'll work with international
6 partners and -- you know, and some of the
7 research community as well as looking at it in
8 more of a structured way at our data holdings to
9 try and track some of the evolving patterns that
10 Barry described. And to the extent that we can
11 respond to that emerging threat with
12 intelligence products like an op alert, then
13 we'll issue that to the public with our
14 reporting entities in mind. To the extent that
15 we could benefit from a change to the regime,
16 then we'll initiate dialogues with partners, in
17 particular the Department of Finance.

18 Q And, Ms. Ryan, I don't have -- I don't intend to
19 put the document to you, but I appreciate that
20 FINTRAC released an op alert, an operations
21 alert, on MSBs in within the past year or two.
22 Is that right?

23 A (AR) Correct. It was 2018. July of 2018.

24 Q Thank you. And what can you tell the
25 Commissioner -- I guess, first, what is an

1 operation alert -- operational alert and what
2 goes into publishing one of those?

3 A (AR) So an operational alert is our public
4 document that, you know, is intended to inform
5 in particular our reporting entity community
6 about emerging trends that constitutes
7 suspicious activity. I think that this
8 particular operation alert is quite pertinent
9 for the discussion that you're having today in
10 that it flags a range of types of MSBs of
11 concern. You know, MSBs that are engaged in
12 legitimate activities that allow some money
13 laundering as part of their businesses, you
14 know, essentially unwittingly, those that turn a
15 blind eye to money laundering and of course the
16 potential for money service businesses to be
17 owned or operated by illicit actors directly.

18 And then we try to communicate what
19 indicators go along with that behaviour so that,
20 you know, the overall community is able to put
21 their own flags for that type of transaction in
22 their systems, in their processes and use that
23 as a basis for generating suspicious transaction
24 reports back to FINTRAC.

25 Q Thank you. And, Mr. MacKillop, I'm going to

1 turn to you for a moment.

2 MR. DAVIS: Madam Registrar, if I could ask that you
3 please scroll to page 8 of the document
4 currently displayed on the screen. I'll do so
5 as well. The bottom of page 8 of the PDF
6 please, Madam Registrar. There's a diagram
7 there. Yes.

8 Q Mr. MacKillop, do you see this at the bottom,
9 this chart, this diagram?

10 A (BM) I see that, yes.

11 Q And, you know, if you're familiar with this
12 diagram I'm wondering if you can explain to the
13 Commissioner what we're seeing here to get a
14 sense of how one of these schemes might operate.

15 A (BM) Sure. It's basically the arrows that you
16 see are the cash flows in or out. In this
17 particular case we see the MSB owner on the
18 left. He has both a personal account and a
19 business account, and the business account is
20 linked to the money service business.

21 And then we would see the money coming in
22 from overseas and it can be moved through their
23 business account, his business account, and/or
24 his personal account and moved to -- through
25 cheques, through drafts and through other

1 electronic money transfers into accounts of
2 other associates, unrelated third parties as
3 well as over to a trading company, for example.

4 And the existence of that trading company
5 may in fact be what is being used to try to
6 legitimize the money that's coming in from
7 overseas with remittance information related to
8 the trade, for example, which is a typical
9 trade-based money laundering-type scheme where
10 quite often trade is being shown as happening
11 but in fact may be unvalued, overvalued or no
12 goods at all were traded or were imported or
13 exported.

14 And it's the -- in this case the MSB owner
15 who can then commingle accounts and commingle
16 cash between his own account and his business
17 account to try to obscure the source and the end
18 use of the money.

19 Q And, Mr. MacKillop, you mentioned it briefly,
20 but what can you tell the Commissioner about the
21 involvement of financial institutions
22 effectively as intermediaries in these schemes?

23 A (BM) That is in fact -- you know, they do have a
24 place because all MSBs would have or somebody
25 who owns an MSB would have a bank account in

1 order to be able to move that money, of the
2 business account, in this case the personal
3 account, would be in a bank.

4 And quite often with their transaction
5 monitoring systems that is where we would likely
6 find the suspicious transaction reports coming
7 in. We would also see the electronic funds over
8 \$10,000 coming in or out of the accounts. And
9 depending on the amount of money going in,
10 depending on the transaction patterns
11 themselves, we would likely see reports from the
12 banks. And that's where we would be in a
13 position to assist law enforcement by
14 potentially identifying who that MSB owner is or
15 who that person is that is acting like an MSB.

16 Q Mr. MacKillop, I take it, then, from FINTRAC's
17 perspective having these banks as intervenors is
18 a valuable source of information for your group?

19 A (BM) Absolutely, yes.

20 Q Ms. Ryan, if I can turn back to you for a
21 moment. Just the panel that testified -- I
22 don't know if you were able to listen in. A
23 panel that testified and they spoke to one of
24 the primary challenges facing the industry is
25 that of de-risking by the banks and this idea

1 that banks won't even take on MSBs as clients
2 anymore.

3 And in light of Mr. MacKillop's evidence
4 that that information from banks is very
5 valuable, I'm curious if FINTRAC -- the degree
6 to which FINTRAC is dealing with that issue of
7 de-risking?

8 A (AR) So I would say that the unintended
9 consequence of de-risking is well known within
10 the AML policy world, and, you know, it's part
11 of the balance that's struck in terms of the
12 requirements for an entity to operate
13 transparently with appropriate recordkeeping in
14 order to have access to the formal financial
15 system.

16 And so, you know, to the extent that an
17 entity is not able to meet that bar, you know,
18 the awareness is certainly there that the
19 process of de-risking can mean that they won't
20 have that channel available to them to conduct
21 their business. You know, it's a balance of the
22 policy objectives that relate to the regime.
23 And having appropriate recordkeeping,
24 appropriate standards of business is -- you
25 know, is essentially the target that needs to be

1 hit in calibrating the overall regime.

2 Q Right. Yeah. Thank you.

3 MR. DAVIS: And if we scroll down to page 9, the
4 bottom of page 9, Madam Registrar.

5 And, Mr. MacKillop, I'm going to turn back
6 to you here.

7 The very bottom. Madam Registrar, if you
8 could scroll in on those bottom two bullet
9 points there. That's perfect. Thank you.

10 Mr. MacKillop, do you see the bullet point
11 that says "BC"?

12 A (BM) I see that, yes.

13 Q Starting with BC and it says:

14 "BC: using MSBs, casinos, real estate
15 and, to a lesser extent, trading companies
16 for professional money laundering
17 activities."

18 You see that there?

19 A (BM) I do.

20 Q Is that still an accurate typology, to your
21 knowledge?

22 A (BM) To my knowledge, yes.

23 Q And what can you tell the Commissioner about
24 that specific note there of how MSBs, casinos,
25 real estate are being used in British Columbia?

1 A (BM) Very similar to the diagram that we looked
2 at, the MSBs are -- can be used to move money in
3 and out. The money, once it's in Canada, can be
4 used -- can be further laundered through
5 casinos. We have seen and I think you've heard
6 likely testimony of money coming in from
7 oversees, the money itself is not being
8 transferred but rather been accessed in Canada
9 and deposited in a bank account in another
10 country. That money is then withdrawn, provided
11 to individuals who can then use it in casinos as
12 well to further launder their money or to simply
13 gamble and then at the end of the day their
14 losses are either written off or paid back
15 overseas.

16 Real estate is and really has always been,
17 and across Canada really, a way of reintegrating
18 laundered money back into the formal system and
19 to legitimize the money that they are trying to
20 launder through the purchase of real estate. It
21 is one avenue that criminals will use as well.

22 Q And that diagram that we looked at on the
23 previous page, then, is it fair to say that that
24 diagram is illustrative of schemes you might see
25 in British Columbia?

1 A (BM) Yes.

2 MR. DAVIS: Madam Registrar, if I could --

3 Q Sorry, Mr. MacKillop. Did I interrupt you
4 there?

5 A (BM) No, that's fine.

6 MR. DAVIS: If I could ask that you pull up the
7 document CAN001239 from the list of documents,
8 please.

9 Q Mr. MacKillop, do you recognize this as an
10 April 2011 report prepared by FINTRAC on trends
11 in Canadian suspicious transaction reporting?

12 A (BM) I do, yes.

13 MR. DAVIS: Mr. Commissioner, if I could ask that be
14 marked as the next exhibit, please.

15 THE REGISTRAR: The next number is 443,
16 Mr. Commissioner.

17 **EXHIBIT 443: "Trends in Canadian Suspicious**
18 **Transaction Reporting (STR) FINTRAC Typologies**
19 **and Trends Reports" - April 1, 2011**

20 MR. DAVIS: I'm sorry, Mr. Commissioner, you might be
21 muted on my end.

22 THE COMMISSIONER: Yes, I was muted. I'm sorry, I
23 had a little difficulty in unmuting myself. But
24 yes, that will form the next exhibit. Thank
25 you.

1 MR. DAVIS: And, Madam Registrar, if I could ask that
2 you pull up CAN-001240 from the list of
3 documents, please.

4 Q Mr. MacKillop, do you recognize this as the
5 second part that report that was published in
6 October 2011?

7 A (BM) I do.

8 MR. DAVIS: Mr. Commissioner, if I could ask that
9 this be marked as -- I think we're at
10 exhibit number 444, please.

11 THE COMMISSIONER: Very well, 444.

12 THE REGISTRAR: Yes.

13 **EXHIBIT 444: Trends in Canadian Suspicious**
14 **Transaction Reporting (STR) - Part II -**
15 **October 1, 2011**

16 MR. DAVIS:

17 Q Mr. MacKillop, to your knowledge has FINTRAC
18 produced any more recent report on this sort of
19 STR analysis?

20 A (BM) Not to my knowledge, no.

21 Q And I'm not going to take you through these two
22 reports in their entirety, but I'm wondering
23 what you can tell the Commissioner about what
24 these reports provide in terms of STR reporting
25 by MSBs. What sort of trends are you seeing?

1 A (BM) I was not the author of this report. This
2 would have been through Annette's shop. She may
3 have more insight into what exactly is in the
4 report itself.

5 In terms of the suspicious transaction,
6 typically what we've seen is those that we've
7 received through MSBs are transactions that are
8 deemed suspicious related to money laundering
9 based on either very quick movement, the use of
10 different agents during the same -- during a
11 24-hour period or during a 36-hour period where
12 somebody may go to different agents to move
13 money. Movement of money that is not consistent
14 with one's level of employment or one's level of
15 status, if they are unemployed or if they are
16 students. The amount of money that's coming in.
17 Those types of things would be flagged as
18 suspicious as well as we see suspicious
19 transaction reports that MSBs -- some of the big
20 MSBs are very uniquely positioned to identify
21 for us which are either money going out, so you
22 have one-to-many or many-to-one-type
23 transactions where you'd see would see many
24 people sending a level of transaction to one
25 individual in another country or a number of

1 individuals from outside of Canada sending money
2 into an individual in Canada. We would see
3 those types of transactions that would be
4 flagged for us and provided to us through
5 suspicious transaction reporting.

6 Q And, Ms. Ryan, Mr. MacKillop mentioned that your
7 group was likely the one to produce this. And
8 appreciating that you didn't hold the role in
9 2011 when this was produced, do you have
10 anything to add about trends in suspicious
11 transaction reporting when it comes to MSBs?

12 A (AR) Yeah. Thanks, Mr. Davis. So the report
13 that you have before us now is more of a
14 statistical compendium. I would say that
15 through time the group that I'm responsible for
16 has in a sense evolved the types of publications
17 that it puts out and what information is
18 compiled where.

19 I would offer that much of the physical
20 detail that's available in this specific report
21 appears now either in the annual report or
22 through the open government portal. I hope
23 that's helpful.

24 Q It is. And maybe you can help me out with one
25 question that I had on this report, Ms. Ryan.

1 MR. DAVIS: Madam Registrar, if I could turn to
2 page 4 of the PDF 1239 that's on the -- or
3 sorry -- yeah, 1239. Page 4, please.

4 Q There is a table there, Ms. Ryan, that
5 highlights the percentage of STRs submitted to
6 FINTRAC by sector on the left. Do you see that?

7 A (AR) I do.

8 Q It appears that MSBs -- at least in the years
9 examined here, so it's November 2001 until
10 August 2010, that MSBs made up far and above any
11 other sector. You know, their STR submissions
12 rival that of the banks and the credit unions.
13 Do you see that there?

14 A (AR) I do see that.

15 Q Is that still true today that the volume of
16 submitted by MSB is comparable to that of the
17 banks and credit unions?

18 A (AR) I'm looking through our annual report right
19 now for potentially accurate statistics, but I
20 would be of the view that it would be much,
21 much, much more banks and trusts, loans, credit
22 unions currently.

23 Q So you would guess that this kind of -- the
24 close ratio that we see here, that that might
25 not -- appreciating that you don't have the

1 information right in front of you, that you
2 would guess that that's no longer accurate?

3 A (AR) I believe it's evolved. Barry, would you
4 have a view of the relative proportions?

5 (BM) I don't have it in front of me, but I
6 think you're correct, Annette. I think credit
7 unions, *caisse populaires* would have probably
8 surpassed MSBs in terms of percentage of STRs
9 that we received.

10 Q Does either of you have insight as to why that
11 shift has occurred?

12 A (BM) In part it's just -- it speaks to the
13 percentage of the financial transactions that
14 actually occur and the use of banks and trust
15 loan companies, credit unions and *caisse*
16 *populaires* as well as perhaps some of the change
17 in some of the reporting through the *caisse*
18 *populaires* as well, which has been centralized
19 with the federation and has led to a number of
20 quality STRs coming in.

21 So it's simply -- this percentage may
22 actually change year over year. It's not
23 necessarily consistent. It's a little like our
24 two largest predicate offences linked to our
25 disclosures. Some years it's drugs, some years

1 it's fraud and they tend to go back and forth.
2 So I think the consistency would be in the banks
3 and trusts and loan companies providing us the
4 greatest percentage of STRs.

5 Q And, Mr. MacKillop, I spoke previously with the
6 previous panel about unregistered MSBs.
7 Perhaps -- I'm wondering if you can tell the
8 Commissioner what sorts of threats do
9 unregistered MSBs pose in terms of money
10 laundering and what visibility does FINTRAC have
11 into those unregistered MSB?

12 A (BM) I think the threat is relatively obvious in
13 that they're not reporting to FINTRAC, so we
14 don't know of their existence and we don't know
15 of the quality of their reports, the type of
16 transactions going through their MSB. They
17 would exist -- there would be a threat and a
18 risk that they are complicit in money laundering
19 and assisting some the professional money
20 launderers, for example, or some of the criminal
21 organizations to launder their money, so there
22 is definitely a risk there.

23 In terms of what our insight is, it tends to
24 be through other reporting institutions like
25 banks, for example, who will through their

1 transaction monitoring systems be able to
2 identify those entities or individuals that are
3 acting like MSBs. And they can then -- they do
4 then verify with FINTRAC's registry and if the
5 MSB or this particular entity or person is not
6 registered with FINTRAC, we will see STRs on
7 them and we will then provide those to law
8 enforcement as we meet our threshold to disclose
9 to law enforcement related to this.

10 Q And, Ms. Achimov, do you ever receive requests
11 for notifications from those reporting entities
12 like banks telling your group that they think an
13 MSB is acting as an MSB but isn't registered?

14 A (DA) Typically we have some high-level
15 indications from our reporting entities, but the
16 main vehicle for that type of information to be
17 communicated is through our -- through the
18 suspicious transaction reports.

19 Q And those -- the information in those STRs may
20 eventually be communicated to your group. Is
21 that right, if I have Mr. MacKillop's evidence
22 correctly?

23 A (DA) Yes, that's correct.

24 Q Do you have a sense of how often that happens
25 with respect to unregistered MSBs?

Donna Achimov (for the commission)
Barry MacKillop (for the commission)
Annette Ryan (for the commission)
Exam by Mr. Davis

124

1 A (DA) I don't.

2 Q Mr. MacKillop, I'm going to turn back to you
3 just for one more moment.

4 MR. DAVIS: Madam Registrar, if I can ask that you
5 pull up the document CAN202 from the list of
6 documents, please.

7 Q Mr. MacKillop, do you recognize this document as
8 a financial intelligence report that was
9 prepared by FINTRAC in February of 2016 on
10 informal value transfer systems?

11 A (BM) I do.

12 MR. DAVIS: Mr. Commissioner, if I could ask that
13 this be marked as exhibit 445, please.

14 THE COMMISSIONER: Yes, very well.

15 THE REGISTRAR: Exhibit 445.

16 **EXHIBIT 445: Financial Intelligence Report**
17 **Criminal Informal Value Transfer Systems**
18 **(IVTS) - February 2016**

19 MR. DAVIS:

20 Q And, Mr. MacKillop, this report, I'm looking at
21 the very first paragraph on page 1 under
22 "Issue." It says:

23 "Informal Value Transfer Systems ...

24 (which are considered to be Money Service
25 Businesses ... in Canada) such as *hawala*

1 are one of the means by which
2 transnational organized crime groups
3 launder their criminal proceeds."

4 Do you see that there?

5 A (BM) I see that.

6 Q And again I suppose I'd ask you what group does
7 your insight -- or what insight does your group
8 have into these informal value transfer systems
9 and how does it gain insight into them?

10 A (BM) That is -- it is a perhaps more difficult
11 one. Because the cash may not in fact leave the
12 country, it is more difficult to get insight
13 into the informal value transfer systems. We
14 would get insight usually through law
15 enforcement, through voluntary information
16 records, for example. If law enforcement were
17 to come across the use of an informal value
18 system in the laundering of proceeds of crime
19 from a criminal organization and we would be
20 able to at that point verify within our database
21 to see if we have any transactions related to
22 the individual.

23 Quite often at some point within the
24 informal value transfer systems there has to be
25 a balancing of money at some point, gains and

1 losses, through -- and sometimes we will see
2 those transactions as reported through financial
3 institutions and we would be able to use our --
4 the information that we have in our data system
5 in order to provide a disclosure, if possible,
6 to law enforcement to assist them in their
7 investigation. But the insight may be -- we may
8 have less insight on this that we would on an
9 unregistered MSB that's not acting as a hawala
10 but rather acting as a more regular type of MSB.

11 Q And I take your evidence earlier, correct me if
12 I'm wrong, that in the event that a reporting
13 entity -- it came to its knowledge that an
14 unregistered entity was acting akin to an MSB
15 per the FINTRAC regulations or the guidelines,
16 that that would be something that would be
17 expected to be reported in an STR to FINTRAC?

18 A (BM) Yes. Correct.

19 Q And what about for non-reporting entities? What
20 if they discover an unregistered MSB? Where do
21 they report, or how do they report?

22 A (BM) If they're a non-reporting entity we have a
23 public voluntary information record that is on
24 our FINTRAC portal that any member of the public
25 or any non-reporting entity could use to report

1 to us. And when we have that information, we
2 treat it as a voluntary information record and
3 we will do our analysis. And if we meet our
4 threshold, we will disclose to law enforcement.

5 Q Thank you.

6 MR. DAVIS: And, Madam Registrar, if we can scroll
7 the page 6 of this PDF please. There's a
8 heading -- sorry, I'm just getting there
9 myself -- "Conclusions and Next Steps" on page 6
10 there. That's paragraph 16.

11 Q Mr. MacKillop, do you see that?

12 A (BM) I see that.

13 Q This paragraph reads in part, looking at the
14 first line:

15 "Identifying unregistered MSBs including
16 IVTS -- "

17 So that's informal value transfer systems.

18 "-- and suspected complicit MSBs, is a
19 challenge which FINTRAC can address by
20 enhancing the reporting the Centre
21 receives from financial institutions."

22 Do you see that?

23 A (BM) I see that.

24 Q Is that still accurate?

25 A (BM) Yes, it is. We continuously do outreach,

1 whether it's with our financial institutions,
2 our big banks, our credit unions and other
3 reporting entities. And a lot of the outreach
4 even through our major reporters forum that we
5 hold annually, for example, is to talk about
6 trends or typologies that we see, any changes
7 that we see and any additional -- not an
8 additional role but a more enhanced role through
9 sensitizing them to what we're seeing and what
10 law enforcement is seeing generally so that they
11 can enhance their own transaction monitoring
12 systems and enhance their reporting that they do
13 to us.

14 MR. MARTLAND: Thank you. Madam Registrar, I won't
15 need that document displayed for the time being.

16 Q And, Ms. Achimov, I'm hoping to turn to you now
17 to ask a few questions about FINTRAC's
18 compliance work.

19 What can you tell the Commissioner about how
20 an entity might register as an MSB with FINTRAC?
21 What's the process and what are they required to
22 submit?

23 A (DA) so, Mr. Davis, thank you. I'll begin by
24 just touching on a number of key steps and
25 walking you through the journey of an MSB

1 dealing with FINTRAC.

2 So an MSB can either be a person, an
3 individual or a businesses entity. So if they
4 want to register, they need to first incorporate
5 themselves and that can either be done at the
6 federal or the provincial level. And they can
7 be the sole proprietor. In order to undertake
8 or to be part of an MSB business they'll need a
9 bank account, and so that usually is that first
10 key activity. And we've seen in some cases
11 where either individuals or entities request to
12 open a bank account in order to provide MSB
13 activities and the bank requires proof that
14 they're registered with FINTRAC. So that's
15 really that first key step.

16 So by virtue of this, we see the fact that
17 we get approached in terms of registration.
18 What we do in the registration process is we
19 check that these are -- we take a look at are
20 they a registered Canadian business. We take a
21 look at who the senior officers are, who the
22 president is. The registration process is
23 really the first touch point with FINTRAC, so we
24 do a lot of education in terms of what is
25 required.

1 From there we do a number checks. We do
2 validation with criminal checks. We look at any
3 terrorist listings. We go to two terrorist
4 listings in fact to see if there are any matches
5 that are there. And we also do some checks in
6 terms of domestic and international media to
7 assess if any mention is being recorded of those
8 entities.

9 Q Thank you for --

10 A That really is the step-by-step process.

11 Q Go ahead, Ms. Achimov. I'm sorry, I cut you off
12 there, if you had more to add.

13 A (DA) No, I didn't. Thank you.

14 Q I just had a couple of questions on that. You
15 mentioned that FINTRAC asks whether or not an
16 applicant has an account with a bank; is that
17 right?

18 A (DA) No, the bank -- in order for them to be --
19 to be operating as an MSB they have to be
20 registered with FINTRAC, so it's usually the
21 other way around.

22 Q Okay. So FINTRAC doesn't make sure that an MSB
23 has a bank account?

24 A (DA) No.

25 Q Okay. Thank you. And you mentioned vetting to

1 incoming applicants. What members of an MSB are
2 vetted with a criminal record check? Is that
3 directors? Would directors be vetted?

4 A (DA) Yes, the directors, the owner, the
5 president of the corporation.

6 Q And how does FINTRAC determine or look at
7 whether or not there are actually beneficial
8 owners or nominees underlying those principals,
9 directors, owners?

10 A (DA) Again, partially through the corporation
11 listings.

12 Q Does FINTRAC have access to the transparency
13 register?

14 A (DA) I don't believe we do.

15 Q And FINTRAC doesn't have access to any
16 beneficial ownership register that isn't
17 otherwise available, does it?

18 A (DA) We work through Canada corporations, so
19 whatever is listed through the registered
20 Canadian businesses.

21 Q Okay. And is that based on the information that
22 you pay to see in the public, or do you have
23 some sort of internal -- and what I'm looking to
24 get at here, Ms. Achimov, is the information
25 that's available to FINTRAC to verify these

1 applications and information that it might need
2 or might -- that might help with that process.

3 So that's why I mention the transparency
4 register and beneficial ownership.

5 A (DA) So provincial registries are key as well in
6 terms of us gleaning that type of information.

7 Q And is it fair to say from your perspective that
8 more information would be better to look at
9 these applications?

10 A (DA) Well, obviously the more information we
11 have, the more thorough we could be. So in the
12 ideal world, yes.

13 Q And, Ms. Achimov, what sort of restrictions
14 exist currently on where an MSB might operate,
15 for example, in someone's residence?

16 A (DA) There aren't restrictions. We do identify
17 as we take a look at the registration those that
18 are operating in a residence. And don't forget,
19 I think it's important to note here, that a vast
20 majority of the MSBs are very small entities.
21 In many cases, you know, to use a colloquial
22 term, they're mom and pop organizations, so they
23 are in either a residence, in a convenience
24 store, that type of thing.

25 Q And when would FINTRAC refuse registration from

1 an applicant?

2 A (DA) Well, we would refuse registration in the
3 event that there is a criminal conviction.
4 That's one of the key areas in terms of where we
5 would refuse.

6 Q What about ongoing investigations by police?

7 A (DA) No, there has to be a criminal conviction.
8 I mean, you're innocent until proven guilty.

9 Q Right. And so it's publicly available, then,
10 that -- looking at the FINTRAC website that an
11 MSB by the name of Silver International
12 Investment which operated out of Richmond was
13 registered with FINTRAC on December 18th, 2015.
14 Are you aware of that fact?

15 A (DA) Mr. Davis, I'm not at liberty to talk about
16 specific cases.

17 Q Okay. Then maybe I'll ask you is suspected
18 criminality -- and you've just answered this,
19 suspected criminality, an ongoing police
20 investigation, would that ever qualify as a
21 reason for FINTRAC to refuse the registration of
22 an MSB?

23 A (DA) No, no. We look at a number of factors,
24 but no, not in isolation. There has to be a
25 criminal conviction.

1 Q And that's the case even if FINTRAC has made
2 previous disclosures to police in respect of
3 that incoming applicant?

4 A (DA) Well, our risk assessment takes a look at
5 numerous factors. I mean, clearly we would
6 elevate -- in terms of our assessment our risk
7 assessment, that goes up if there's numerous
8 allegations, if there's media coverage. The
9 risk goes up for other compliance activities
10 that we would be alerted to.

11 Q But it wouldn't -- you would never refuse
12 registration. It would only have an impact
13 after they were registered with FINTRAC; is that
14 right?

15 A (DA) Yes. And there has to be a criminal
16 conviction. I think that that's the important
17 piece that -- given our constitution and the way
18 the law works, there has to be a conviction.

19 Q Any criminal convictions or is it -- is there
20 designated offences, or ...

21 A (DA) There are designated offences that are
22 relative. So, you know, dealing in drugs, you
23 know, related criminal offences obviously.

24 Q And, Mr. MacKillop, I had hoped to leave you
25 alone at this point, but I'm not going to. Has

1 your group -- I'm trying to think of how to ask
2 this. Has your group made -- shared information
3 with Ms. Achimov's group about an MSB that might
4 have been the subject of a disclosure before
5 they were granted registration? Are you aware
6 of whether that's ever taken place?

7 A (BM) I'm not aware of whether or not that's
8 taken place, although, you know, similar to
9 Donna, I'm prohibited to speak to specifics. My
10 legislation doesn't allow me to speak to
11 anything specific with respect to ongoing
12 investigations, but typically -- there may be a
13 couple of things. If there is an ongoing
14 investigation, for example, on a currently
15 registered MSB, we may send an intel notice to
16 Donna's shop to suggest that they either not do
17 an assessment at this time because there could
18 be a police undercover operation going on, for
19 example, and we wouldn't want to mess up an
20 investigation.

21 So we would have that type of intel notice
22 that would be sent to Donna. But in -- I don't
23 have any information with respect to that which
24 you're referring to.

25 Q Fair enough. But would you ever then go to

1 Ms. Achimov's group and say, this is an MSB that
2 is under investigation; grant its registration?

3 A (BM) No.

4 Q No. Okay. And, Ms. Achimov, turning back to
5 you, maybe you can describe what FINTRAC does
6 when it conducts a compliance examination of an
7 MSB, please.

8 A (DA) Thank you. Yes, I will do that. So when
9 we look at an MSB that we are assessing, we
10 select the MSB in question and that organization
11 is contacted by FINTRAC. So that's the first
12 step, we have informed the MSB that we're going
13 to be conducting an assessment.

14 This is followed with -- we issue a
15 notification letter, which FINTRAC requires the
16 MSB to submit pre-examination materials and that
17 could be anything from sample reports, copies of
18 their policies and procedures.

19 The receipt of this pre-examination material
20 then allows us to do some pre-work as we start
21 to plan our overall exam. If it's an onsite
22 exam, we do a lot of the pre-work on some of the
23 items to scope what we will be looking for and
24 then we go onsite and we assess if the MSB has
25 in fact submitted all the reports that they were

1 supposed to, and we do that type of review.
2 When we do a desk exam this is work that's
3 conducted via telephone. And, again, we scope
4 it in the appropriate way.

5 Once we conduct the exam and once it's
6 completed, we consolidate all of our findings
7 and apply various outcomes based on a holistic
8 assessment approach, and a number of other
9 factors are assessed in terms of gauging if
10 there is non-compliance. And what is key for us
11 if this is an established organization, we take
12 a look at the compliance history. So did we do
13 reviews in the past; was there an action plan;
14 was there corrective action taken.

15 And then we render our decision. So if
16 there's no action or if we decide to conduct a
17 followup examination or if we decide that there
18 are some issues that need to be addressed, we
19 create an action plan or we consider the MSB
20 foreign enforcement action such as
21 administrative monetary penalty.

22 And maybe I'll add that this is -- that this
23 process has changed over the last few years. We
24 were really -- we've shifted and made a
25 comprehensive shift from an audit-based review

1 much more to an assessment. And so what I'm
2 really pleased to say is that our education and
3 our compliance awareness continues. Our letters
4 and our findings are written in such a way that
5 they are instructive of areas where the MSB
6 needs to improve. We give some rationale and we
7 provide suggestions in terms of how they can
8 improve.

9 Q When did that shift occur between the audit and
10 the assessment functions as you've just
11 described?

12 A (DA) Two years ago.

13 Q Do you know why that happened?

14 A (DA) A whole host of reasons. We did have a few
15 court challenges and some recommendations
16 emanating from those court challenges in regards
17 to the need for us to be more transparent in
18 terms of how we were doing assessments so that
19 our reporting entities would understand why
20 they're being assessed, how they're being
21 assessed. We've really shifted in terms of
22 taking a look at harm done which is very, very
23 much an important consideration.

24 And I think it's -- if I may say, it's a
25 natural evolution and it's the maturity of the

1 program in terms of us being able to really take
2 a look at what we intend to do. We want to make
3 sure that people understand, we want to make
4 sure that they comply and we want to make sure
5 is that the regime is robust.

6 Q And kind of on this line, you've provided,
7 Ms. Achimov, or FINTRAC has provided to the
8 commission statistics on the number of
9 examinations conducted by FINTRAC for BC and
10 Canada MSBs; is that right?

11 A (DA) Yes, that's correct.

12 MR. DAVIS: Madam Registrar, if I could ask that you
13 please pull up the document entitled
14 "2021/01/15, Letter to Commission Re FINTRAC
15 Interview Requests," please.

16 I was about to ask this not be displayed,
17 but it looks like the email has been redacted.

18 Q Ms. Achimov, do you recognize this as a copy of
19 that letter dated January 15, 2021?

20 A (DA) Yes.

21 MR. DAVIS: Mr. Commissioner, if I could be asked
22 that this be marked as exhibit -- I think we're
23 at 445 -- or 446 now, sorry.

24 THE COMMISSIONER: I think it's 446.

25 THE REGISTRAR: Exhibit 446.

1 **EXHIBIT 446: FINTRAC Statistics Letter -**
2 **January 15th, 2021**

3 MR. DAVIS: And if we scroll to the bottom of page 1
4 of the PDF, please, Madam Registrar.

5 Q Ms. Achimov, do you see that table there?

6 A (DA) Yes, I do.

7 Q What's the data contained in this table?

8 A (DA) so We basically see the fiscal year on the
9 far left, and then we see the number of MSBs
10 nationally. So that's a running total. We then
11 break it down to onsite exams and the number of
12 desk exams and then we have a similar breakdown
13 for the Province of British Columbia.

14 Q And we see here looking at this table, then,
15 that the number of MSBs registered with FINTRAC
16 in British Columbia has gone from about 164 in
17 fiscal year 2015/2016 to 317 in 2019/2020. Is
18 that -- am I interpreting that correctly?

19 A (DA) Yes, you are.

20 Q And, Ms. Achimov, you might have already
21 answered this, but your group doesn't have any
22 insight as to the number of unregistered MSBs
23 operating in British Columbia? There's no
24 estimate you can provide, is there?

25 A (DA) No, there's no estimate. And not just in

1 BC. It's -- that's part and parcel of the
2 challenge of trying to figure out which are not
3 registered.

4 Q So that's true all across Canada. It's not a
5 BC unique phenomenon?

6 A (DA) Correct.

7 MR. DAVIS: Madam Registrar, if we scroll down to
8 page 2 of this document. At the top there's two
9 notes there, please.

10 Q And note 2, Ms. Achimov, reads:

11 "Based on the methodology used for
12 question (1) it is possible to not have
13 exams counted if an examined MSB status
14 was expired (or was in any other status
15 than registered) at the end of the fiscal
16 year."

17 Is that accurate?

18 A (DA) Yes, it is.

19 Q And, Ms. Achimov, how often does that happen in
20 your experience where an MSB is examined in a
21 fiscal year and then it ceases to be registered
22 before the end of the fiscal year end? And why
23 I ask that is I'm looking to see how big of a
24 caveat that should be in these statistics.

25 A (DA) I mean, I can't give you a number. It is

1 possible. MSBs by the nature of their existence
2 sometimes are very short-lived. They don't have
3 a very long tenure, so that is part and parcel
4 of what we look at. However, our risk
5 methodology does take a look at a good
6 cross-section of those that are more established
7 and those who are just starting up.

8 MR. DAVIS: And, Madam Registrar, if we scroll back
9 up to the table on page 1 at the bottom of
10 page 1, please.

11 Q We see here, Ms. Achimov, looking at the
12 "BC" column that the number of onsite exams in
13 British Columbia has gone from 33 conducted in
14 2015/2016 to 13 conducted in 2019/2020; is that
15 right?

16 A (DA) That's correct.

17 Q And why are there less onsite examinations
18 despite the fact that the number of registered
19 MSBs in British Columbia has almost doubled over
20 that time?

21 A (DA) I think it depends on a number of
22 scenarios. Some are now operating in a virtual
23 environment so that is part and parcel. We are
24 looking at desk exams where, depending on a risk
25 methodology, we can definitely assess more

1 through a desk exam. And, again, part and
2 parcel of that, every year our risk-based
3 assessment may vary and may shed light in
4 certain areas that are of higher risk than in
5 others.

6 Q And you mentioned virtual offices. Do I take
7 it, then, that a virtual office prevents an
8 onsite exam?

9 A (DA) Yes, by virtue of the fact that it is a
10 virtual entity. But I should say sectors
11 examined can vary over the years as well. You
12 know, some -- in some years MSBs are more of a
13 focus, depending on what the risk criteria and
14 the risk ranking is, and other sectors come into
15 play.

16 Q Right. And so then what are we to take, then,
17 from looking at the decreasing numbers here? I
18 mean, because looking at even -- if I ask you to
19 look at the number of desk exams, from 2015 to
20 2016 there were 14 and in 2019/2020 there were
21 three. Do you see that?

22 A (DA) Yes, I do.

23 Q So what does this table then tell the
24 Commissioner about the priorities assigned to
25 MSB compliance by FINTRAC? What do you take

1 from that?

2 A (DA) Well, I take it that these reflect on an
3 annual basis the risk scoring that we do have.
4 This takes into effect -- and I think we'll see
5 this year in particular given that we had COVID
6 and the fact that we were restricted from going
7 on site, and in some cases, even when we phoned
8 to do desk exams, certain entities depending on
9 how badly they were impacted may not have been
10 ready for an examination.

11 So, again, I go back to the fact that, you
12 know, year over year the sectors we examine can
13 vary depending on what the risk criteria is.

14 Q Sorry, I may have misheard you there. Do you
15 mind explaining what you mean when an entity
16 needs to be ready for an examination?

17 A (DA) Well, during COVID, as I think we can all
18 imagine, we may have on our exam plan plans to
19 examine and to do a desk audit. We use some
20 judgment if an MSB indicates to us that a number
21 of their key players who would be furnishing the
22 information are not available or who are
23 impacted and who are ill, we adjust accordingly.
24 We try and understand the rationale in terms of
25 what the impact could be, but we have to take

1 that into consideration. I mean, COVID has
2 really put us in a situation where we have to
3 use some judgment.

4 And we do also have -- we're limited in the
5 resources that we have and we have to use our
6 resources judiciously to conduct effective
7 exams. And, again, we leverage our risk
8 criteria in terms of helping us zero in on the
9 areas of risk and we dedicate the resources
10 accordingly.

11 Q And, Ms. Achimov, then when we look at this
12 table, does it more reflect FINTRAC's priorities
13 or is this a function of the compliance group's
14 capacity or is it both?

15 A (DA) It's reflective of our risk-based
16 assessment and to some extent capacity. But the
17 risk base is what our key indicator always is,
18 and we match the capacity as best as we can.

19 Q And what sort of capacity -- what does your
20 group like? How many people work in your group
21 right now?

22 A (DA) In the British Columbia office?

23 Q Sure.

24 A (DA) Or in -- in the British Columbia office we
25 have about 15.

1 Q And those 15 people, do they deal with
2 compliance examinations of all reporting
3 entities in British Columbia?

4 A (DA) Yes. Yes, they do.

5 Q Okay. And I would like to turn or ask you
6 quickly about --

7 MR. DAVIS: Madam Registrar, on page 2 of this
8 document there is a number 3 there. Thank you,
9 Madam Registrar.

10 Q What can you tell the Commissioner, Ms. Achimov,
11 about the triggers for FINTRAC to conduct a
12 compliance examination? What causes that to
13 happen?

14 A (DA) Again, that's our risk model. And again we
15 flag high risks that are identified in the risk
16 modeling per year and that's how we associate
17 the priority.

18 Q And what about with new MSBs? The Commissioner
19 just heard evidence from a member -- from a
20 witness that oftentimes one of the key risk
21 areas is that MSBs that -- like you testified
22 earlier, that operate for a short period of
23 time, sometimes less than three years, will not
24 be examined by FINTRAC. Do you have any
25 response to that?

1 A (DA) Well, it's like any business, Mr. Davis.
2 They have to have the opportunity to have a bit
3 of a track record. They have to have the
4 ability to file their reports, to have something
5 that we can review. And on average we really
6 take a look at entities -- our scope is really
7 six to eight months in the past, so giving them
8 at least a chance to set up their operations.

9 Now, that may be sped up and we may decide
10 to look at organizations that are very new in
11 that six-month period if we start to see that
12 there are -- that there's media coverage or that
13 we are alerted to any suspicious activity or any
14 activities that would warrant us moving up an
15 examination.

16 Q And that's what we see in the answer to
17 question 3 here, which says:

18 "FINTRAC can also examine a MSB prior to
19 the two-year period to address any
20 identified risk or if information becomes
21 available, that warrants an earlier
22 touchpoint. FINTRAC can conduct
23 examinations if there is specific
24 information, such as intelligence,
25 regional knowledge, media coverage, themed

1 examinations ..."

2 Those are the triggers you're talking about,

3 Ms. Achimov?

4 A (DA) Yes, absolutely.

5 Q Thank you.

6 MR. DAVIS: And, Madam Registrar, if we could scroll
7 just a little down the page. You've got it
8 there. Looking at table 4 to be the centre,
9 please. No, sorry, Madam Registrar, up -- just
10 there. That's perfect. Thank you.

11 Q Do you see that table there, Ms. Achimov?

12 A (DA) Yes, I do.

13 Q And what's the date presented in this table?

14 A (DA) This is basically our MSB registration.
15 The new registration count, we track those that
16 have been examined within the two years of the
17 registration, those examined after two years
18 registration, the active and available in our
19 pool and then those that we know are inactive,
20 and we track those and we factor those into the
21 assessment.

22 MR. DAVIS: Madam Registrar, if you scroll down to
23 the very bottom of the PDF. That should be the
24 bottom of page 3.

25 Q Ms. Achimov, is the data in this table the same

1 data as we just reviewed but for
2 British Columbia specifically?

3 A (DA) Yes, it is.

4 Q And if we look at this table here, we see that
5 of those 34 MSBs that were newly registered in
6 British Columbia in 2015/2016, only ten of them
7 were examined within two years of registration.
8 Is that accurate?

9 A (DA) Yes, it is.

10 Q And if I'm reading this correctly
11 [indiscernible] there were 24 there were not --

12 THE COMMISSIONER: I'm sorry, Mr. --

13 MR. DAVIS: I'm sorry, am I --

14 THE COMMISSIONER: Mr. Davis, you're -- we're having
15 difficulty in hearing you. I wonder if you
16 could ask that question again. There seems to
17 be some difficulty with your connection.

18 MR. DAVIS: Yeah, I just got an "internet is
19 unstable" notice. Thank you, Mr. Commissioner.

20 Q Ms. Achimov, can you hear me okay. Now?

21 A (DA) Now, I can thank you.

22 Q Thank you. And thank you, Mr. Commissioner.

23 I was just saying looking at the -- at this
24 data, so in 2015/2016 there were
25 34 registrations and 10 of those were examined

1 Reporting Entities' first examination
2 where FINTRAC attempted to conduct the
3 exam but had to bypass because the MSB is
4 no longer operating, as well as any
5 follow-up examinations on MSBs with
6 deficiencies for which FINTRAC also
7 dedicates its resources."

8 Is that statement accurate?

9 A (DA) Yes, it is.

10 Q And how often did FINTRAC attempt to examine a
11 newly registered MSB only to discover that it's
12 no longer in business?

13 A (DA) I don't have that level of data, Mr. Davis.
14 However, the first -- as I indicated earlier on
15 in my response, we take every opportunity in the
16 initial registration process in terms of doing
17 education, in terms of providing feedback,
18 followup. So we do a lot of the touch points
19 earlier on.

20 And, again, as you can imagine with
21 businesses that are maybe small, mom and pop,
22 one-person organizations, very volatile, it is
23 not unlikely that in some cases they cease to
24 operate before their first year of operation.

25 Q And on that latter point in this sentence, it

1 says:

2 "... as well as any follow-up examinations
3 on MSBs with deficiencies for which
4 FINTRAC also dedicates its resources ..."

5 And I just wanted to clarify this statement. Is
6 it fair to say FINTRAC would only conduct a
7 followup exam if an exam had been performed in
8 the first place?

9 A (DA) Yes.

10 Q And so --

11 A (DA) We'd have to have -- we'd have to have some
12 track record. We'd have to have an initial exam
13 and then, as I mentioned earlier, in some
14 instances the deficiencies may not be
15 significant with significant harm done, but
16 there are deficiencies in compliance. And what
17 we would do is we would develop an action plan,
18 and that action plan requires followup and
19 periodic reporting back to make sure that
20 whatever the deficiency is, steps are being
21 taken in terms of making that correction. So if
22 we have that ongoing relationship and engagement
23 and we're following up, and we deem that the
24 risk is manageable, then we focus our resources
25 in other areas because we know we're getting

1 that feedback and that followup.

2 Q And speaking of risk, I had a few documents I
3 wanted to take you through. But I'll ask you
4 briefly, what can you tell the Commissioner
5 about how MSBs in your view have performed on
6 their compliance examinations?

7 A (DA) So thank you for that question. We look at
8 that on a regular basis in terms of informing
9 our outreach and how we educate our MSBs. So
10 they perform well, and I'm giving it a broad
11 brushstroke in terms of their mandatory
12 requirements, so the appointment of a compliance
13 officer. Their knowing their client, their
14 verification of the identity of their clients,
15 any third-party determination and basically
16 recordkeeping.

17 So that we find on average works well.
18 Where we see some issues and where we see some
19 challenges obviously training obligations, their
20 reporting, lack of policies and procedures.
21 They're missing elements of policies and
22 procedures. And, again, that's understandable
23 in some instances if they're a very small
24 organization, and as I mentioned, the mom and
25 pops the one- or two-person organization.

1 Sometimes there's language barriers. So there's
2 a variety of areas where there are certain
3 challenges. As I mentioned, language barriers,
4 understanding the risk associated with some of
5 the clients. Those are the challenges that we
6 see in terms of non-compliance and lack of
7 awareness.

8 Q Thank you.

9 MR. DAVIS: Mr. Commissioner, just to step aside for
10 a moment I've gone over my estimated time. We
11 have four participants who intend to ask
12 questions of this panel, and they've estimated
13 about 45 minutes. I don't anticipate going much
14 longer, but I did want to ask whether you'd fine
15 to sit to go 2 o'clock today if we do run over.

16 THE COMMISSIONER: Yes, that's fine, Mr. Davis.

17 MR. DAVIS: Thank you, Mr. Commissioner.

18 Madam Registrar, if I could ask that you
19 please pull up the document CAN001168 from the
20 list of documents, please.

21 Q Ms. Achimov, you see that document?

22 A (DA) Yes, I do.

23 Q Do you recognize it as FINTRAC's September 2017
24 compliance report to the Minister of Finance?

25 A (DA) Yes, I do.

1 MR. DAVIS: Mr. Commissioner, if I could ask that
2 this be marked as exhibit 447, please.

3 THE COMMISSIONER: Very well.

4 THE REGISTRAR: Exhibit 447.

5 **EXHIBIT 447: FINTRAC Report to the Minister of**
6 **Finance on Compliance and Related Activities -**
7 **September 30, 2017**

8 MR. DAVIS:

9 Q Ms. Achimov, I'm not going to take you through
10 this report because it speaks for itself, but
11 one question I had for you. In this report
12 something called non-compliance disclosure is
13 described. What is a non-compliance disclosure?

14 A (DA) That is when we have evidence that
15 compliance is not being met. It's usually
16 part and parcel of when we do assessments and we
17 get voluntary information provided to us where
18 there is non-compliance.

19 Q Sorry, it's information provided to you or
20 provided to who? Sorry, I missed that.

21 A (DA) We get voluntary information reports from
22 law enforcement. That's a good example.

23 Q Okay. And have any of these reports been made
24 in respect of BC-based MSBs to your knowledge?
25 Do you know that?

1 A (DA) I believe so. I'd need to check my notes.
2 So yes, yes, over the last four years we've had
3 27 non-compliance disclosures. I can take you
4 through in 2019/2020 we had seven nationally.
5 One was in BC. The year before in 2018/2019 we
6 had seven nationally and two out of those seven
7 were in BC.

8 Q M'mm-hmm. Okay. And I don't know if you're
9 able to speak to the BC-specific referrals but
10 wondering if you can give the Commissioner a
11 sense of what sort of, you know, non-compliance
12 would lead to one of these disclosures. And I
13 don't -- I'm not asking you to speak to
14 specifics, names or any details. I'm just
15 trying to get a sense of where these MSBs might
16 have fallen off the tracks sufficient to warrant
17 one of these notices or referrals?

18 A (DA) So it's -- I'll basically say the
19 non-compliance has to deal with the *PCMLTFA*, so
20 it's -- I can't be more specific, but it has to
21 be non-compliance with our act.

22 Q And are you aware of what happened with those
23 referrals, with those notes?

24 A (DA) I need to check my notes, but I believe --
25 and, again -- nine cases where we had

1 non-compliance disclosures communicated to law
2 enforcement, they resulted in -- I believe three
3 resulted in convictions, but I would like to
4 check that. And I think out of those three,
5 Mr. Davis, I believe one was in BC, but I would
6 like to validate that.

7 Q Sure. And if you don't mind validating what the
8 convictions were for, for what offences, that
9 would also be incredibly useful. Thank you,
10 Ms. Achimov.

11 A (DA) I do want to qualify, Mr. Davis, that when
12 we -- when you asked me about the non-compliance
13 disclosures, they're not all related to MSBs.
14 So I just wanted to be clear on that point.

15 Q Okay. That is helpful. Sorry, I had written
16 down here that they were -- those were the MSB
17 non-compliance disclosure. Those are for all
18 reporting entities?

19 A (DA) All reporting entities, correct.

20 MR. AVIS: Okay. Madam Registrar, if I can ask that
21 you please pull up next the document CAN001169
22 from the list of documents, please.

23 Q Ms. Achimov, do you recognize this as FINTRAC's
24 2018 compliance report to the Minister of
25 Finance?

1 Q I'm going to read this quote that starts at the
2 bottom of page 8, Ms. Achimov, and goes to the
3 top of page 9. Please let me know when you're
4 with me.

5 A (DA) I'm with you. Thank you.

6 Q Thank you. And this paragraph reads:

7 "One of the constant challenges for this
8 sector is determining whether or not all
9 Canadian MSBs are in fact registered with
10 FINTRAC. An internal process is used to
11 validate and identify all MSBs that should
12 be registered."

13 Is that internal process the one you described
14 earlier relying on all the intelligence and
15 media reports, or is there some other internal
16 process that you're describing here?

17 A (DA) We do have a relation annual review of our
18 MSBs. And we do that -- part and parcel is for
19 us as we look at our exam planning horizon, we
20 do a retrospective look at what happened in the
21 past year. And we do actively seek out to
22 adjust our records, so we look to see if those
23 who are operating are still operating, if
24 they're expired, if they've ceased, if they've
25 been revoked or denied their registrations or

1 they're no longer operating. So that's part and
2 parcel of what we do in addition to our exam
3 function.

4 Q Thank you. And, Ms. Achimov, the last question
5 that I have for you stems from some points we
6 were talking about earlier in refusing an
7 application to be registered as an MSB. And my
8 last question for you is would FINTRAC deny the
9 registration of an MSB if an applicant were
10 charged with a crime? Not convicted but charged
11 with a crime.

12 A (DA) They have to be convicted. So the two main
13 areas, Mr. Davis, where we would deny or revoke
14 is conviction of a criminal offence or a listed
15 person as part of a terrorist group. Those are
16 the two prime areas where we revoke or deny.

17 Q Thank you, Ms. Achimov.

18 And, Ms. Ryan, I'm hoping that I can close
19 out the examination by asking you about some of
20 the recent policy work that's being done by
21 FINTRAC. And I asked you earlier, but perhaps
22 you can tell -- if there's anything else you can
23 add about policy work that your team has been
24 doing on the money services businesses front and
25 anything you can add there.

1 And, sorry, Ms. Ryan, I've got you -- oh,
2 now you're unmuted. Thank you?

3 A (AR) So the reference that I made earlier to the
4 fall economic snapshot is relevant. And it
5 speaks to some forward work to tighten the
6 registration process as well as adjust
7 penalties. So I would say to the commission
8 that we have been working both with compliance
9 colleagues as well as Department of Finance to
10 have advanced us to that stage. I'm not at
11 liberty to speak further about what those
12 changes will be until they're put forth by the
13 Minster and Ministry of Finance. So, you know,
14 that's in the formal policy space.

15 I would say that there is also, you know, a
16 range of efforts that we've undertaken to
17 advance previous legend regulatory requirements
18 towards implementation in the space. That
19 speaks to a lot of the requirements around
20 virtual currencies and to the extent than an
21 entity is dealing in virtual currencies, then
22 that means effective as of June 2020 that they
23 have to register as a money service business
24 with FINTRAC. As of June of 2021 we'll start
25 requiring those reports to be received by the

1 centre.

2 Is that same set of regulatory changes also
3 required foreign MSBs operating in Canada to
4 register with FINTRAC as well. I think that was
5 an important change. So I would point to all of
6 those as being pertinent changes in the policy
7 space, and we've been working quite hard with
8 compliance colleagues, our IMIT systems to be
9 ready to receive those records, to be ready to,
10 you know, implement, provide appropriate
11 guidance, et cetera, and so on.

12 So those would be a suite of things that I
13 would speak to in that area. I think that, you
14 know, we have been updating some of our
15 publications as relevant to these areas.
16 They're a matter of public record. I believe
17 that you would have access to those, so I'm
18 happy to stop there in the interests of time.

19 Q And is there anything -- thank you, that's very
20 helpful. Is there anything that FINTRAC has
21 been doing, appreciating that it's not -- these
22 aren't currently caught by the legislation, but
23 any policy work that's being done on white label
24 ATMs?

25 A (AR) I would advise that that's a question

1 better put to the Department of Finance.

2 Q And, Ms. Ryan, what can you tell the
3 Commissioner about the concerns that you might
4 have heard from industry regarding FINTRAC's
5 compliance or regulatory requirements when it
6 comes to MSBs? Is there anything in particular
7 that's been put on your radar?

8 A (AR) So thanks a lot, Mr. Davis. You know, I
9 would say that we support our compliance
10 colleagues, you know, in any number of
11 engagements with industry. Typically we do hear
12 concerns about burden. We do hear concerns
13 about effectiveness particularly as relate to
14 essentially the nimbleness of the regime. I
15 think that we put our best efforts together to
16 respond in nimble ways within our authorities
17 with information products and responsiveness to
18 industry.

19 I would say that in recent years there have
20 been measures undertaken to respond to some of
21 those concerns. So, for example, concerns
22 about trade-based money laundering have led to
23 new resources being provided to colleagues at
24 CBSA to stand up the trade-based money
25 laundering centre of expertise. There's clearly

1 a nexus between trade-based money laundering and
2 activities of money service businesses, licit,
3 registered, and, you know, that all comes
4 together of a piece. So, you know, that's what
5 I would offer in response to your question, if
6 helpful. I'm happy to continue or stop there.

7 Q Very helpful. And maybe I'll ask you just in
8 the interests of time --

9 MR. DAVIS: Madam Registrar, if I could ask that you
10 pull up the document CAN1316 from the list of
11 documents, please.

12 Q Ms. Ryan, let me know when you see that document
13 in front of you, please.

14 A (AR) I see it.

15 Q Do you recognize this? I believe you're the
16 person to ask about it. It's a list of FINTRAC
17 engagement activities from April 2017 until
18 December 2020 with various anti-money laundering
19 regime stakeholders.

20 A (AR) So if I could, Mr. Davis, I would direct
21 you to Ms. Achimov on this question. Before I
22 do, I would like to complement some of the
23 earlier testimony of colleagues to flag just
24 what our communications team is doing in the
25 space of social media in terms of presence. We

1 Tweet often. We have several thousand
2 subscribers to both our Twitter feed, our web
3 updates. And I am just going to offer that as
4 part of that nimbleness of response, but these
5 consultations led by compliance I'd pass back to
6 Donna.

7 Q Well, Ms. Achimov, if I can ask you to hold off
8 for one second.

9 Ms. Ryan, the Commissioner just heard
10 evidence from a panel about one of the key
11 issues in this sector with information is
12 language barriers. And he heard evidence that,
13 for example, in Toronto there are a number of
14 Iranian-owned MSBs, and Vancouver has its own
15 similar makeup. What can you tell the
16 Commissioner about how FINTRAC's attempting to
17 address those sort of language barriers where
18 someone might not even know that they need to
19 register?

20 A (AR) Sure. On that I think Donna would be
21 better placed to than me to speak to some of the
22 regional efforts. With respect, over to you,
23 Donna.

24 (DA) Yes. So thank you for that question.
25 We're very conscious of that. In a number of

1 instances the most effective way that we deal
2 with those MSBs is through professional
3 associations and that's certainly very, very
4 helpful. In addition our regional compliance
5 officers, I have to say I'm very proud, have
6 multiple linguistic capabilities and that's key.
7 And we have in the past also produced some very
8 basic information in a number of different
9 languages to help assist with understanding what
10 the compliance obligations are.

11 Q And you mentioned that you engage with the
12 associations, but is it fair to say that that
13 doesn't address unfamiliarity or a lack of
14 familiarity on the part of an unregistered MSB?
15 It seems unlikely that an unregistered MSB would
16 be a member of a Canadian MSB Association, don't
17 you think?

18 A (DA) Well, part and parcel of what we do with
19 your outreach is to try and create awareness so
20 that we can get to those that are not registered
21 and that we work in a number of different
22 communities where that information gets shared
23 and hopefully people understand and they comply.
24 We have a lot of phone queries and queries on
25 our website, again, that allow us to respond and

1 to continue to do outreach.

2 And that's part of the maturity that I
3 talked about earlier in terms of leveraging
4 different channels that my colleague Ms. Ryan
5 talked about in terms of using different
6 channels, using social media, conducting
7 targeted outreach, participating in conferences,
8 in seminars and, again, working with
9 professional associations.

10 Q Thank you. And, Ms. Achimov, for the record, do
11 you recognize this as a list of FINTRAC
12 engagement activities from April 2017 to
13 December 2020?

14 A (DA) Yes, I do, Mr. Davis. I recognize it.

15 MR. DAVIS: Thank you. Mr. Commissioner. If I could
16 ask that this be marked as the next exhibit,
17 please.

18 THE COMMISSIONER: We're at 449?

19 THE REGISTRAR: 449.

20 **EXHIBIT 449: List of Compliance Engagement**
21 **Activities from April 2017 to December 2020**

22 MR. DAVIS: Madam Registrar, I won't need that
23 displayed any longer.

24 Q And, Ms. Ryan, my last question is for you, and
25 I'm not sure if you're the appropriate

1 representative to speak to this, but what can
2 you tell the Commissioner about FINTRAC's
3 experience with the Quebec MSB licensing regime?
4 A (AR) I'm aware that you have read the BC summary
5 of its consultations. I believe that's the
6 right way to refer to the document. So our
7 policy team has been supporting the province
8 with different advice, and I would say that, you
9 know, we have tried to support that dialogue by
10 pointing out the merits of harmonizing
11 requirements, technical requirements of
12 reporting, registration, that type of thing to
13 be as tight as possible. I mean, that's basic
14 advice when it comes to regulating business,
15 that harmonized regulations decrease burden --
16 decrease incremental burden.

17 But, Donna, you would have perhaps closer
18 connections with the Quebec regime, if I could
19 redirect. I apologize Mr. Davis.

20 Q No, no, Ms. Ryan. Thank you.

21 Ms. Achimov, please go ahead?

22 A (DA) Yes. So basically our -- to be very brief
23 in the essence of time. Our MOU allows us to
24 identify a population, so what's critical for us
25 in this relationship is that through our MOU we

1 have insight into the unregistered MSBs. So for
2 us it's a reliable source, it feeds our risk
3 score and it allow us to do a cross-reference in
4 terms of making sure that we're not missing any
5 that are identified. And I have to say one
6 additional feature is that the Quebec regime has
7 an AML checklist which is also very instructive
8 for us. Thank you.

9 Q And, Ms. Achimov, I'm sorry, I have one more
10 question. The Commissioner heard evidence last
11 week from a member of the British Columbia
12 Financial Services Authority who mentioned that
13 FINTRAC shares its compliance data biannually as
14 well as its findings letters with the BCFSA and
15 regulation of credit union. Are you familiar
16 with that?

17 A (DA) Yes, we do. We have an MOU which allows us
18 do that sharing.

19 Q Does FINTRAC currently share that sort of data
20 with officials in Quebec administering the MSB
21 licensing regime there?

22 A (DA) Yes, we do.

23 MR. DAVIS: Okay. Thank you, Ms. Achimov, Ms. Ryan
24 and Mr. MacKillop.

25 Mr. Commissioner, those are my questions for

Donna Achimov (for the commission)
Barry MacKillop (for the commission)
Annette Ryan (for the commission)
Exam by Mr. Davis
Exam by Ms. Friesen

171

1 these witnesses.

2 THE COMMISSIONER: Thank you, Mr. Davis.

3 I'll call now on Ms. Friesen on behalf of
4 the province, who has been allocated 15 minutes.

5 MS. FRIESEN: Yes. Thank you, Mr. Commissioner.

6 **EXAMINATION BY MS. FRIESEN:**

7 Q Can you hear me all right?

8 A (DA) Yes. Fine.

9 Q Great. Thank you. I have a number of questions
10 for you, for the panel, and feel free to step in
11 and answer the question if you feel like you are
12 the most suitable person to answer the question,
13 although my first question relates to compliance
14 and it will be directed specifically at
15 Ms. Achimov.

16 In your experience have you observed any
17 trends, whether there -- as to whether there's a
18 difference in compliance among certain types of
19 MSBs? For example, do you observe that the size
20 or the kind of an MSB makes a difference with
21 respect to compliance?

22 A (DA) Ms. Friesen, yes, in very general terms.
23 Obviously the larger, more sophisticated MSBs
24 have a much more robust compliance regime by
25 virtue of the fact that -- the sheer volume and

1 market share that they have. Always a risk and
2 of concern, and I would equate this to any
3 business entity, is when you have the very small
4 micro businesses, the mom or pop, the one- or
5 two-person entities. And so not all small
6 entities are high risk, but it's -- the
7 requirements to comply are a little more onerous
8 when you have some of the smaller organizations.

9 Q And you spoke about the size of the
10 organization. Do you notice any broad trends
11 with respect to the kinds of MSBs when it comes
12 to compliance?

13 A (DA) I don't know if we have any specific
14 trends. I do know that, for example, certainly
15 those that are dealing in foreign exchange or
16 wire transfers or dealing in countries or areas
17 where we have economic -- where we have
18 financial sanctions. I mean, those are
19 obviously high risk and certainly red flags that
20 we take a look at.

21 I'm not suggesting that all virtual currency
22 is a risk but of late we're certainly looking at
23 the virtual currency aspect in terms of looking
24 at risks. And that requirement has come into
25 effect in our regulations since June 1st of this

1 year, so we are starting to get -- it's
2 early days but we are starting to get data on
3 virtual currencies.

4 So we really do try and look at those
5 elements but I would say in general terms those
6 would be some of the additional risk
7 considerations.

8 Q Okay. So those are risk considerations, but do
9 you also see a difference in the compliance in
10 those types of, I suppose, the MSBs that you've
11 indicated may have red flags?

12 A (DA) No. I'm going to say no.

13 Q Okay. Thank you. I want to ask you a few
14 questions about eligibility for registration,
15 Ms. Achimov. You've touched on that in answer
16 to questions from Mr. Davis.

17 And in particular you talked about that --
18 about the fact that there are certain persons or
19 entities that are prohibited from registering
20 pursuant to the *Proceeds of Crime (Money*
21 *Laundrying) Terrorist Financing Act*. And you
22 touched on the convicted -- there are certain
23 offences that are indicated within the act and
24 which would bar registration.

25 And to the extent that -- this is for the

1 panel as a whole. And to the extents that you
2 are able to do so, to comment on this -- I don't
3 want anyone to tread on any information, into
4 any territory that might be privileged or
5 subject to public interest immunity, but to the
6 extent that you're able to comment on this, is
7 there any consideration for expanding the list
8 of convictions that would render a person
9 ineligible for registration? And that's
10 pursuant to section -- and I can call it up for
11 you, if you would like me to, but it's pursuant
12 to section 11.11.

13 A (DA) So maybe I'll start. So for us on the
14 compliance side it's either an individual or an
15 entity that's convicted. So they're found
16 guilty of a certain criminal offence and for us,
17 we obviously look at a number of key criminal
18 offences. Money laundering, terrorist
19 financing, anything that's drug related,
20 terrorism related. Possession of criminal
21 proceeds or possession of property through
22 criminal access, fraudulent activities
23 concerning contracts or trade, but it's up to
24 the department of -- our colleagues in the
25 Department of Finance to expand on the list of

1 offences. The ones I've given you are the real
2 risk indicators for us in compliance.

3 (AR) If I may, and not to be unhelpful, I
4 think given that the government has indicated a
5 willingness to move forward in the space, it
6 would be difficult for us to provide further
7 comment than that.

8 Q Thank you. That's fine. Ms. Achimov, you also
9 talked about verification upon an application
10 for registration. And just to clarify, I
11 understand your evidence is that a person or
12 entity's eligibility for registration is always
13 verified on registration; is that correct?

14 A (DA) Yes. So upon registration we conduct the
15 steps that I had mentioned in terms of ownership
16 details, any criminal infractions, convictions,
17 terrorist listings.

18 Q And after registration does that end any
19 inquiries? So in other words, is there any
20 ongoing or periodic verification of convictions?

21 A (DA) We do a periodic review on an annual basis.
22 We do a high-level review. And MSBs are
23 required to register with us or reregister every
24 two years. So that's where we do the more
25 deeper dive, and they are required to keep up

1 their registration every two years.

2 Q Thank you. Is an MSB applicant for registration
3 subject to an additional background check?
4 Say -- you've described some that you would do
5 independently, but more specifically is there
6 any requirement for the applicant to provide
7 evidence about their integrity such as
8 conducting a fit and proper test where you
9 obtain evidence from the applicant themselves
10 regarding integrity and eligibility?

11 A (DA) Yes. That's a good question in terms of --
12 for foreign MSBs that is a key requirement for
13 us in terms of being able to provide that
14 information to us.

15 Q And that's for all foreign MSBs?

16 A (DA) Yes, that's correct.

17 Q Okay. And is that the -- is that information --
18 I suppose the information that you ask of them,
19 is that available on your website?

20 A (DA) Absolutely. All of our requirements are
21 listed on our website.

22 Q And is there any consideration to implement such
23 a process for non-foreign applicants?

24 A (DA) That I'm not sure at this point in time. I
25 think that's also a policy question and that

1 would have to be directed to our colleagues in
2 the Department of Finance.

3 (AR) Again I would offer that our compliance
4 colleagues are, you know, directed by the
5 current legislative and regulatory regime, and
6 to the extent it changes, then you'll see that
7 thoughtfulness come through the legislation.

8 Q Okay. Thank you. Are refusals to register MSBs
9 tracked?

10 A (DA) Yes, absolutely.

11 Q And I'm not sure if you're equipped to
12 answer this question in the moment, but what is
13 the most common reason for refusal to register
14 an MSB to your knowledge?

15 A (DA) Well, I think one of the most common
16 reasons is certainly if there was any
17 convictions, criminal convictions. That's one
18 of the key reasons.

19 Q Okay. And just with respect to the *Quebec Money*
20 *Services Businesses Act*. Does the Quebec act
21 impact how FINTRAC performs its work in
22 mandating Quebec?

23 A (DA) No. We do have the ability to share
24 information. So as you heard earlier, our
25 objective is obviously to reduce duplication and

1 the administrative burden, and so typically in
2 sharing that type of information we would not
3 examine an MSB that Quebec is in the process of
4 examining. So we do look very much to leverage
5 information to avoid unnecessary burden,
6 duplication and that we're as efficient and as
7 effective as we can be.

8 Q And that doesn't impact your ability to
9 fulfill -- or FINTRAC's ability to fulfill their
10 mandate?

11 A (DA) Not at all.

12 Q Okay. Are you able to -- and this is for the
13 whole panel. Are you able to speak to the
14 general makeup of MSBs in British Columbia? I'm
15 not sure if you're aware of the breakdown in
16 British Columbia specifically and -- but if you
17 are, to what extent is it comprised of large or
18 medium or small family run entities?

19 A (DA) So maybe what I could say is we have a
20 record high nationally. We've registered since
21 early January 1,923. 398 of those are
22 registered MSBs in British Columbia. We know
23 that 115 of those offer virtual currencies, so
24 that's an interesting early indication. And
25 then from there there is a mix, a cross-section

1 of small, medium and obviously larger MSBs.

2 Q Thank you. Just in terms of -- actually just
3 getting back to the registration. I just have
4 one more question just regarding the
5 registration process and in comparison to the
6 Quebec licensing system. In terms of background
7 checks and ineligibility to register, what are
8 the differences between those two?

9 A (DA) Well, we have a registration system and
10 Quebec has a licensing system, so the licensing
11 is very different. And again as mentioned for
12 us, the key two considerations are previous
13 criminal convictions, and we do a criminal
14 check, and then the terrorist listing. And
15 again we are very diligent in terms of looking
16 at the key listings for terrorists either
17 holding property or listing of people convicted
18 of terrorist activities. So those are our two
19 areas.

20 Q Sorry, just to clarify. Those are the two areas
21 of overlap?

22 A (DA) No, that we look at. Quebec has a detailed
23 licensing process and they have additional
24 requirements associated with their
25 jurisdictional ability to vet and to licence and

1 to do the checks that they need.

2 Q Right. Okay. Thank you.

3 A (DA) Licensing and registration are different.

4 MS. FRIESEN: Yes. Okay. Thanks. Those are my
5 questions.

6 THE WITNESS: (DA) You're welcome.

7 THE COMMISSIONER: Thank you, Ms. Friesen.

8 Ms. Magonet for the BC Civil Liberties
9 Association, who has been allocated ten minutes.

10 MS. MAGONET: Thank you, Mr. Commissioner.

11 **EXAMINATION BY MS. MAGONET:**

12 Q Can the panelists hear me?

13 A (AR) Yes.

14 Q Thank you. My questions concern Project Athena.
15 And I think Mr. MacKillop may be best positioned
16 to answer them, but if any of you are of a
17 different view, feel free to jump in or have
18 somebody else answer them.

19 My first question concerns the flow of
20 information in the context of Project Athena.
21 And I was wondering if you could explain whether
22 information flows in the sort of information
23 sharing project from a reporting entity to law
24 enforcement then back to a reporting entity then
25 to FINTRAC, or if it depends on the

1 circumstance. If you could provide any evidence
2 about that.

3 A (BM) Sure. Project Athena is set up exactly
4 like our other public-private partnerships, so
5 it really was an opportunity for FINTRAC to
6 provide very specific indicators to our
7 reporting entities, and the reason for doing so
8 is to assist them in reporting to FINTRAC. So
9 the information actually comes from reporting
10 entities to FINTRAC. If the reporting entity
11 meets their threshold to suspect that it's
12 relevant to money laundering or terrorist
13 financing, in this case money laundering with
14 Project Athena. Once it comes to FINTRAC in the
15 form, often as an STR, we will examine, analyze
16 that STR. And if we meet our threshold then we
17 would disclose to law enforcement. So the
18 information goes -- as it does with all other
19 transaction reporting, goes from the reporting
20 entity to FINTRAC, FINTRAC would analyze it and
21 if we meet our threshold, we would disclose it
22 to law enforcement.

23 Q Thank you. Within the context of that project
24 is there any information sharing that happens
25 directly between law enforcement and reporting

1 entities?

2 A (BM) Not to my knowledge, no.

3 Q Thank you. Does FINTRAC measure the impact of
4 Project Athena? And if so, how does it do so?

5 A (BM) We tend to measure the impact of Project
6 Athena very similar to our other public-private
7 partnerships. It's really within the limits of
8 what FINTRAC does. We're an intelligence agency.
9 Our goal is to provide intelligence to our law
10 enforcement partners, so in terms of whether or
11 not we are achieving our goals or if we're
12 increasing our performance, it's really based on
13 the number of disclosures that we would provide
14 to law enforcement either proactively or
15 reactively with respect to Project Athena.
16 That's an indication of our success.

17 The overall indication of success for
18 Project Athena would end up more so with the
19 RCMP or with the Canadian regime as a whole in
20 terms of whether or not there are accusations
21 laid, whether or not there are convictions,
22 whether or not there's time served, those kinds
23 of things. That is outside of what FINTRAC
24 would measure because we have no real influence
25 on that. Our influence is really limited to the

1 intelligence that we can provide.

2 Q Thank you. So just so I understand correctly,
3 given FINTRAC's mandate and the tools it has
4 available to it, it can measure the impact of
5 that type of project based on the number of
6 disclosures to law enforcement; is that correct?

7 A (BM) It would be based on the number of law
8 enforcement disclosures that we make as well as
9 perhaps the voluntary information records that
10 we receive from law enforcement which would
11 indicate investigations that they've undertaken.

12 Q Thank you. And is it your understanding that
13 within the context of this project no
14 information sharing occurs between reporting
15 entities?

16 A (BM) That's my understanding. Reporting
17 entities are limited within the current confines
18 and parameters of Canadian law, so they would
19 not be sharing information on targets per se.
20 Any information that may be shared through an
21 operational alert that we share with them would
22 look at general indicators or any trends or
23 typologies that may come up. Perhaps Annette's
24 shop may put out a strategic report. That of
25 course would be shared amongst all reporting

1 entities.

2 MS. MAGONET: Thank you. Those are my questions.

3 THE COMMISSIONER: Thank you, Ms. Magonet.

4 Mr. Rauch-Davis on behalf of the
5 Transparency International Coalition, who has
6 been allocated 15 minutes.

7 MR. RAUCH-DAVIS: Thank you.

8 **EXAMINATION BY MR. RAUCH-DAVIS:**

9 Q Ms. Achimov, in what is now exhibit 446 -- for
10 the record that is January 15th, 2021 letter --
11 my friend took you through the detail of the
12 chart on page 1 that sees an increase of MSBs
13 operating in Canada and British Columbia. And I
14 just want to clarify your evidence.

15 In response to Mr. Davis's questions about
16 the decreasing number of examinations of those
17 MSBs, do I have it right that your evidence is
18 kind of two pronged in that FINTRAC has run into
19 capacity and resource issues and also it's
20 reflective of the risk-based assessment done by
21 FINTRAC?

22 A (DA) I would say that it is reflective primarily
23 of the risk-based allocations that we do have.

24 Q Okay. I mean, I -- and what about the resource
25 and capacity issue? I did -- I do have some

1 notes reflecting your evidence earlier that that
2 also factored into the equation.

3 A (DA) Nationally -- that obviously would from a
4 national perspective, but what guides us really
5 is the risk base and according to the risk base,
6 then, we reallocate our resources in order to
7 match the more significant areas of risk.

8 Q Is it fair to say that FINTRAC's investigative
9 capacity just hasn't been able to keep up with
10 the increasing number of MSBs? Is that a fair
11 assessment of this chart?

12 A Well, first of all, we don't do investigation on
13 the compliance side. And our coverage is -- I
14 just want to be very precise here. Our coverage
15 is for all ten sectors. The MSBs are obviously
16 one of those ten sectors.

17 Q Right. Okay. Thank you. I have your evidence
18 on that.

19 A (DA) And we have -- I don't want to sound in any
20 way defensive, but we have thousands of
21 reporting entities. We have well over
22 24,000 reporting entities. And so, again,
23 our -- looking at our risk criteria, that's the
24 first thing that guides us. We look at trends
25 year over year. Sometimes the risks shift

1 depending on what's happening in a given area or
2 where the trends are. And then we allocate the
3 resources to conduct those assessments
4 accordingly.

5 Q And would these numbers -- in particular the
6 amount of examinations in relation to the amount
7 of in this case MSBs, would these numbers be
8 similar for other reporting entities in terms of
9 percentage of reporting entity that is being
10 examined?

11 A (DA) I'd have to validate, but different
12 reporting entities have different, you know,
13 risk assessments, so I wouldn't say it's a one
14 size fits all.

15 Q Fair enough. My next question is is FINTRAC in
16 a position to provide prudential or operational
17 guidance to MSBs and other reporting entities at
18 large?

19 A (DA) Well, part of our compliance and our
20 outreach, a large part of it is education. So
21 that's a key criteria for us in terms of when we
22 do our outreach. We provide as much information
23 as we can to enable entities like the MSBs to
24 meet their compliance objectives. We have
25 seminars, educational fora. We're very active

1 laundrying through MSBs exists as with the banks
2 and credit unions as well and that actually in
3 terms of dollar value, I think your evidence was
4 that there's much more -- there's a much higher
5 dollar value flowing through the formal
6 financial systems and banks. Do I have that
7 correct?

8 A (BM) That would be correct.

9 Q Does FINTRAC publish fines it issues to
10 financial institutions and large-scale banks
11 under the *PCMLTFA*?

12 A (BM) If there's an administrative monetary
13 penalty that Ms. Achimov's group gives to any of
14 our reporting entities, it is published, yes.

15 Q It is published. And isn't that decision to
16 publicize discretionary?

17 A (BM) The legislation has actually been changed.
18 It's no longer discretionary. Once the notice
19 of decision is rendered by a director, it will
20 be published within -- as soon as possible after
21 that decision is made it will be published on
22 our website. That legislation was changed, I
23 believe, last year.

24 Q Okay. And I take it you'd agree with me that
25 fines and penal sanctions are one of the best

1 ways to encourage compliance with the act, the
2 *PCMLTFA*, by reporting entities?

3 A (BM) I would say it is one way, and it may
4 address specific instances. I don't know that
5 it is necessarily the best way. What I found in
6 my experience is the best way to encourage
7 compliance is to identify and make sure people
8 embrace the role that we have in the whole
9 anti-money laundering/anti-terrorist financing
10 regime in Canada and that they see the
11 criticality of the role that they can play as
12 the frontline people to identify those
13 transactions that may be related to money
14 laundering. I think buying into the regime,
15 buying into their role and seeing how we all
16 play a role together has a better long-term
17 benefit than a single administrative monetary
18 penalty, in my view.

19 Q Do you know how -- pardon me. Go ahead. Yes,
20 Ms. Ryan.

21 A (AR) I'd just like to draw the link to the
22 earlier part of the testimony that talked about
23 de-risking. And I would like to, you know,
24 encourage all counsel to think about the overall
25 integrity of the regime so that if a smaller

1 unregistered MSB is operating like an MSB and
2 isn't following the steps to become registered,
3 that may be a conversation that it has with its
4 financial institution rather than FINTRAC. And
5 so I just want to apologize for the
6 interruption, but I did want to draw that link
7 before we move on.

8 Q Thank you. Thank you for that. And please
9 continue to answer questions if they're not
10 directed at you. I apologize for that.

11 So, Mr. MacKillop, do you -- I'm not sure if
12 you're able to answer this right now, but do you
13 know how many Canadian banks have been fined for
14 money laundering activity by FINTRAC?

15 A (BM) I don't know. That would be over on the
16 compliance side, so I don't know if my colleague
17 has that number or not.

18 (DA) Thank you, Barry. I'm just going to
19 have to take a look at my notes. I just need a
20 moment, if you don't mind.

21 Q No problem. Thank you.

22 A (DA) So where I'm just pausing and I'm
23 hesitating, so I apologize for that. We haven't
24 penalized for money laundering but for
25 non-compliance.

1 Q Okay. And do you have a number?

2 A (DA) Again, I'm just checking my notes. I don't
3 have that information handy. I do -- I am -- I
4 will have to qualify that we're respecting the
5 public naming decision that's come into play
6 since 2019, I believe. As of June 2019. So
7 where we're required to -- as my colleague
8 Mr. MacKillop had indicated, to publish the
9 names of those who are getting or who have
10 received an administrative monetary penalty.

11 Q Thank you. And, Ms. Achimov or Mr. MacKillop, I
12 take it you'd agree that the United States
13 through the Office of the Comptroller of
14 Currency, they have issued fines to Canadian
15 financial institutions and banks. Are you aware
16 of that?

17 A (BM) Yes, they've -- yes, they have fined banks
18 that work in the States. It would've been their
19 branches in the States. I would say just if --
20 as my colleague may be looking for the answers,
21 anything anybody that has received an
22 administrative monetary penalty, there would be
23 numbers and information on our website.

24 Q And didn't -- the fines from the OCC in the
25 United States, didn't those range from tens

1 of millions to hundreds of millions of dollars,
2 some of them in the last five years?

3 A (BM) It's quite possible. I'm not sure of that.
4 It's a completely different regime that they
5 have over in the United States.

6 Q But I take it you'd agree that the largest fines
7 for Canadian banks are coming from the United
8 States authorities and not FINTRAC; right?

9 A (BM) Correct.

10 Q Do you know if US authorities have also issued
11 remediation orders to Canadian banks to bring
12 them into compliance with the US AML regime?

13 A (BM) I don't think I can speak authoritatively
14 on the US regime.

15 Q Okay. Does FINTRAC have an internal policy to
16 cooperate with US authorities on cross-border
17 AML regimes?

18 A (BM) We do deal very closely with FinCEN when it
19 comes to the intelligence side, and we have an
20 international supervisory forum of which -- on
21 the compliance side of which FinCEN is also a
22 part of. So we do share information and we do
23 work collaboratively with them.

24 Q And are you aware if --

25 MR. BRONGERS: Mr. Commissioner, if I may. It's Jan

1 Brongers for the Government of Canada. I just
2 want to remind my friend that this panel is here
3 to testify about money service businesses. I
4 fail to see the relevance of these questions to
5 that subject matter for which they were asked to
6 appear before the commission.

7 THE COMMISSIONER: All right. Thank you,
8 Mr. Brongers.

9 MR. RAUCH-DAVIS: I take my friend's point,
10 Mr. Commissioner. I do think it has relevance
11 to this commission, but with that I will finish
12 my questions. Thank you.

13 THE COMMISSIONER: All right. Thank you,
14 Mr. Rauch-Davis.

15 Mr. Brongers on behalf of Canada.

16 MR. BRONGERS: Yes. Thank you, Mr. Commissioner. I
17 just have one question in re-examination for
18 Ms. Achimov.

19 **EXAMINATION BY MR. BRONGERS:**

20 Q Ms. Achimov, Mr. Davis asked you about
21 situations where FINTRAC may decide to refuse or
22 revoke registration of an MSB. Can you just
23 clarify for the commission whether or not those
24 requirement that you were discussing are set out
25 in the legislation, in the *Proceeds of Crime*

1 (*Money Laundering*) and *Terrorist Financing Act*?

2 A (DA) Thank you for that question. Yes, they are
3 on both fronts. An individual or an entity has
4 to be convicted, and that's under section 11
5 section 1 as well as persons listed -- persons
6 or terrorist group listings, so those are the
7 areas. Does that answer your question?

8 Q Just to confirm, you are referring to section
9 11.11 of the act?

10 A (DA) Yes, I am.

11 MR. BRONGERS: Thank you. Those are all my
12 questions, Mr. Commissioner.

13 THE COMMISSIONER: All right. Thank you,
14 Mr. Brongers. Anything arising,
15 Mr. Rauch-Davis?

16 MR. RAUCH-DAVIS: No, thank you, Mr. Commissioner.

17 THE COMMISSIONER: Ms. Magonet?

18 MS. MAGONET: No, thank you, Mr. Commissioner.

19 THE COMMISSIONER: Ms. Friesen?

20 MS. FRIESEN: No, thank you, Mr. Commissioner.

21 THE COMMISSIONER: Mr. Davis?

22 MR. DAVIS: No. No, nothing arising. Thank you,
23 Mr. Commissioner.

24 THE COMMISSIONER: All right. Thank you. I would
25 like to thank the members of the panel for their

1 time and expertise in providing us with insights
2 into this area of the intersection between
3 FINTRAC and money service businesses. It has
4 been helpful. And you are now excused from
5 further testimony.

6 I think we will adjourn now until tomorrow
7 morning at 9:30.

8 THE REGISTRAR: The hearing is adjourned until
9 January 19th, 2021, at 9:30 a.m. Thank you.

10 **(WITNESSES EXCUSED)**

11 **(PROCEEDINGS ADJOURNED AT 1:45 P.M. TO JANUARY 19,**
12 **2021)**

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