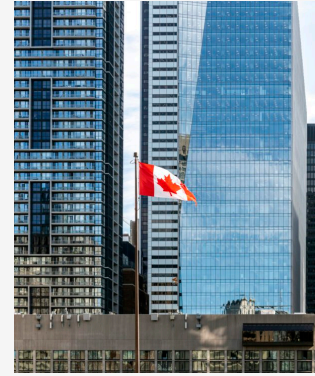


Strong Borders Act proposes sweeping changes to Canada's AML regime

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Authors: [Elizabeth Sale](#), [Hunter Ceklic](#)

On June 3, 2025, the federal government introduced Bill C-2 – the *Strong Borders Act*. Certain parts of Bill C-2 propose changes to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), many of which are consistent with the themes of national security and strengthening Canada's AML regime that have been previously articulated by the federal government, but are not, for the most part, specific to increasing border security. If passed, these changes will have wide-ranging impacts for all reporting entities.

Significant increases to AML penalties

The most significant change is that the maximum administrative monetary penalties (AMPs) that may be imposed under the PCMLTFA will be raised by a substantial magnitude. The maximum fines for various criminal offences under the legislation will also increase.

Violations will be classified as prescribed violations or compliance order violations. A prescribed violation is a contravention of a designated provision of the PCMLTFA or its regulations; a compliance order violation is imposed where an individual or entity has not complied with a compliance agreement entered into with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). An individual or entity who has committed a prescribed violation will be required to enter into a compliance agreement with FINTRAC.

- *Prescribed violations*: As is the case now, prescribed violations will continue to fall into one of three categories: minor, serious and very serious. The penalty imposed for each category of AMP will increase by a factor of 40, where the maximum AMP penalty will be \$20,000,000 for a very serious violation committed by an entity (currently \$500,000). Where there are multiple violations, cumulative penalties will be subject to a cap of the greater of \$20,000,000 and 3% of the entity's gross global revenue for the prior year. The cumulative cap will be determined on a group basis where the entity is part of an affiliated group, which may have an outside impact on, for example, a relatively small Canadian subsidiary of a large multinational.

Currently, only a small number of violations are categorized as "very serious", such as the failure to report a suspicious transaction report. This is also set to change as Bill C-2 would add to this list a reporting entity's failure to ensure their compliance program is reasonably

designed, risk-based and effective. Contraventions of various other compliance program requirements will also be treated as very serious violations, including, as examples, the requirements to appoint a compliance officer, to develop and implement compliance policies and procedures, to perform a risk assessment, to implement a compliance training program and to carry out a two-year program effectiveness review.

- **Compliance order violations:** The maximum AML penalty will be the greater of \$30,000,000 and 3% of the entity's gross global revenue for the prior year, also determined on a group basis where the entity is part of an affiliated group.

Although the maximum AMPs will be increased, the ability to pay will be added to the list of criteria that is used to determine the amount of the AMPs, which is consistent with the principle that the purpose of an AMP is to encourage compliance and not to punish.

Mandatory enrolment with FINTRAC

Another significant change is that Bill C-2 will require all PCMLTFA reporting entities to enroll with FINTRAC. This follows an announcement in the 2024 Fall Economic Statement of the federal government's intention to require mandatory enrolment with FINTRAC for all reporting entities. Currently, only money services businesses are required to register. While many types of reporting entities are listed on registries maintained by other regulators (e.g., banks), other types of reporting entities are either not listed on any registry or are only listed in some circumstances (e.g., dealers in precious metals and stones, mortgage lenders, financing and leasing entities). Reporting entities will be required to submit an application for enrolment and renew their enrolment at intervals to be set by regulation. Currently, money services businesses are required to renew their registration with FINTRAC every two years.

FINTRAC will have the ability to revoke a reporting entity's enrolment if the reporting entity commits a compliance order violation or a prescribed violation, becomes liable to pay a penalty for it and fails to pay the penalty and any interest within 30 days after the AMP proceedings end.

Enrolment may also be revoked if FINTRAC determines that the reporting entity is in a "prescribed relationship" with a reporting entity that has failed to pay a penalty in this manner. While we will need to wait for any associated regulations in order to determine the scope of this provision, a preliminary observation is that it is unclear how reporting entities would be able to monitor the non-payment by third parties.

Other key changes to the PCMLTFA

- **Compliance program standards:** Reporting entities will be required to ensure that their PCMLTFA compliance program is reasonably designed, risk-based and effective. As discussed above, the failure to do so will be classified as a "very serious" violation. Reporting entities should prepare for additional scrutiny by FINTRAC on their AML compliance policies and procedures.
- **Third-party cash deposits:** Deposit-taking entities, such as banks and credit unions, will be prohibited from accepting cash deposits from a depositor that is not the holder of the account or authorized to give instructions on the account.
- **Prohibited cash payments:** Persons engaged in a business, profession or the solicitation of charitable financial donations will be prohibited from accepting \$10,000 or more in cash

in a single transaction or in a series of related transactions. This prohibition will not apply to deposit-taking institutions and other exemptions may also be set by regulation.

- **Disclosure of personal information without consent:** Reporting entities will be permitted to collect and use an individual's personal information without their knowledge or consent if: the information is disclosed to the reporting entity by a government department, institution or agency or law enforcement agency; the disclosure is for the purposes of detecting or deterring money laundering, terrorist activity financing or sanctions evasion; and making the disclosure with the individual's knowledge or consent would compromise those purposes.
- **Ban on anonymous accounts:** Reporting entities who open accounts for clients (such as banks and securities dealers) will be prohibited from doing so for any "anonymous clients". A client is anonymous if the reporting entity cannot verify the client's identity or if the client's name is obviously fictitious. Currently, a reporting entity is prohibited from opening an account if the client's identity cannot be verified.
- **Disclosure to Elections Canada:** FINTRAC will be permitted to disclose certain information to Elections Canada if it is relevant to national security threats or investigating or prosecuting a money laundering, terrorist activity financing or sanctions evasion offence, and relates to non-compliance with the *Canada Elections Act*.

FINTRAC to join Financial Institutions Supervisory Committee

Bill C-2 will also amend the *Office of the Superintendent of Financial Institutions Act* to add FINTRAC to the Financial Institutions Supervisory Committee, whose members presently include the Office of the Superintendent of Financial Institutions, the Deputy Minister of Finance, the Bank of Canada, the Canada Deposit Insurance Corporation and the Financial Consumer Agency of Canada. Corresponding changes to the PCMLTFA will allow FINTRAC to exchange certain information with other members of that committee. This proposed change builds upon the theme of information sharing between various regulatory bodies that we have seen over the past few years.

Next steps

Bill C-2 was introduced for first reading on June 3, 2025. We will continue to monitor the progress of Bill C-2 as the legislative process unfolds. Please contact a member of our Financial Services Regulatory team if you have any questions about these proposed AML changes.