Executive Summary

This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in Canada as at the date of the on-site visit (3-20 November 2015). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Canada's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

1. The Canadian authorities have a good understanding of most of Canada's money laundering and terrorist financing (ML/TF) risks. The 2015 Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada (the NRA) is of good quality. AML/CFT cooperation and coordination are generally good at the policy and operational levels.

2. All high-risk areas are covered by AML/CFT measures, except legal counsels, legal firms and Quebec notaries. This constitutes a significant loophole in Canada's AML/CFT framework.

3. Financial intelligence and other relevant information are accessed by Canada's financial intelligence unit, FINTRAC, to some extent and by law enforcement agencies (LEAs) to a greater extent but through a much lengthier process. They are used to some extent to investigate predicate crimes and TF activities, and, to a much more limited extent, to pursue ML.

4. FINTRAC receives a wide range of information, which it uses adequately, but some factors, in particular the fact that it is not authorized to request additional information from any reporting entity (RE), limit the scope and depth of the analysis that it is authorized to conduct.

5. Law enforcement results are not commensurate with the ML risk and asset recovery is low.

6. Canada accords priority to pursing TF activities. TF-related targeted financial sanctions (TFS) are adequately implemented by financial institutions (FIs) but not by designated non-financial business and professions (DNFBPs). Charities (i.e. registered NPOs) are monitored on a risk basis.

7. Canada's Iran and Democratic People's Republic of Korea (DPRK) sanction regime is comprehensive, and some success has been achieved in freezing funds of designated individuals, there is no mechanism to monitor compliance with proliferation financing (PF)- related TFS.

8.   FIs, including the six domestic systemically important banks, have a good understanding of their risks and obligations, and generally apply adequate mitigating measures. The same is not true for DNFBPs. REs have gradually increased their reporting of suspicious transactions, but reporting by DNFBPs other than casinos is very low.

9.   FIs and DNFBPs are generally subject to appropriate risk-sensitive AML/CFT supervision, but supervision of the real estate and dealers in precious metals and stones (DPMS) sectors is not entirely commensurate to the risks in those sectors. A range of supervisory tools are used effectively especially in the financial sector. There is some duplication of effort between FINTRAC and the Office of the Superintendent of Financial Institutions (OSFI) in the supervisory coverage of federally regulated financial institutions (FRFIs) and a need to coordinate resources and expertise more effectively.

10.   Legal persons and arrangements are at a high risk of misuse, and that risk is not mitigated.

11.   Canada generally provides useful mutual legal assistance and extradition. The authorities solicit other countries' assistance to fight TF and, to a somewhat lesser extent, ML. Informal cooperation is generally effective and frequently used.

Risks and General Situation

12.   Canada has a strong framework to fight ML and TF, which relies on a comprehensive set of laws and regulations, as well as a range of competent authorities.

13.   It faces an important domestic and foreign ML threat, and lower TF threat. As acknowledged in the public version of the authorities' 2015 assessment of Canada's inherent ML and TF risks (the NRA), the main domestic sources of proceeds of crime (POC) are fraud, corruption and bribery, counterfeiting and piracy, illicit drug trafficking, tobacco smuggling and trafficking, as well as (to a slightly higher level than assess) tax evasion. Canada's open and stable economy and accessible financial system also make it vulnerable to significant foreign ML threats, especially originating from the neighbouring United States of America (US), but also from other jurisdictions. The main channels to launder the POC appear to be the financial institutions (FIs), in particular the six domestic systemically important banks (D-SIBs) due to their size and exposure, as well as money service businesses (MSBs). While not insignificant, the TF threat to Canada appears lower than the ML threat. A number of TF methods have been used in Canada and have involved both financial and material support to terrorism, including the payment of travel expenses of individuals and the procurement of goods.

Overall Level of Effectiveness and Technical Compliance

14.   Since its 2007 evaluation, Canada has made significant progress in bringing its AML/CFT legal and institutional framework in line with the standard, but the fact that AML/CFT obligations are inoperative for legal counsels, legal firms and Quebec notaries is a significant concern. In terms of effectiveness, Canada achieves substantial results with respect to five of the Immediate Outcomes (IO), moderate results with respect to five IOs, and low results with respect to one IO.

Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

15.   The authorities have a generally good level of understanding of Canada's main ML/TF risks. The public version of the 2015 NRA is of good quality. It is based on dependable evidence and sound judgment, and supported by a convincing rationale. In many respects, the NRA confirmed the authorities' overall understanding of the sectors, activities, services and products exposed to ML/TF risk. While the NRA's findings did not contain major unexpected revelations, the process was useful in clarifying the magnitude of the threat, in particular the threat affecting the real estate sector and emanating from third-party money launderers. The authorities nevertheless may be underestimating the magnitude of some key risks, such as the risk emanating from tax crimes and foreign corruption.

16.   All high-risk areas are covered by the AML/CFT regime, with the notable exception of the legal professions other than British Columbia (BC) notaries, which is a significant loophole in Canada's AML/CFT framework, and online casinos, open loop prepaid cards, and white label ATMs.

17.   While supervisory measures are generally in line with the main ML/TF risks, more intensive supervisory measures should be applied in some higher risk areas such as the real estate and DPMS.

18.   AML/CFT cooperation and coordination appear effective at the policy level, but in some provinces, greater dialogue between LEAs and the Public Prosecution Service of Canada (PPSC) would prove useful.

19.   While FIs generally appear adequately aware of their ML/TF risks, the same does not apply in some DNFBP sectors, in particular the real estate sector.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

20.   Financial intelligence and other relevant information is collected and used to some extent only by competent authorities to carry out investigations into the predicate crimes and TF activities, and, to a more limited extent, to pursue ML. FINTRAC receives a range of information from REs and LEAs, which it adequately analyses. Some factors nevertheless hamper its ability to produce more comprehensive intelligence products, in particular, the fact that FINTRAC is not authorized to obtain from any RE additional information related to suspicions of ML/TF. FINTRAC's analysis and disclosures are mainly prepared in response to the requests made by LEAs in Voluntary Information Records (VIRs). LEAs use these disclosures mainly to investigate the predicate offense, rather than to carry out ML investigations. FINTRAC also produces strategic reports that address the LEAs' operational priorities and advise them on new ML/TF trends and typologies. Information resulting from cross-border transportation of cash and other bearer negotiable instruments is not exploited to its full extent. The FIU and the LEAs cooperate effectively and exchange information and financial intelligence on a regular basis and in a secure way.

21.   LEAs have adequate powers and cooperation mechanisms to undertake large and complex financial investigations. This has notably resulted in some high-profile successes in neutralizing ML

networks and syndicates. However, current efforts are mainly aimed at the predicate offenses, with inadequate focus on the main ML risks other than those emanating from drug offenses, i.e. standalone ML, third-party ML and laundering of proceeds generated abroad. Some provinces, such as Quebec, appear more effective in this respect. LEAs' prioritization processes are not fully in line with the findings of the NRA, and LEAs generally suffer from insufficient resources and expertise to pursue complex ML cases. In addition, legal persons are not effectively pursued and sanctioned for ML, despite their misuse having been identified in the NRA as a common ML typology. Criminal sanctions applied are not sufficiently dissuasive. The majority of natural persons convicted for ML are sentenced in the lower range of one month to two years of imprisonment, even in cases involving professional money launderers.

22.   Overall, asset recovery appears low. Some provinces, such as Quebec, appear more effective in recovering assets linked to crime. Falsely and undeclared cross-border movements of currency and other bearer negotiable instruments are rarely analysed by the FIU or investigated by the RCMP. As a result, the majority of the cash seized by the Canada Border Services Agency (CBSA) is returned to the traveller at the border.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9- 11; R.5-8)

23.   The authorities display a good understanding of Canada's TF risk and cooperate effectively in CFT efforts. The intelligence services, LEAs and FINTRAC regularly exchange information, which notably contributes to support prioritization of TF investigations. Canada accords priority to investigations and prosecutions of terrorism and TF. There are a number of TF investigations, which resulted in two TF convictions. Canada also makes regular use of other disruption measures.

24.   Implementation of TF-related targeted financial sanctions (TFS) is generally good but uneven. Large FIs implement sanctions without delay, but DNFBPs do not seem to have a good understanding of their obligations and are not required to conduct a full search of their customer databases on a regular basis. In practice, few assets have been frozen in connection with TF-related TFS, which does not seem unreasonable in the Canadian context.

25.   Charities (i.e. registered NPOs) are monitored by the Canada Revenue Agency (CRA) on a risk basis, but the number of inspections conducted over the last few years does not reflect those TF risks. The NRA found the risk of misuse of charities as high, but only a small percentage of charities have been inspected. Nevertheless, to limit this risk, the CRA's charities division has developed an enhanced outreach plan which reflects the best practices put forward by the FATF.

26.   Canada's framework to implement the relevant UN counter-proliferation financing sanctions is strong and, in some respect, goes beyond the standard, but does not apply to all types of assets listed in the standard. The current lists of designated persons are available on the OSFI websites, and changes to those lists are promptly brought to the attention of the FRFIs (i.e. banks, insurance companies, trust and loan companies, private pension plans, cooperative credit associations, and fraternal benefit societies). There is a good level of policy and operational cooperation between the relevant authorities including those involved in export control, border control, law enforcement and AML/CFT supervision. Some success has been achieved in freezing

funds of designated persons. None of the Canadian authorities has an explicit mandate to monitor FIs' and DNFBPs' implementation of their counter-PF obligations but, in practice, OSFI has examined implementation by FRFIs of TFS for both TF and PF, and has also identified shortcomings and requested improvements.

Preventive Measures (Chapter 5 - IO4; R.9-23)

27.   AML/CFT requirements are inoperative towards legal counsels, legal firms and Quebec notaries. These requirements were found to breach the constitutional right to attorney-client privilege by the Supreme Court of Canada on 13 February 2015. In light of these professionals' key gatekeeper role, in particular in high-risk sectors and activities such as real-estate transactions and the formation of corporations and trusts, this constitutes a serious impediment to Canada's efforts to fight ML.

28.   FRFIs, including the six domestic banks that dominate the financial sector, have a good understanding of their risks and AML/CFT obligations. Supervisory findings on the implementation of the risk-based approach (RBA) are also generally positive. The large FRFIs conducted comprehensive group-wide risk assessments and took corresponding mitigating measures. In an effort to mitigate some of the higher risks, a number of FRFIs have gone beyond the Canadian requirements (e.g. by collecting information on the quality of AML/CFT supervision in the respondent bank's country).

29.   Nevertheless, some deficiencies in the AML/CFT obligations undermine the effective detection of very high-risk threats identified in the NRA, such as corruption. This is notably the case of the current requirements related to politically exposed persons (PEPs). The identification of beneficial ownership also raises important concerns. Although the legal requirements have recently been strengthened, little is done by FIs to verify the accuracy of beneficial ownership information. DNFBPs are not required to identify the beneficial ownership nor to take specific measures with respect to foreign PEPs.

30.   Most DNFBPs are not sufficiently aware of their AML/CFT obligations. This is in particular the case of real estate agents. Extensive work has been conducted by FINTRAC with relevant DPMS trade associations, to increase the DNFBPs' awareness, which is leading to some improvement in compliance. REs have gradually increased the number of STRs and other threshold-based reports filed with FINTRAC but reporting remains very low. The fact that no STRs have been filed by accountants and BC notaries, and the low number of STRs received from the real estate sector raise concern.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-.35)

31.   FINTRAC and OSFI supervise FIs and DNFBPs on a risk-sensitive basis. FINTRAC should, however, apply more intensive supervisory measures to DNFBPs. There is good supervisory coverage of FRFIs, but FINTRAC and OSFI need to improve their coordination to share expertise, maximize the use of the supervisory resources available and avoid duplication of efforts. FINTRAC has increased its supervisory capacity in recent years. It adopted an effective RBA in its compliance

and enforcement program, but needs to further develop its sector-specific expertise and increase the intensity of supervision of DNFBPs, particularly in the real estate sector and with respect to DPMS, commensurate with the risks identified in the NRA.

32.   There are good market entry controls in place to prevent criminals and their associates from owning or controlling FIs and most DNFBPs. There are, however, no controls for DPMS, and fitness and probity controls at the provincial level are not conducted on an ongoing basis (i.e. including after-market entry).

33.   Supervisors appear generally effective. Remedial actions are effectively used and have been extensively applied by supervisors but the sanctioning regime for breaches of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the PCMLTFA) has not been applied in a proportionate and/or sufficiently dissuasive manner. Supervisors have demonstrated that their actions have largely had a positive effect on compliance by FIs and some categories of DNFBPs. They have increased guidance and feedback to REs in recent years but further efforts are necessary, particularly with regard to the DNFBP sector. The exclusion of most of the legal professions (legal counsels, legal firms and Quebec notaries) from AML/CFT supervision has a negative impact on the effectiveness of the supervisory regime as a whole.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

34.   Canadian legal entities and legal arrangements are at a high risk of misuse for ML/TF purposes and that risk is not mitigated. This is notably the case with respect to nominee shareholding arrangements, which are commonly used across Canada and pose real obstacles for LEAs.

35.   Basic information on legal persons is publicly available, but beneficial ownership information is more difficult to obtain. Some information is collected by FIs and to a limited extent DNFBPs, the tax authorities and legal entities themselves, but is neither verified nor comprehensive in all cases. LEAs have the necessary powers to obtain that information, but the process is lengthy. Information exchange between LEAs and the CRA is also limited by stringent legal requirements.

36.   The authorities have insufficient access to information related to trusts. Some information is collected by the CRA as well as by FIs providing financial services, but that information is not verified, does not always pertain to the beneficial owner, and is even more difficult to obtain than in the case of legal entities.

37.   LEAs have successfully identified the beneficial owners in limited instances only. Despite corporate vehicles and trusts posing a major ML and TF risk in Canada, LEAs do not investigate many cases in which legal entities or trusts played a prominent role or that involved complex corporate elements or foreign ownership or control aspects.

International Cooperation (Chapter 8 - IO2; R. 36-40)

38.   range of mutual legal assistance (MLA) provided by Canada is generally broad, and countries provided—through the FATF—largely positive feedback regarding the responsiveness and

quality of the assistance provided. Canada solicits other countries' assistance in relatively few instances in pursuit of domestic ML, associated predicate offenses and TF cases with transnational elements. Some concerns were nevertheless raised by some Canadian LEAs about delays in the processing of incoming and outgoing requests. The extradition framework is adequately implemented. Informal cooperation is effective. Cooperation between LEAs, FINTRAC, the CBSA and OSFI and their respective foreign counterparts is more fluid, and more frequently used than MLA. Nevertheless, some weaknesses in Canada's framework (e.g. the impossibility for FINTRAC to obtain additional information from REs, and the low quantity of STRs from DNFBPs) negatively affects the authorities' ability to assist their foreign counterparts.

Priority Actions

■   Ensure that legal counsels, legal firms, and Quebec notaries engaged in the activities listed in the standard are subject to AML/CFT obligations and supervision. Bring all remaining FIs and DNFBPs in the AML/CFT regime.

■   Increase timeliness of access by competent authorities to accurate and up-to-date beneficial ownership information - Consider additional measures to supplement the current framework.

■   Increase timely access to financial intelligence – authorize FINTRAC to request and obtain from any RE further information related to suspicions of ML, predicate offenses and TF.

■   Use financial intelligence to a greater extent to investigate ML and traces assets.

■   Increase efforts to detect, pursue and bring before the courts cases of ML related to all high-risk predicate offenses, third party ML, self-laundering, laundering of POC of foreign predicate and the misuse of legal persons and trusts in ML activities.

■   Ensure that asset recovery is pursued as a policy objective throughout the territory.

■   Ensure compliance by all FIs with the requirement to confirm the accuracy of beneficial ownership in relation to all customers.

■   Require DNFBPs to identify and verify the identity of beneficial owners and PEPs.

■   Coordinate more effectively supervision of FRFIs by OSFI and FINTRAC to maximize the use of resource and expertise, and review implementation of the current approach.

■   Ensure that FINTRAC develops sector-specific expertise, and applies more intensive supervisory measures to the real estate and the DPMS sectors.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 - Risk, policy and coordination	IO.2 - International cooperation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Substantial	**Substantial**	**Substantial**	**Moderate**	**Low**	**Moderate**

IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Moderate	**Moderate**	**Substantial**	**Substantial**	**Moderate**	

Technical Compliance Ratings

R.1 - assessing risk & applying risk-based approach	R.2 - national cooperation and coordination	R.3 - money laundering offence	R.4 - confiscation & provisional measures	R.5 - terrorist financing offence	R.6 - targeted financial sanctions – terrorism & terrorist financing
LC	C	C	LC	LC	LC
R.7 - targeted financial sanctions - proliferation	R.8 - non-profit organisations	R.9 – financial institution secrecy laws	R.10 – Customer due diligence	R.11 – Record keeping	R.12 – Politically exposed persons
LC	C	C	LC	LC	NC
R.13 – Correspondent banking	R.14 – Money or value transfer services	R.15 –New technologies	R.16 –Wire transfers	R.17 – Reliance on third parties	R.18 – Internal controls and foreign branches and subsidiaries
LC	C	NC	PC	PC	LC
R.19 – Higher-risk countries	R.20 – Reporting of suspicious transactions	R.21 – Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 – DNFBPs: Other measures	R.24 – Transparency & BO of legal persons
C	PC	LC	NC	NC	PC
R.25 - Transparency & BO of legal arrangements	R.26 – Regulation and supervision of financial institutions	R.27 – Powers of supervision	R.28 – Regulation and supervision of DNFBPs	R.29 – Financial intelligence units	R.30 – Responsibilities of law enforcement and investigative authorities
NC	LC	C	PC	PC	C
R.31 – Powers of law enforcement and investigative authorities	R.32 – Cash couriers	R.33 – Statistics	R.34 – Guidance and feedback	R.35 – Sanctions	R.36 – International instruments
LC	LC	C	LC	LC	C
R.37 – Mutual legal assistance	R.38 – Mutual legal assistance: freezing and confiscation	R.39 – Extradition	R.40 – Other forms of international cooperation		
LC	LC	C	LC		

C = Compliant
LC = Largely compliant
PC = Partially compliant
NC = Non-compliant