



# Presentation to the Federation of Law Societies of Canada and the Government of Canada Working Group on Money Laundering and Terrorist Financing

Ottawa, June 26, 2019

# Overview

- **Vulnerabilities and Areas of Risk for Legal Profession**
  - Areas of ML/TF risk, typologies and indicators
- **FINTRAC Study**
  - Overview of financial activity associated with the legal profession in Canada
- **Overview of a Sanitized Disclosure**
  - An example of how lawyers can be associated to a money laundering case



## *Areas of ML/TF Risk – Conducting Certain Activities on Behalf of Clients*

Risks when engaged in certain transactions or activities on behalf of clients:

- Buying and selling of real estate
- Managing of client money, securities or other assets
- Management of bank, savings or securities accounts
- Creation, operation or management of legal persons or arrangements, buying and selling of business entities
- Setting up and managing charities

## *Areas of ML/TF Risk – Services offered*

Risk associated with services, for example:

- Handling the receipt and transmission of funds through accounts lawyers control without underlying legal work
- Effecting wire transfers on behalf of clients
- Providing introductory services, e.g., to a financial institution
- Advising on the setting up of legal arrangements, which may be used to obscure ownership or real economic purpose
- Transfer of real estate unusually short for similar transaction with no apparent economic reason
- Payments received from/sent to un-associated or unknown third parties
- Establishment of shell companies
- Unexplained delegation of authority by the client

## Areas of ML/TF Risk – Clients

- Risk associated with clients, for example:
  - Client requests services in unusual circumstance
  - Company activities are unclear or structure unnecessarily complex
  - Numerous alterations to client's legal structure or inexplicable changes in ownership
  - Instructions or funds don't match the client's personal or business sector profile
  - Client known to have connections with criminals
  - Politically Exposed Persons (PEPs)
  - Difficult to identify the true beneficial ownership
  - Management of the company appears to be acting on instructions from unknown or inappropriate person(s)
  - Use of legal persons and arrangements without any apparent legal or legitimate tax, business, economic or other reason
  - Entities with a high level of transactions in cash or readily transferable assets, among which illegitimate funds could be obscured

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4



## *Areas of ML/TF Risks -*

- Risks associated with non-face-to-face relationships or transactions
- Country/jurisdictional risks: Clients or transactions involving jurisdictions
  - Subject to sanctions, embargoes or similar measures issued by, for example, the United Nations
  - Lacking appropriate AML/CFT laws, regulations and other measures from which funds or support are provided to terrorist organizations
  - Having high levels of secrecy, corruption or criminal activity



## Typology A: Misuse of Client Account

A Quebec lawyer received approximately USD 3 million in American currency from a Montreal businessman, which he deposited into the bank account of his law practice. The lawyer then had the bank transfer the funds to accounts in Switzerland, the United States, and Panama.

In Switzerland, another lawyer, who was used as part of the laundering process, transferred on one occasion USD 1 760 000 to an account in Panama on the same day he received it from the Canadian lawyer. When depositing the funds in Canada, the Quebec lawyer indicated to the bank who completed large transaction reports as required, that the funds came from the sale of real estate.

A police investigation into the Quebec lawyer established that these funds were transferred to a reputed Colombian drug trafficker linked to the Cali Cartel. In their attempts to gather further information about the suspicious transactions, bank officials contacted the lawyer about the funds.

The lawyer refused to provide any further information, claiming solicitor-client confidentiality. The bank subsequently de-marketed the lawyer.

### Red flag indicators:

- Use of a disproportionate amount of cash
- Use of client account with no underlying legal work
- Funds sent to one or more countries with high levels of secrecy
- Client known to have connections with criminals

# Typology B: Facilitating a Real Estate Transaction

## Family members used as a front for purchasing property

A Canadian career criminal, with a record including drug trafficking, fraud, auto theft, and telecommunications theft, deposited cash into a bank account in his parents' name. The accused purchased a home with the assistance of a lawyer, the title of which was registered to his parents. He financed the home through a mortgage, also registered to his parents.

The CAD 320 000 mortgage was paid off in less than six months.

### Red flag indicators:

- Disproportionate amount of private funding/cash which is inconsistent with the known legitimate income of the individual
- Client is known to have been convicted of previous crime(s)
- There are attempts to disguise the real owner or parties to the transaction.
- Mortgages repaid significantly prior to the initial agreed maturity date with no logical explanation.

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7





## Typology C: Moving Funds for Clients

A Canadian law firm facilitated payments to a suspected shell company in Hong Kong which is linked to a major money laundering investigation with ties to cartels. Over a period of 10 months (October 2017 to July 2018), the Canadian law firm regularly ordered multiple electronic fund transfers (EFTs) to be benefit of the Hong Kong company. Each EFT averaged USD 25,000 for a monthly total ranging from USD 75,000 to 80,000. On a number of occasions, the law firm sent multiple EFTs on the same day to the same beneficiary (from the same account to the same account). The EFTs were structured for no apparent reason.

During that same period, other Canadian law firms also sent EFTs to the same Hong Kong entity.

### Red flag indicators:

- Transactions are unusual because of the manner of execution i.e. multiple EFTs in a short period of time when one transaction could have been conducted.
- Business relationship between parties to the transaction appear unclear i.e. law firm facilitating financial transactions for a third party.
- Transactions involving a potential or suspected front or shell company.

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8



## Examples of Suspicious ML/TF Indicators

- Use of client account with no underlying legal work
- Funds sent to one or more countries with high levels of secrecy or high risk countries
- Client known to have connections with criminals
- Large and/or rapid movement of funds not commensurate with the client's financial profile
- Rounded sum transactions atypical of what would be expected from the client.
- Size or type of transaction atypical of what would be expected from the client.
- Transaction involving front or shell companies
- Transactional activity is inconsistent with what is expected from a declared business
- Client appears to be living beyond their means
- Client is known to have been convicted of previous acquisitive crime(s)
- There are attempts to disguise the real owner or parties to the transaction.
- Involvement of structures with multiple countries where there is no apparent link to the client or transaction or no other legitimate or economic reason.
- Transactions are unusual because they are inconsistent with the age and profile of the parties
- Transactions displaying financial connections between individuals or businesses that are not usually connected
- Funds transferred in and out of an account on the same day or within a relatively short period of time
- Client's address or employment address are outside the local service area without a reasonable explanation.
- Client refuses to identify a source of funds or provides information that is false, misleading or substantially incorrect.

# *FINTRAC Study: Financial Activity Associated to the Legal Profession in Canada*

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10



## Study Goals

- Examine the financial activity associated with legal professionals in Canada.
- Assess whether legal professionals are prevalent in money laundering schemes
- Identify what type of legal professionals are involved and how funds are moved
- Analysis conducted on the premise that legal profession can be taken advantage of for their expertise and the unique products and services they offer



## *Preliminary Considerations*

- Some limitations exist for data used in the study
  - Non-reporting of transactions
  - Legal professionals (rather than clients) as subjects of reports
- Identifying typologies for the legal profession proves difficult:
  - Reliance on third party information for financials
  - Diversity of services provided by the legal profession
  - Broad utilization of lawyers across crime groups

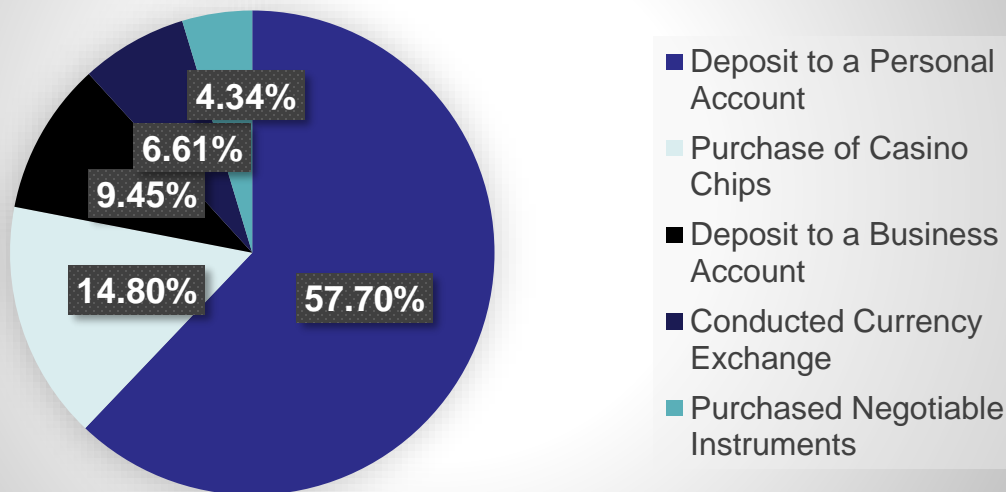


## *FINTRAC Material Used for Study*

- FINTRAC disclosures from April 2013 to December 2016
  - 289 disclosures
  - 238 unique instances
  - 304 unique law firms/legal professionals
- Large cash transaction reports (LCTRs) from April 2013 to December 2016
  - 5431 LCTRs
  - \$89,556,852 CAD (\$16,490 average cash transaction)
  - Made by, on behalf of to account of legal professional or law firm

# The Profile of Lawyers in LCTRs

## Completed Transactions Results for Cash Activity

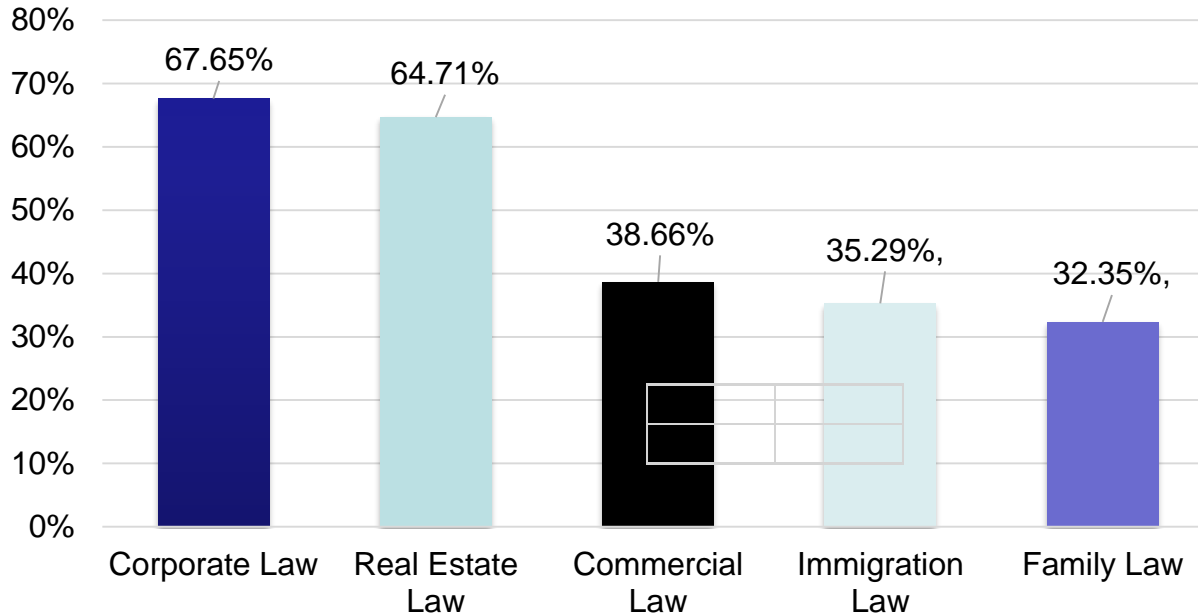


LCTR reporting for this timeframe identifies approximately **\$89,556,852 (CAD)** in cash was transacted through reporting entities by or on behalf of legal professionals for a total of **5,431** individual LCTRs.

- Overall personal use of cash encompasses most of the activity. Such as deposited into personal bank accounts (57.70%), purchasing casino chips or vouchers (14.80%).
- Deposits into business accounts is currently only at 9.45% for overall value of LCTRs.

# FINTRAC Disclosures involving the Legal Profession

## Case Distribution



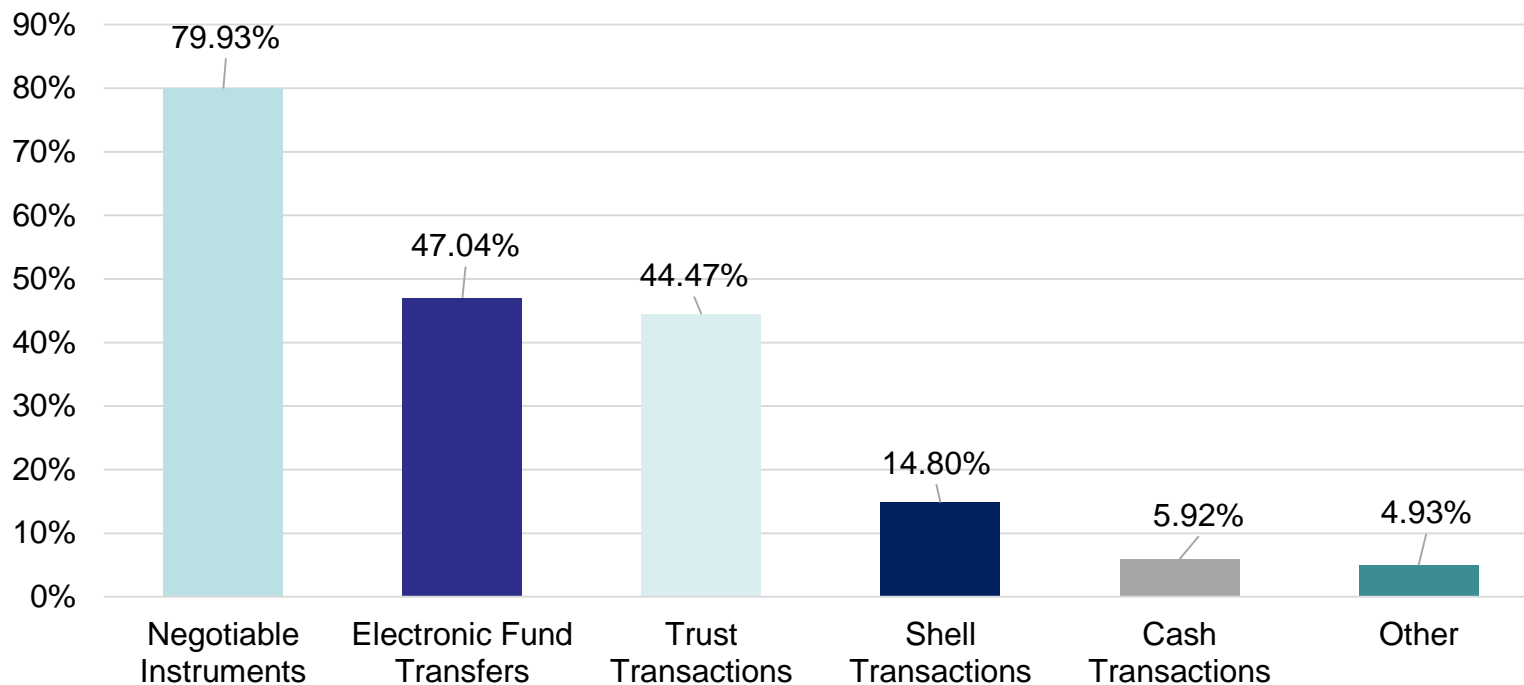
The individual law firms were assessed to determine the type of practice areas they advertise as their primary services.

- Of the 238 disclosures assessed, 304 individual law firms and legal counsels were identified.
- Based on the assessment, corporate lawyers (67.65%), real estate lawyers (64.71%), commercial lawyers (38.66%), immigration lawyers (35.29%) and family lawyers (32.35%) were amongst the top practices provided by legal professionals within these disclosures.



# How is Money Being Moved in Disclosures?

## Financial Instruments utilized by Legal Profession in FINTRAC disclosures



- Negotiable instruments (drafts, certified cheques, personal or business cheques) are the most commonly employed method.

# Financial Instruments utilized by Legal Professionals in FINTRAC disclosures

- Financial instruments differ slightly depending on the predicate offence.
- For example, 35% of fraud disclosures had the use of EFTs where tax evasion has the highest use of shell companies (25%).

**Table 5: Financial Instruments utilized by Legal Professionals by predicate offence**

Offence	EFTs	Trusts	Negotiable Instruments	Shell companies	Cash	<sup>8</sup> Other
Fraud	35%	26%	46%	9%	4%	4%
Tax Evasion	23%	30%	50%	25%	1%	6%
Drugs	20%	16%	57%	3%	3%	0%
Organized Crime	29%	31%	57%	2%	10%	0%
Threats	19%	30%	69%	0%	0%	3%

## Recap

- Cash deposits to trust accounts is of minimal representation in FINTRAC reporting, although LCTRs showing volume going to personal accounts.
- The five most common practice areas represented in FINTRAC disclosures are the following:
  1. Corporate Law
  2. Real Estate Law
  3. Commercial Law
  4. Immigration Law
  5. Family Law
- The top financial instruments represented in FINTRAC disclosures are as follows:
  1. Negotiable instruments
  2. Electronic Fund Transfers
  3. Trusts

## *Sanitized Disclosure: Lawyer Associated to a Money Laundering Case*

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19

