

**EXCERPT FROM PROCEEDINGS AT HEARING  
OF  
JANUARY 19, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**January 19, 2021**  
**(Via Videoconference)**

**(EXCERPT FROM PROCEEDINGS)**  
**(PROCEEDINGS COMMENCED AT 9:30 A.M.)**

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

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

MR. MARTLAND: Yes, Mr. Commissioner. Today we have two panels and we'll be hearing from two groups of CAMLOs, or chief anti-money laundering officers. I have conduct of both panels. The first will be an open hearing with credit union CAMLOs. The second panel is one that pursuant to ruling number 24 which has been posted on the commission's website will be an in-camera hearing, in other words, a closed hearing which is not a public hearing for the benefit of the public. As I say that ruling is available on the website and gives an explanation of why that second session is proceeding as a closed or in-camera hearing. The participants will be attending and they are entitled to attend that in-camera hearing.

We have -- today is the first panel and I

1 expect the timing if I pull this off properly,  
2 our timing will be such that we're beginning  
3 with the second in-camera portion around  
4 11:00 a.m. this morning.

5 So with that said I'm in a position to start  
6 with the first panel. I should indicate that  
7 counsel for the three witnesses is Ross McGowan,  
8 who is also in attendance today.

9 The witnesses are Ezekiel Chhoa, Lindzee  
10 Herring and Erin Tolfo. Madam Registrar, I  
11 believe all three witnesses will affirm, please.

12 THE REGISTRAR: Witnesses, please unmute yourselves.  
13 Thank you. Would each of you please state your  
14 full name and spell your first name and last  
15 name for the record. We'll start with  
16 Mr. Chhoa.

17 THE WITNESS: (EC) My name is Ezekiel Chhoa,  
18 E-z-e-k-i-e-l, last name Chhoa, C-h-h-o-a.

19 THE REGISTRAR: Thank you. And Ms. Herring.

20 THE WITNESS: (LH) First name Lindzee, L-i-n-d-z-e-e.  
21 Last name Herring, H-e-r-r-i-n-g.

22 THE REGISTRAR: Ms. Tolfo.

23 THE WITNESS: (ET) My name is Erin Tolfo. It's  
24 E-r-i-n. Last name is T-o-l-f-o.

25 **EZEKIEL CHHOA, a witness**



1 THE REGISTRAR: Exhibit 450.

2 **EXHIBIT 450: Biography of Ezekiel Chhoa**

3 MR. MARTLAND:

4 Q By way of background and as we see in that  
5 write-up, you're the Vice President, Risk and  
6 Compliance, with BlueShore Financial based in  
7 North Vancouver. You've been head of the  
8 BlueShore Financial's risk and compliance team  
9 for the past four years serving in a number of  
10 roles which includes among other things the role  
11 of CAMLO or Chief Anti-Money Laundering Officer.  
12 Do I have that right?

13 A (EC) That is correct.

14 Q And before joining BlueShore in 2016 you had  
15 worked at HSBC, including leading a large  
16 financial crime change program at that bank?

17 A (EC) That is correct.

18 Q Thank you.

19 Madam Registrar, if we could pull up the  
20 next biography for Ms. Herring, please.

21 Ms. Herring, the same first question, which  
22 is simply do you recognize that as being the  
23 biography that you sent over to the commission  
24 last week?

25 A (LH) Yes, it is.

1 MR. MARTLAND: I'll ask that please become the next  
2 exhibit, Mr. Commissioner, 421.

3 THE COMMISSIONER: 451.

4 MR. MARTLAND: I'm sorry. 451.

5 THE REGISTRAR: 451.

6 **EXHIBIT 451: Biography of Lindzee Herring**

7 MR. MARTLAND: Those are statistics that are going  
8 up.

9 Q Ms. Herring, the biography indicates that your  
10 position is the Director of Corporate Security  
11 with First West Credit Union in Langley; is that  
12 right?

13 A (LH) Yes, that's correct.

14 Q You have over 20 years experience in fraud  
15 management, AML or anti-money laundering and  
16 anti-terrorist financing programs and corporate  
17 investigations; is that right?

18 A (LH) Yes.

19 Q And you also have experience dealing with  
20 investigations into fraud and AML working with  
21 various levels of law enforcement and government  
22 agencies?

23 A (LH) Yes.

24 Q Thank you. I'll turn to Ms. Tolfo.

25 And if we could please, Madam Registrar,

Ezekiel Chhoa (for the commission)  
Lindzee Herring (for the commission)  
Erin Tolfo (for the commission)  
Exam by Mr. Martland

6

1                   have a look at Ms. Tolfo's biography.

2                   Ms. Tolfo, you recognize that as being your  
3                   biography?

4           A       (ET) Yes, it is.

5           MR. MARTLAND: I'll ask that please become  
6                   exhibit 452.

7           THE COMMISSIONER: Very well.

8           THE REGISTRAR: 452.

9                   **EXHIBIT 452: Biography of Erin Tolfo**

10          MR. MARTLAND:

11          Q       Your position is indicated as Vice President,  
12                   Compliance Financial Crime Risk Management and  
13                   CAMLO at Coast Capital Credit Union?

14          A       (ET) That's correct.

15          Q       And since February of 2020 you've been  
16                   responsible for overseeing the development and  
17                   execution of a regulatory compliance and  
18                   financial crime risk management program for  
19                   Coast Capital?

20          A       (ET) Correct.

21          Q       That includes oversight of the AML and ATF  
22                   program, fraud risk management and corporate  
23                   investigations?

24          A       (ET) Yes.

25          Q       And by way of background, before joining Coast

1 Capital in 2014 you worked at a national law  
2 firm?

3 A (ET) That's correct.

4 Q As a lawyer?

5 A (ET) Yes.

6 Q Thank you. So I'm going to start with a fairly  
7 broad question, and I welcome the panel members  
8 to direct or to basically chime in where you  
9 think there's something you'd like to share or  
10 add to or develop in terms of an answer to  
11 questions. My first question would be to ask  
12 you to please provide to the Commissioner a  
13 description of the work that credit unions do in  
14 order to come to grips with money laundering or  
15 apparent money laundering activity.

16 So in terms of preventing those -- that kind  
17 of activity, identifying when it may be  
18 occurring and then addressing whether suspicious  
19 transactions or other activity causing concern.

20 A (ET) I'd be happy to answer that.

21 Q Thank you.

22 A (ET) So credit unions are in the business of  
23 conducting banking, so we engage in financial  
24 transactions, and because of that it means we  
25 have data about financial transactions that

1                   FINTRAC and law enforcement need where it may  
2                   have some connection to money laundering or  
3                   terrorist financing. So we are a reporting  
4                   entity that supplies data to FINTRAC and we are  
5                   deeply committed to helping support the national  
6                   and international fight against money  
7                   laundering. We have requirements that we have  
8                   to ensure we fulfill in order to support FINTRAC  
9                   and law enforcement in their fight against money  
10                  laundering which includes requirements around  
11                  client identification, recordkeeping, compliance  
12                  regime requirements and reporting obligations to  
13                  FINTRAC, and we fulfill these obligations while  
14                  balancing a myriad of other legislative  
15                  requirements, including privacy requirements.  
16                  The work is really an enterprise-wide effort.  
17                  And so if we think about going back to sort of  
18                  our core function of our business that we are in  
19                  the business of banking and engaging in  
20                  financial transactions, it means that, you know,  
21                  we have to look for and identify issues that  
22                  meet the requisite threshold and share that  
23                  information where it may support FINTRAC and law  
24                  enforcement. We look at transactions and we  
25                  look at things that might suggest money

1           laundering and when we identify something that  
2           meets the requisite threshold we take certain  
3           steps to validate and ensure and then we  
4           transmit information to FINTRAC. And of course  
5           if we encounter something very serious that  
6           requires more immediate steps we will take steps  
7           to go directly to law enforcement.

8                        So as I mentioned earlier, it's an  
9           enterprise-wide effort. There are of course  
10          points of contact with our members and customers  
11          and that's where we fulfill certain obligations  
12          around knowing who we're dealing with,  
13          collecting information associated with that.  
14          Then there are methods by which we ensure that  
15          we are looking for any indicators which may  
16          suggest money laundering and there's escalation  
17          points and segregation of duties to ensure that  
18          we're always looking at it from a variety of  
19          angles and make sure that we are meeting our  
20          obligations around reporting where there are  
21          things that may suggest money laundering.

22                       We have checkpoints in place. We have  
23          oversight in place to ensure that what we're  
24          doing is adequate and effective. And there's  
25          also -- you know, our whole enterprise plays a

1                   role in terms of looking at products and  
2                   delivery channels so as we're creating new  
3                   products or looking at new ways to meet the  
4                   needs of our customers we also are mindful in  
5                   thinking about how those might be manipulated  
6                   and also ensuring that we collect the necessary  
7                   information we need to in order to continue to  
8                   make informed assessments and supply information  
9                   to FINTRAC. Sorry. Is there a ...

10            Q    No. This is helpful. I think you can carry on  
11                   and I'll have some followup questions.

12            A    (ET) Certainly. So the way we put all of this  
13                   together is we really leverage FINTRAC guidance  
14                   and industry associations and other financial  
15                   institutions in order to ensure that we can stay  
16                   up to date on key changes and information, and  
17                   of course we cascade that throughout the  
18                   organization in order to make sure that we are  
19                   continuing to look for things that we should be  
20                   looking for. And at the end of the day our  
21                   efforts are really to continue to support  
22                   FINTRAC and law enforcement efforts by providing  
23                   the necessary information so that we can -- so  
24                   that they can leverage that and act on the data  
25                   we supply.

1           Q     And you describe, and I think I'm right to say,  
2                   but you can tell me if I have this off, that  
3                   among the three credit unions who are with us  
4                   today Coast Capital is the biggest and indeed  
5                   one of the biggest in the province. From the  
6                   point of view of understanding what a CAMLO is,  
7                   the need, I take it there's a requirement that  
8                   there be a person in the position of CAMLO and  
9                   indeed even some requirements in terms of how  
10                  that person is reporting or answering up the  
11                  chain or to the board of the bank where credit  
12                  union, could you give us a sense first with  
13                  Coast Capital and then I'll turn to your  
14                  colleagues to give a sense at their institutions  
15                  of the role of the CAMLO and how that person,  
16                  what responsibilities they have as well as where  
17                  they're situated within the structure of a  
18                  credit union?

19           A     (ET) Absolutely. So FINTRAC does provide  
20                  specific details and information around the need  
21                  to have a CAMLO in place and we have mandates  
22                  and there's actually fairly prescriptive details  
23                  that outline what our mandate is. There is of  
24                  course flexibility, which is, you know,  
25                  appreciated as there are a variety of different

1 sizes of financial institutions, as you've  
2 alluded to. So institutions are able to make  
3 their own decisions around how they structure  
4 that and what role the CAMLO plays, but  
5 ultimately the CAMLO is responsible for  
6 overseeing the program and so acts as sort of a  
7 checkpoint and a challenge point in order to  
8 ensure that the right steps are taken to test  
9 the controls that we have in place and to make  
10 sure that training and information is cascaded  
11 throughout the organization. And the CAMLO also  
12 reports in to the board of directors often times  
13 and up to other senior management. So provides  
14 that information so that there really is an  
15 enterprise-wide view and a lot of information  
16 supplied right at the top of the house to ensure  
17 that everyone from the top all the way down to  
18 our member service representatives understands  
19 the requirements and sort of an assessment of  
20 where we are at on that.

21 Q And perhaps before I turn to your colleagues  
22 I'll just add one add-on question which would be  
23 to ask you to provide a sense of the kind of a  
24 team, Ms. Tolfo, that you have working under you  
25 on the AML front in particular.

1           A       (ET) So that's a challenging -- I mean, I can  
2                    certainly give details about the number of  
3                    people in my team, but I think what I would want  
4                    to just stress is the fact that team size is a  
5                    bit difficult to compare because it depends on  
6                    how you have your functions set up. So, you  
7                    know, my team has a number of individuals that  
8                    are focused on looking for specific alerts  
9                    through their channels and then there are a sort  
10                   of escalation point where we've got a team of  
11                   people who review that. But, you know, it's an  
12                   enterprise effort in that we rely on all of our  
13                   frontline people to really play an active role  
14                   as well. And of course they don't report  
15                   directly into me. They report in through their  
16                   own channels, but we do have oversight over the  
17                   actions they take. So hopefully that addresses  
18                   the question.

19           Q       Mr. Chhoa, would you be able to speak to that  
20                    very question about the structure of how money  
21                    laundering activities occur at your institution  
22                    BlueShore Financial, please.

23           A       (EC) Sure. Similar to my colleague's Erin, the  
24                    CAMLO is an independent position so there's a  
25                    reporting line into the board. So as the CAMLO

1           for BlueShore Financial I have direct access to  
2           the board, I have direct access to our senior  
3           executives, and that's written into our policies  
4           in terms of just having that independence  
5           function.

6                     And then in terms of size of team I think.  
7           You know, Erin really nailed it. It really  
8           depends on how the activities are structured.  
9           You know, my team is responsible for a number of  
10          things in addition to money laundering, so you  
11          know, we're focused on kind of oversight and  
12          governance and also reporting activities, but we  
13          certainly rely on the frontline staff that are  
14          interacting directly with clients to escalate  
15          issues as they see them.

16          Q        I take it from the point of view of frontline  
17          staff, I mean, a simple level that may be the  
18          teller who's interacting with a given person on  
19          something, I presume there's a level of training  
20          or awareness, information that's passed along to  
21          those people to make sure they're mindful of the  
22          right kinds of considerations or indicators?

23          A        (EC) Absolutely, yes. It's a requirement of  
24          FINTRAC as part of our AML program to have  
25          training as a component of it and so there is

1 training that's mandatory for all staff on the  
2 AML front.

3 Q Ms. Herring, if I could turn to you, please, to  
4 speak to this from the point of view of First  
5 West.

6 A (LH) Sure. Really I don't have a lot to add  
7 after my colleagues here. But really I can  
8 speak to our team. I'm not the CAMLO for First  
9 West, but what I can explain is the elements of  
10 the AML program and things that our team  
11 actually make sure that we're responsible for  
12 and we move forward.

13 So I would say overall monitoring systems.  
14 Any of our investigations and reporting that  
15 would all be part of the team I'm responsible  
16 for, as well as obviously working with the  
17 stakeholders and the different business lines to  
18 ensure that compliance is in effect and is  
19 effective, meaning that if there's any policies,  
20 procedures, guidelines that need to be updated  
21 based on any changes to legislation, any changes  
22 within the environment, we're the ones that work  
23 with the business to make that happen.

24 Q And, Ms. Herring, when it comes to describing  
25 sort of the workflow or the work involved in AML

1                   efforts at the credit union, you mentioned the  
2                   monitoring systems. We've heard a little bit  
3                   about the kinds of guidance that might be used  
4                   to inform that work. Could you tell us a little  
5                   bit about what that work looks like and what it  
6                   involves, please.

7                   A       (LH) I would say it's very -- all system based.  
8                   Obviously technology is really important in the  
9                   anti-money laundering terrorist financing space.  
10                  There's various system that credit unions will  
11                  use in order to manage that which have different  
12                  analytics that will trigger certain events that  
13                  need to be closely looked at. All of our  
14                  reporting again is all electronic through  
15                  systems to FINTRAC directly and that's very  
16                  prescriptive reporting.

17                  Q       With respect to the question of reporting, when  
18                  you use -- we've heard that term already a few  
19                  times and heard, I think, Ms. Tolfo describe  
20                  that in relation to FINTRAC and those  
21                  obligations in that system, could you help us  
22                  understand, setting aside FINTRAC for at least a  
23                  moment, are there other kinds of reporting that  
24                  relate to money laundering activity that the  
25                  credit unions are involved in to any other --

1                   whether that's other regulatory bodies or  
2                   provincial bodies, or is it really focused on  
3                   and maybe restricted to FINTRAC?

4           A       (LH) I think it's up to the credit union to  
5                   manage what needs to be escalated and I'll use  
6                   the example, and Erin touched on it earlier, is  
7                   that if we have any investigations that we feel  
8                   need to be escalated to law enforcement, for  
9                   example, that is the decision of the credit  
10                  union investigation team to make sure that that  
11                  does get forwarded to the appropriate  
12                  jurisdiction, but other than that we have very  
13                  limited reporting to BCFSA when it comes to  
14                  money laundering in particular. We do have one  
15                  monthly report we actually report up to them  
16                  regarding Canadian sanctions, but that is the  
17                  only other report that's officially required.

18          Q       And the BCFSA is the BC financial services  
19                  agency or authority?

20          A       (LH) Yes, that's right, sorry.

21          Q       Thank you. I'm just making sure I have it  
22                  right. And I may not, but close. I think we're  
23                  talking about the same thing. It used to be  
24                  FICOM?

25          A       (LH) That's right.

1           Q     Yeah. Let me pause to offer Ms. Tolfo and  
2                   Mr. Chhoa a chance to add to that if there's  
3                   anything they'd like to comment on.

4           A     (ET) I don't have anything to add.

5           Q     Thank you. With respect to the -- when you  
6                   describe escalating to law enforcement, what  
7                   does -- does that generally refer -- I'll turn  
8                   this back to you, Ms. Herring, since you'd  
9                   mentioned that point. Does that typically  
10                  involve the local police force in whatever area  
11                  the credit union is in, or are there other  
12                  agencies or bodies or other arms of police that  
13                  you'd be contacting?

14          A     (LH) Our primary interactions with law  
15                  enforcement in general is various jurisdictions,  
16                  but as it pertains to money laundering  
17                  specifically I would say we do have dedicated  
18                  RCMP email address that credit unions and  
19                  financial institutions can use to actually  
20                  forward STRs, suspicious transaction reports,  
21                  directly to them to have a closer look at. That  
22                  again is out of the discretion of the credit  
23                  unions' investigation teams to determine if  
24                  that's something that they want to forward on or  
25                  feel that it's necessary. Other than that any

1                   of the direct connections with law enforcement  
2                   we have are majority through their economic  
3                   crime divisions, financial crime sections,  
4                   municipal RCMP, and it's mainly fraud related  
5                   and usually in different capacities; it's us  
6                   reporting to them or information requests and  
7                   production orders. So generally that's our  
8                   interaction.

9                   Q     Is that true for the other financial  
10                   institutions that are here, Ms. Tolfo?

11                   A     (ET) Yes.

12                   Q     Mr. Chhoa?

13                   A     (EC) Yes. I think one thing I would add is  
14                   typically the information flow is one way, so we  
15                   do send information in and if there's an  
16                   investigation or something that gets kicked off  
17                   we typically don't hear become unless there's a  
18                   further production order or something like that.  
19                   But typically it is a one way communication and  
20                   reporting.

21                   Q     And when we speak about that and you describe, I  
22                   guess, a dedicated email address that is there  
23                   for the purpose of credit unions reaching out to  
24                   RCMP, do you know if that's RCMP "E" Division as  
25                   opposed to local detachments?

1           A       (LH) I believe it is, Brock, but I'm not sure  
2                    100 percent. It has changed.

3           Q       And so in relation to that is there -- has it  
4                    been the case now or over time that there is a  
5                    sort of set of dealings or a point of contact  
6                    with RCMP where there's a particular person  
7                    whose name and number that one would call up and  
8                    have the point of contact that way, or is it  
9                    more likely to be through the email? I guess  
10                  related to that as I hear you describe it, the  
11                  email sounds a little bit anonymous; it could be  
12                  directed to whoever it is that's going to be  
13                  assigned the followup? Ms. Herring, I mean over  
14                  the years have you had sort of a point of  
15                  contact at RCMP who is the person you'd simply  
16                  get on the horn with to speak about something or  
17                  alert them to something?

18          A       (LH) I would say -- I can comment on the fraud  
19                  side mainly, Mr. Martland. I think that's been  
20                  quite common. We do have contacts in the  
21                  economic crime sections, especially in the  
22                  jurisdiction where we actually do business. I  
23                  would say that's definitely something we built  
24                  relationships with. But as for the money  
25                  laundering side of things there hasn't been a

1                   direct contact that I've been given through  
2                   the years.

3           Q       Ms. Tolfo or Mr. Chhoa, any different answer to  
4                   that? Has there ever been -- setting aside I  
5                   assume there's no end of potential criminal  
6                   things that can happen at banks from robberies  
7                   to fraud and the more familiar kinds of things,  
8                   but for a moment setting those things aside and  
9                   focusing on money laundering activity in  
10                  particular, over the years have you had a point  
11                  of contact which is really a go-to person as  
12                  opposed to the more anonymous email address?

13           A       (EC) Maybe I'll offer this, Mr. Martland, you  
14                   know, as my colleague Ms. Herring had said,  
15                   primarily the interactions with law enforcement  
16                   are related to fraud. You know, and so from a  
17                   money laundering perspective it's -- there's  
18                   much less communication. You know, we're  
19                   located in North Vancouver, and we have a great  
20                   relationship with North Vancouver RCMP. We  
21                   participate in fraud awareness events and that  
22                   type of thing. But when we're talking  
23                   specifically about money laundering, you know,  
24                   money laundering is a very difficult crime to  
25                   prove, and so for us we are not law enforcement,

1                   you know, we're not -- our job is primarily  
2                   reporting the data and ensuring that the data  
3                   gets into the hands of the people who are in a  
4                   position to investigate. So I think, you know,  
5                   we don't communicate with law enforcement saying  
6                   hey, look, we believe there's money laundering  
7                   because, you know, quite frankly most of the  
8                   time it's suspicion versus we truly believe  
9                   there is a crime here.

10                   (ET) I mean, I'm happy to sort of just  
11                   expand a bit from our perspective. Really the  
12                   struggle is that we have a legislative setup  
13                   where we really have to be mindful of privacy  
14                   obligations and so we don't have the same level  
15                   of sort of permissive information sharing in the  
16                   legislative regime as there is in the fraud  
17                   space. And I think actually that was touched on  
18                   in the Maxwell report, and I agree with that  
19                   from our perspective. So that does add a layer  
20                   of challenge in that we're trying to find that  
21                   balance between escalating things and the  
22                   purpose for which we're escalating and ensuring  
23                   that we are walking the fine line in balance on  
24                   what we may share and what we may not.

25                   Q     Well, that's very useful. And I think you are

1                   referring to a witness we heard from last week,  
2                   Nick Maxwell, and his report, and among other  
3                   topics he I think described really a fraud  
4                   exception that would allow for different rules  
5                   for information sharing. I take it from your  
6                   answer, Ms. Tolfo, what you're suggesting from  
7                   your point of view is where there is a similar  
8                   ability to have open information moving around,  
9                   not just in fraud but for money laundering that  
10                  would be something that you'd see some value in?

11                A     (ET) It would certainly allow the opportunity to  
12                  share information that is more specifically  
13                  related to money laundering as opposed to  
14                  keeping the dialogue specifically in the fraud  
15                  space, yes.

16                Q     We've been speaking about this in the context of  
17                  the institutions speaking with and dealing with  
18                  law enforcement and police. What about within  
19                  the sort of private to private kinds of  
20                  communication or information sharing? Are  
21                  there, for example, discussions that happen  
22                  between one or a few credit unions to alert each  
23                  other to people, situations, typologies, what  
24                  have you, and if so how do those occur?

25                A     (LH) I can speak to that a bit.

1           Q     That actually generated three hits on the panel.  
2                    So let's start with Ms. Herring and we'll move  
3                    to your colleagues. Thank you. I appreciate  
4                    that, so that's not a criticism. Go ahead.

5           A     (LH) We're passionate about information sharing.  
6                    I think the one thing I'd like to just add on  
7                    information sharing is -- and this includes law  
8                    enforcement government agencies as well, is that  
9                    there are certain associations such as the  
10                   International Association of Financial Crime  
11                   Investigation [sic], so that is one group  
12                   that -- well, I've been a member for 15 years  
13                   and they are -- you have representation of all  
14                   those different areas and it's a very informal  
15                   way to talk about issues. Fraud is really  
16                   primarily what they talk about, but there is an  
17                   element of terrorist financing and money  
18                   laundering as well. Those groups do have  
19                   representation of all those different areas and  
20                   that allows that information sharing. It's very  
21                   informal, so details, obviously privacy needs to  
22                   be top of mind, but it allows us to talk as  
23                   investigative groups. So that is a channel  
24                   which helps and there's chapters all across  
25                   Canada that interact the same way. From an

1 information sharing and the avenues of the  
2 ability to do so, there's channels such as  
3 there's the BCPIF, which is the Bank Crime  
4 Prevention and Investigation Framework, and the  
5 credit unions have something similar which I'm  
6 sure with you're familiar with. It's the credit  
7 union office of crime prevention and  
8 investigation. And these are actually  
9 mechanisms for us to communicate between  
10 investigators, between credit union to credit  
11 union, and it's in a formal way to actually  
12 provide disclosures. And that you have to have  
13 evidence, you have to have reasonableness to  
14 disclose information, but it is a process and it  
15 is something that between banks and credit  
16 unions can be a challenge as well. But  
17 definitely the avenues are there to be used. I  
18 think they're under utilized. They do not  
19 specifically state just for fraud. They do say  
20 financial crime. However, they have been  
21 primarily used for fraud. So there are some  
22 channels and mechanisms in place for financial  
23 institutions to do better. We do need that  
24 backing, going to Erin's point. You know,  
25 having a section 314(b) like the US would be

1 ideal for the financial institution space to be  
2 able to have that protection for us when we're  
3 dealing with these complex investigations.

4 Q You mentioned that section, I think a section of  
5 the *Patriot Act* which was referred to in  
6 Mr. Maxwell's evidence, but that is a provision  
7 that as I understand would basically enable  
8 there to be this sort of flow of information  
9 with some legislative structure or protection  
10 for that occurring?

11 A (LH) Absolutely.

12 Q All right. Ms. Tolfo?

13 A (ET) Yeah. I mean, in terms of sharing with,  
14 you know, credit union to credit union or credit  
15 union to bank, I would echo Ms. Herring's  
16 comments. If we go back to the sort of  
17 underlying key point here, is financial  
18 institutions, credit unions included, are really  
19 deeply committed to supporting and doing our  
20 part to support the fight against money  
21 laundering, and, you know, the challenge that we  
22 have is we are so heavily regulated, it's  
23 complex. There are a lot of laws and  
24 regulations that often conflict with one  
25 another. And you know, I think that often tends

1                   to end up with individuals and institutions  
2                   taking a really conservative approach around  
3                   things. So I think about an example where, you  
4                   know, there's legislation that prohibits credit  
5                   unions or financial institutions or any  
6                   reporting entity from tipping off; right? So  
7                   the threshold is intentional, but if you think  
8                   about the effect of tipping off a consumer, that  
9                   if you even unintentionally tip a consumer off  
10                  that you've now filed a suspicious transaction  
11                  report on them, the effect is that now they know  
12                  that and they are going to learn something about  
13                  how to subvert the system in the future. So,  
14                  you know, I think there's an element of  
15                  conservatism, and the same happens with this  
16                  concept of de-marketing. So choosing to no  
17                  longer work with a business or a consumer  
18                  because you've decided that the risk is too high  
19                  and we are challenged in terms of not being able  
20                  to share those details, specific details because  
21                  of privacy law challenges and there's a lot of  
22                  validity to the privacy law area but, but it  
23                  also make it is very challenges in that each  
24                  institution is there for sort of on their own in  
25                  the sense that they have to separately catch

1 indicators around why someone may be coming to  
2 open up a new bank account having no idea that a  
3 financial institution down the street has just  
4 chosen to no longer do business with that  
5 person.

6 So it's a fine balance in terms of not  
7 wanting to supply information that is going to  
8 enable the people who want to launder money to  
9 get smarter to be able to improve their ability  
10 versus making sure that we can freely share the  
11 information to try and support ultimately  
12 FINTRAC and law enforcement in using the data we  
13 provide.

14 Q Ms. Tolfo, to pick up on the scenario you just  
15 described, I take it in that example you may  
16 have someone raising enough concerns for the  
17 bank that their assessment is this is too risky,  
18 we're not going to bring this person on as a  
19 client, or alternatively if they are a client  
20 they're so-called de-marketed and essentially  
21 sent out of the bank or declined for certain  
22 kinds of activities or support. And then  
23 because of privacy legislation and perhaps  
24 coupled with a very careful or risk adverse  
25 approach -- I'm not criticizing that, but

1                   because of a concern about privacy, that one  
2                   credit union might watch that suspicious person  
3                   go down the street, maybe learn a little bit  
4                   from what happened the first time and enlist at  
5                   a different credit union, but the first one is  
6                   essentially powerless to reach out to the second  
7                   and say, you should be aware that this is what  
8                   we saw?

9                   A       (ET) That is correct. That's the challenge.

10                  Q       Mr. Chhoa?

11                  A       (EC) Yeah. It's hard going last. I absolutely  
12                   echo what my colleagues have already said. In  
13                   terms of information sharing my experience has  
14                   been that it's easier and much -- it's more  
15                   prevalent to talk about themes. You know, this  
16                   is a theme of a pattern of activity that we're  
17                   seeing, but often time those themes, I mean,  
18                   they emerge as themes because it's a pattern of  
19                   activity and so the activity itself has already  
20                   occurred and so from a timeliness perspective  
21                   the information sharing, you know, when we're  
22                   talking about themes is just it's not as timely.  
23                   So the tactical information sharing on specific  
24                   cases, you know, that's quite rigorous. As  
25                   Ms. Herring had alluded to there's a very

1                   specific framework and very specific criteria  
2                   under which you're allowed to or not allowed to  
3                   share. So yeah, maybe I'll just stop there in  
4                   terms of just the details of what we're sharing.

5           Q       But I take from your comment that a big part  
6                   of -- an important consideration in thinking  
7                   about information sharing generally is to avoid  
8                   situations where the information becomes stale  
9                   because for whatever reasons, but you ideally  
10                  want to have quite an immediate flow of  
11                  information back and forth.

12          A       (EC) Correct. I'll just add that, you know,  
13                  just as the credit union system is passionate  
14                  about anti-money laundering I think we're also  
15                  passionate about privacy. And I think  
16                  there's -- you know, I act also as the privacy  
17                  officer for the organization and so when I wear  
18                  a privacy hat there are times when, you know, I  
19                  simply cannot share a piece of information even  
20                  though from a money laundering perspective I may  
21                  say hey, I want to share that, but from a  
22                  privacy perspective you just cannot. And so it  
23                  is a delicate balance and it's something that I  
24                  think increased clarity in legislation would be  
25                  very helpful for the credit union system.



1 document sharing request from FINTRAC and so  
2 there will be a list of documents that they  
3 request from the financial institution. We will  
4 provide that information after they have  
5 reviewed it. Then they typically do either a  
6 desk review or onsite review. They may come  
7 onsite and they may have questions about the  
8 documents that we have provided. They will  
9 interview various staff members and they'll also  
10 pull sample transactions and look at specific  
11 transactions and determine whether or not we've  
12 met our reporting obligations.

13 Q And what's the mechanism by which the  
14 information is conveyed? Is that a letter  
15 essentially or a report from FINTRAC back to the  
16 financial institution to tell them what findings  
17 have been reached and/or advice that's given?

18 A (EC) Yes. So the initial letter is a letter  
19 that is sent to the financial institution and in  
20 correspondence there's a secure channel that we  
21 use to communicate documents and such. And then  
22 at the exit, after the exit interview they will  
23 produce a final letter for the institution with  
24 any findings or recommendations that they've  
25 discovered.

1           Q     Ms. Tolfo, are those interactions, the  
2                   examination process with FINTRAC, is there sort  
3                   of a set calendar that it occurs every two years  
4                   or a certain expectation as to how recurrent it  
5                   is?

6           A     (ET) I'm not aware of a set calendar, although I  
7                   have only been in my chair since last February,  
8                   but my understanding is they do visit with a  
9                   relative sort of frequency. There is an ongoing  
10                  dialogue generally around what their  
11                  expectations are. And of course with COVID  
12                  things have been a little bit different as  
13                  everyone has sort of had to pause and reset  
14                  calendars, but, you know, we are given ample  
15                  notice and we're sort of provided with  
16                  information so that we know that we are able to  
17                  engage in a meaningful dialogue with them around  
18                  the exams.

19          Q     Mr. Chhoa referred to a desk exam or desk  
20                  examination. What does that describe?

21          A     (ET) I actually have not been through one of  
22                  those as CAMLO, so perhaps one of my colleagues  
23                  would be better placed to answer.

24          Q     Mr. Chhoa?

25          A     (EC) Yeah, I'm happy to take that. So a desk

1 exam is just one where they don't physically  
2 come onsite. They will review everything  
3 remotely. They may still conduct interviews  
4 over the phone. They're just not physically  
5 present onsite.

6 Q And so the examination process seems to be one  
7 where there's a back and forth. Is the  
8 reporting -- Mr. Chhoa, maybe I'll start with  
9 you for this, but is the reporting, unlike the  
10 examination, is it a one-way street where the  
11 financial institutions are sending that  
12 information to FINTRAC, or is there information  
13 received back from FINTRAC, and if so what kind  
14 of feedback is there?

15 A (EC) On a day-to-day basis I would say it's one  
16 way. We send data into FINTRAC. In terms of  
17 feedback we do receive feedback during exams as  
18 an example. So they will -- during our last  
19 FINTRAC exam, the examiner went through some of  
20 the reporting and had a discussion with us on  
21 what they really liked seeing and what was  
22 effective. So there is some feedback but  
23 usually that takes place during an examination  
24 versus on a day-to-day basis.

25 Q Any different answer from either Ms. Tolfo or

1 Ms. Herring?

2 A (ET) I would just expand a little to say, you  
3 know, I think there's a big commitment from  
4 FINTRAC to continuing to work on their approach  
5 and engaging in a dialogue and they know and we  
6 know that it's really important to maintain that  
7 dialogue and they have really recommitted to it  
8 over the past number of years and they are  
9 active participants in industry association  
10 meetings and continuing to look at advancing  
11 communication channels. So I think what my  
12 colleague explained is accurate, but there are  
13 other ways that information is cascaded and they  
14 do take the opportunity to provide information  
15 bulletins and communicate through industry  
16 channels.

17 Q I asked a question earlier about the notion of  
18 having really sort of a point of contact, for  
19 example, at the local police station for the  
20 bank robbery investigation or what have you. Is  
21 there any analogue to that with FINTRAC that any  
22 of these the three of you have, a counterpart or  
23 colleague at FINTRAC who would be -- where you  
24 have that level of ability to reach out to  
25 somebody specifically?

1           A       (LH) We do have a designated Western Canada  
2                    contact. We use them if we have any general  
3                    questions and it's their responsibility to take  
4                    it away if they are unable to answer that. So  
5                    they may have to take it to Ottawa and have  
6                    questions answered for us, but we do have a  
7                    dedicated person within Western Canada to  
8                    contact, yes.

9           Q       Thank you. I'm going to turn to a question that  
10                   is a bit broad. A number of these questions are  
11                   broad. But I'm wondering this: with respect to  
12                   the -- I think I read a statistic to the effect  
13                   that 90 percent of banking in Canada falls to  
14                   the big six national banks, and so the credit  
15                   unions in terms of their size and structure and  
16                   being specific to this province are certainly  
17                   obviously smaller compared to the national  
18                   banks. Is there attention from the point of  
19                   view of the credit unions with being expected to  
20                   live up to the regime that one level might seem  
21                   like a one-size-fits-all regime and does that  
22                   make, does that lead to challenges for smaller  
23                   credit unions in particular?

24           A       (EC) Yes, Mr. Martland, I'll start on this one.  
25                    I mean, very simply yes. There are challenges,

1           you know, being a smaller financial institution.  
2           And that is simply because there are a number of  
3           fixed costs that must be borne by the financial  
4           institution regardless of size. So I can give a  
5           couple of specific examples that might help  
6           illustrate this. The first is, you know, we  
7           talked about software and technology and how  
8           important that is. So a piece of AML software  
9           costs the same regardless -- well, not exactly  
10          the same. It depends on, you know, negotiation  
11          and all that, and I'm just mindful here of  
12          telling the truth here. But it's a cost that is  
13          borne regardless of whether you're a small or  
14          large institution, and so there's that. The  
15          other point or other example that I can give is  
16          just around human resourcing. So as we've  
17          explained smaller credit unions we have staff  
18          that are dedicated to anti-money laundering  
19          activities, but we also wear a number of  
20          different hats and we're responsible for other  
21          things. And so, you know, it's very different  
22          when you're thinking of a very large, either one  
23          of the big six or a large international bank,  
24          you know, where they have potentially hundreds  
25          of staff that are dedicated to this work. You

1 know, they can avail themselves of a couple of  
2 things. One, is they can offshore some of that  
3 work to lower-cost centres, which clearly as a  
4 smaller FI, financial institution, we're not  
5 able to do. The other thing, too, is just  
6 purely from a training perspective they are able  
7 to have a more junior -- they can bring in a  
8 junior level of staff and train them up.  
9 Whereas for us because they have such a wide  
10 scope of responsibility, you know, those  
11 resources, they are few and far between who have  
12 that breadth of knowledge and experience. And  
13 so it's harder to attract and retain that type  
14 of individual. So that's something that, you  
15 know, the smaller you get is the bigger of a  
16 challenge that that becomes.

17 Q Are there solutions -- sometimes I think we've  
18 learned a bit about third party providers or  
19 something called centrals that will help to  
20 permit especially smaller credit unions to  
21 whether that's AML policies or other kinds of  
22 supports that are there on offer so that not  
23 every small institution has to invent the wheel  
24 or design a program afresh?

25 A (EC) Yes. Absolutely. So Central 1 does have

1 AML services that they provide regardless of  
2 credit union size. They are available. And  
3 they do a lot to help the credit union system,  
4 especially the smaller credit unions in ensuring  
5 compliance with all of the regulatory  
6 requirements. The one point around that I'd  
7 like to make, though, is that even though the  
8 smaller credit unions have outsourced the  
9 activity, they cannot outsource the  
10 responsibility. So the responsibility still  
11 rests on a very small credit union to ensure  
12 compliance regardless of who performs the  
13 activity.

14 Q And I wonder if the panel members could respond  
15 to this concept or point. To the extent that  
16 credit unions are quite likely to be rooted in  
17 and very closely tied to a particular community,  
18 first geographically, secondly to some extent  
19 perhaps market segment or clientele or other  
20 things that bring people together in that credit  
21 union setting, does any -- do those sorts of  
22 dynamics which I understand to apply to many or  
23 maybe most of the credit unions in the province,  
24 is that -- do you think that's accurate, but  
25 secondly, do you think if so does that have any

1 connection to or effect on anti-money laundering  
2 efforts?

3 A (LH) I can take that one, Mr. Martland. One of  
4 the things I think we're -- and like you said,  
5 we're deeply rooted in the communities. We're  
6 very community focused where I think sheer --  
7 you know, it allows us to have a little bit more  
8 of -- and I would say a strong know your client  
9 type of process that could be a bit different  
10 based on size. The other thing I would probably  
11 comment on which I think is a really positive  
12 thing is that given our size and given the fact  
13 that we are -- we have that close connection to  
14 the frontline team, and when I think about our  
15 team, for example, we have the ability to have  
16 that personal connection with our front line  
17 allowing questions to be answered that you may  
18 not have that ability in a large, large  
19 financial institution. And what that allows is  
20 just again more appreciation about AML risk  
21 overall, I would say. It just gives us that  
22 ability. So if there is a positive, I would say  
23 that is one of the good things we see as a  
24 benefit overall.

25 Q I just have a few last questions, and one point

1 I wanted to ask about had to do with whether  
2 there are in general terms particular sectors of  
3 the economy or areas of activity that the credit  
4 unions look to individually or collectively and  
5 identify as being really too big of a risk in  
6 terms of the risk of money laundering activity  
7 to the point that those institutions avoid  
8 bringing on clients in that sector. Does that  
9 occur?

10 A (ET) I'm happy to answer that one. So you know,  
11 generally speaking each credit union and each  
12 financial institution has to conduct their own  
13 assessments of risk up against the capabilities  
14 that they have to make sure that ultimately the  
15 institution is meeting the regulatory  
16 requirements. You know, as industries evolve  
17 and as they start, so new areas of emerge and  
18 then there becomes sort of regulation or  
19 oversight, it allows financial institutions to  
20 start to get to know the business a bit more.  
21 So I will use just an example. If you think  
22 about the cannabis industry that has gone from  
23 being completely illicit to now regulated, it  
24 allows institutions to place a level of reliance  
25 on the government infrastructure and regulation

1           there and then a financial institution may  
2           choose to decide to sort of put in their own  
3           then verification process, their own risk  
4           tolerances and to then decide yes, we're going  
5           to place a level of reliance on the regulation  
6           that exists and go ahead and accept that risk.  
7           But it really does remain an institution to  
8           institution decision for each financial  
9           institution, each credit union to decide on  
10          their own. And then you know, in terms of sort  
11          of risks generally, if we talk about themes,  
12          things like and especially in today's day and  
13          age, cash-based businesses, right, those will  
14          just inherently be a higher risk. Of course  
15          doesn't mean that -- financial institutions are  
16          simply not going to allow anyone that has a cash  
17          based business, but it certainly does often  
18          drive higher levels of scrutiny and making sure  
19          that you've got the right controls in place to  
20          be monitoring and to be reporting and providing  
21          the data that's necessary to FINTRAC.

22                   (EC) If I could add on to that, I would say  
23                   because of the regulatory burden that is  
24                   required, so if it's a higher risk business or  
25                   industry there's definitely going to be a higher

1 level of, you know, process and resource that is  
2 going to be allocated and dedicated to those  
3 businesses. And because of that each -- as  
4 Ms. Tolfo has said, each organization has to do  
5 their own calculation as to whether or not the  
6 effort that is required to ensure compliance is  
7 worth engaging in that business.

8 And I will say that, you know, similar to my  
9 comments before about credit unions being  
10 smaller, you know, it sometimes does limit  
11 strategically what businesses we can support or  
12 not support because of some of the rigour around  
13 monitoring some of the higher risk industries.

14 (ET) Actually that just reminds me of  
15 another thing that I think is worth adding which  
16 is there are instances where we rely on service  
17 providers to help support the front-end user and  
18 sometimes risked-based decisions are actually  
19 based on a service provider on the back end if  
20 they have a risk tolerance that is tighter than  
21 ours and sometimes institutions just simply  
22 aren't able to go down a certain path because of  
23 that, so that's another layer that we have to  
24 factor in.

25 Q You mentioned as an example cannabis operators,

1                   are money service businesses another category  
2                   that might raise concerns?

3           A       (ET) Yeah, I mean, it's another example of a  
4                   business that at this point less regulation than  
5                   the cannabis industry so it is -- it's more  
6                   complex and more challenging. You know, there's  
7                   the additional layer of not having that rigour  
8                   around knowing that a government, you know,  
9                   there's a concrete government sets of  
10                  regulations that allows us to then place a level  
11                  of reliance on what the government has set up.  
12                  So it's more of an emerging one that I think  
13                  financial institutions just have to take a look  
14                  at.

15                               (EC) With respect to money service  
16                   businesses, one of the things to consider, too,  
17                   something that we've contemplated is it's almost  
18                   embedding one financial institution within  
19                   another. So they're doing a lot of transactions  
20                   and things but relying on us to process a lot of  
21                   the transactions in the back end. So there is  
22                   that element, too, that increases the complexity  
23                   and then that also raises the question of who is  
24                   responsible for reporting what.

25           MR. MARTLAND: Witnesses, thank you.

1                   Mr. Commissioner, that completes my questions  
2                   for this panel.

3                   THE COMMISSIONER: Thank you, Mr. Martland. I'll now  
4                   call on Ms. Stratton on behalf of the province  
5                   who has been allocated 15 minutes.

6                   MS. STRATTON: Thank you, Mr. Commissioner.

7                   **EXAMINATION BY MS. STRATTON:**

8                   Q     I just have a few questions for these witnesses.  
9                   Mr. Chhoa I'm going to start with you. You've  
10                  told the commission about some of the resource  
11                  challenges faced by small credit unions and how  
12                  those challenges could be alleviated by using  
13                  Central 1, but although you could or small  
14                  credit unions could outsource some of the  
15                  program development they can't outsource  
16                  responsibility for money laundering. Is that a  
17                  fair summary of your evidence?

18                  A     (EC) That is correct, yes.

19                  Q     Given these challenges you've identified, are  
20                  there any tools that you would like to see,  
21                  either tools that would be useful for a small  
22                  credit union or tools for some of the regulatory  
23                  bodies, whether that's BCFSA or FINTRAC or even  
24                  Central 1? Are there any tools that any of  
25                  these bodies could have that would assist you in

1 further developing your anti-money laundering  
2 program?

3 A (EC) I can't think of any specific tools. I  
4 think tools may be in the context of information  
5 sharing. You know, I think my colleague  
6 referred to the Maxwell report and I fully  
7 support that as well so that the findings that  
8 were in there. And I think information sharing  
9 is a big area of improvement for us, the  
10 potential improvement, and if there are tools  
11 that can effect that, then that is something  
12 that I would certainly be supportive of.

13 Q Thank you. And you said -- do I have this right  
14 that you are also the chief privacy officer at  
15 your credit union as well as the CAMLO?

16 A (EC) That's correct, yes.

17 Q Do you find that sometimes creates a conflict of  
18 interest? You explained that on the one hand  
19 with your money laundering hat you sometimes  
20 want to share information, but with your privacy  
21 hat on you know you can't do that. Does that  
22 ever create a conflict for you? And I guess I  
23 should add -- pardon me, sorry. Go ahead.

24 A (EC) It creates a challenge, right. So in that  
25 particular example that I was thinking of, the

1 way that I resolved it simply was to go back to  
2 the client and ask for consent; right? So  
3 it's -- is it a challenge? Yes, it absolutely  
4 is a challenge, but there are remedies to those  
5 challenges. So it's a matter of applying what  
6 makes the most sense in that particular instance  
7 in order to figure out what the right outcome  
8 should be or what the right response or action  
9 should be.

10 Q And in your view would it improve your  
11 anti-money laundering efforts and those at  
12 credit union if the chief privacy officer and  
13 the CAMLO were separate people in small credit  
14 unions?

15 A (EC) Sorry, could you repeat your question.

16 Q Yeah. Of course. In your view would it improve  
17 your anti-money laundering efforts at a small  
18 credit union if the person responsible for the  
19 anti-money laundering programs or the CAMLO was  
20 a separate person from the chief privacy officer  
21 so that you're not wrestling with that conflict?  
22 I was just wondering your opinion on that.

23 A (EC) I don't believe that that would have a  
24 material impact. I think, you know, the  
25 organization acts as one and so regardless of

1           that, if that role is held by an individual or  
2           two separate people, even if you're two separate  
3           people you need to come to an agreement on what  
4           the right course of action is. So I don't  
5           necessarily believe that having two separate  
6           people would be any easier or difficult.

7           Q     Thank you. And I just have a few questions for  
8           Ms. Herring. My friend asked you about the  
9           reporting by credit unions provincial regulatory  
10          bodies and you answered that you had very  
11          limited reporting to BCFSA, that you had one  
12          monthly report you send regarding sanctions. Is  
13          that an accurate statement of your evidence?

14          A     (LH) Yes.

15          Q     I just wanted to clarify one point. Will you  
16          agree with me that in the periodic reviews that  
17          BCFSA does of credit unions for the regulatory  
18          compliance and operational risk that anti-money  
19          laundering compliance is a component of that  
20          assessment?

21          A     (LH) Yes, it is.

22          MS. STRATTON: Thank you, Mr. Commissioner. Those  
23          are all my questions for these witnesses.

24          THE COMMISSIONER: Thank you, Ms. Stratton. Now,  
25          Mr. Rauch-Davis on behalf of Transparency

1 International Coalition who has been allocated  
2 15 minutes.

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

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

5 Q Mr. Chhoa, I'll direct my first questions at you  
6 but, Ms. Tolfo and Ms. Herring, if you want to  
7 chime in, please do so.

8 So, Mr. Chhoa, I take it you would agree  
9 that each year credit unions, including your  
10 employer, spend massive amounts of money on  
11 their AML regimes.

12 A (EC) Well, massive is a bit of a subjective  
13 term, but there is a significant budget  
14 allocated to AML activities, yes.

15 Q It's a significant budget. I'm not asking to  
16 you go into that budget. I have your evidence  
17 that it's a significant budget. And I take it  
18 you would agree with me that the impetus as  
19 multi -- there are multiple components to the  
20 impetus to comply with AML regulations. There's  
21 the one aspect which is to comply with the AML  
22 regulations, but also of importance is the  
23 reputational risk, and by that I mean that  
24 public disclosure of credit unions or banks  
25 being used to facilitate money laundering is

1                   horrible for business; right?

2           A       (EC) I agree with that, yes.

3           Q       Yeah. And so those are the -- those are more or  
4                   less the two driving factors behind the budget  
5                   allocation, the significant budget allocation?

6           A       (EC) Yes. Plus it's also the morally right  
7                   thing to do.

8           Q       Sure. I agree with that as well. So I take it  
9                   you would agree with me that it's in the credit  
10                  union's economic interests to have an effective  
11                  AML regime?

12          A       (EC) Yes, it is.

13          Q       And that includes both within the walls of the  
14                  credit union and to a larger extent to support  
15                  Canada's AML regime. You agree with that?

16          A       (EC) Yes, I do.

17          Q       And so right now there's a pretty heavy onus, or  
18                  would you agree that right now there's a pretty  
19                  heavy onus on credit unions and other financial  
20                  institutions to know your client and do client  
21                  due diligence and in particular with respect to  
22                  corporate clients?

23          A       (EC) Sorry, can you repeat that again.

24          Q       Maybe I'll rephrase it. It's multifaceted. So  
25                  right now would you agree that there's a heavy

1                   onus on credit unions to know their clients and  
2                   complete their client due diligence?

3           A       (EC) Yes.  Again "heavy" is a bit of a  
4                   subjective term, but there's a requirement, the  
5                   requirement for know your client is multi --  
6                   like it's used both for anti-money laundering,  
7                   anti-fraud, but it's also used from a sales  
8                   perspective as well.  And so, you know, we do  
9                   that as a matter of course from a business  
10                  perspective.

11          Q       And wouldn't you agree that part of the AML  
12                   budget is allocated to those obligations as  
13                   well, the know your client, client due diligence  
14                   obligations?

15          A       (EC) Yes.

16          Q       And it's costly as well, just those two facets  
17                   of the AML budget?

18          A       (EC) It is, yes.

19          MR. RAUCH-DAVIS:  And I'm wondering, Madam Registrar,  
20                   if a document can be put to the witnesses.  
21                   COAL00005.

22                   Now, Mr. Commissioner, this document was  
23                   submitted outside of the five-day requirement  
24                   and so I understand from my friend I will have  
25                   to seek leave to put it before these witnesses.

1 I am not sure if anyone is objecting, but I  
2 though I would raise that issue prior to getting  
3 into it.

4 MR. MARTLAND: Mr. Commissioner, I've unmuted not so  
5 much with an objection but maybe anticipating.  
6 I think it is likely to turn on what question is  
7 put or how the document's used. The document  
8 was provided -- our rules provide for the  
9 requirement that documents to be used in  
10 examination or cross-examination be provided  
11 five days in advance out of fairness to  
12 witnesses who are attending and this was sent  
13 yesterday late in the day. I don't know if the  
14 witnesses have read it. I won't actually  
15 object, though, until I've heard a question  
16 because it may be that the document is being  
17 used in a way to introduce a topic or sequence  
18 out an area of examination that isn't a problem  
19 for the witnesses. So maybe I can simply state  
20 that and then wait to see what the question is.

21 THE COMMISSIONER: All right.

22 MR. RAUCH-DAVIS: I thank my friend for that  
23 clarification. I will just proceed.

24 Q So, Mr. Chhoa, have you seen this document?

25 A (EC) I have seen it but have not read it.



1                   there is either no legal obligation on  
2                   these persons to be truthful when they  
3                   provide that information, or there is no  
4                   meaningful legal sanction attached to  
5                   their false or misleading  
6                   representations."

7                   Do you see that?

8                   A       (EC) Yes, I do.

9                   Q       Do you agree with that sentiment that there is  
10                  no legal obligation on the clients and customers  
11                  to be truthful?

12                  A       (EC) Yes, I do.

13                  Q       And that informs your know your client and  
14                  client due diligence obligation. Is that your  
15                  understanding?

16                  A       (EC) Sorry, that informs my know your client?

17                  Q       Right. So what I mean --

18                  A       Can you say that again.

19                  Q       Yeah, what I mean by that is because you know  
20                  there's no obligation on the client to be  
21                  truthful, your organization has to take extra  
22                  steps to verify the information coming in; isn't  
23                  that right?

24                  A       (EC) We do do that, correct.

25                  Q       So what Mr. Comeau -- I won't take you through

1                   this article and I understand you haven't read  
2                   it, but what Mr. Comeau suggests is this type of  
3                   declaration of beneficial ownership system in  
4                   which the onus is shifted from the bank to the  
5                   client or the consumer to provide truthful  
6                   information in that the consumer now has an  
7                   obligation under law with potential sanctions if  
8                   they are false or if they lie to provide  
9                   truthful information. And so would you  
10                  anticipate that that type of system would assist  
11                  in your know your client or client due diligence  
12                  obligations?

13                A     (EC) Yes. My opinion is that that would be  
14                  helpful.

15                Q     And then on top of that, Mr. Comeau's second  
16                  suggestion is also the creation and  
17                  establishment of a public beneficial ownership  
18                  registry for trust corporations and real estate.  
19                  Are you familiar with the *LOTA* registry that's  
20                  coming into effect this year or has come into  
21                  effect, that's the real estate registry?

22                A     (EC) I'm not familiar with the acronym, but I am  
23                  aware that there is a beneficial ownership  
24                  registry that is coming into effect, yes.

25                Q     And do you anticipate that assisting your

1 obligations under the know your client and  
2 client due diligence issues that we were talking  
3 about?

4 A (EC) I believe that the beneficial ownership  
5 registry will assist our know your client  
6 obligations, yes.

7 MR. RAUCH-DAVIS: Thank you. I wonder,  
8 Mr. Commissioner, if I could have this exhibit  
9 marked, or this article marked.

10 THE COMMISSIONER: Very well. That will be the next  
11 exhibit.

12 THE REGISTRAR: Exhibit 453, Mr. Commissioner.

13 THE COMMISSIONER: Thank you.

14 **EXHIBIT 453: Brief of Kevin Comeau to FINA**  
15 **Committee respecting proposed changes to**  
16 **PCMLTFA, June 12, 2018**

17 MR. RAUCH-DAVIS:

18 Q And, Mr. Chhoa, I take it -- or I have your  
19 evidence that typically the information flow  
20 from FINTRAC is one way and so if I understand  
21 that correctly, it's that you're sending  
22 information to FINTRAC and you're not receiving  
23 much back unless there's a production order. Do  
24 I have that right?

25 A (EC) That's on -- that's correct for day-to-day

1 operational reports. So when we send in large  
2 cash transaction reports or large wire  
3 transaction reports that is correct, but as I  
4 also stated, there is some feedback in terms of  
5 when there's an exam FINTRAC will provide  
6 feedback to us on how we're doing.

7 Q And how often do those exams happen?

8 A They are at the discretion of FINTRAC. In my  
9 experience it's been every couple of years.

10 Q Does FINTRAC provide --

11 A (EC) They're not --

12 Q Pardon me. I didn't mean to interrupt.

13 A (EC) Sorry, I just wanted to clarify that  
14 they're not held to two years that that's not --  
15 they're able to issue an examination notice as  
16 they choose.

17 Q Okay. Does FINTRAC provide guidance on risk  
18 assessment?

19 A (EC) In their exams they do.

20 Q What about proactive guidance, like is there  
21 anything prior to exams or a mandate to provide  
22 information on any type of consistent or regular  
23 basis?

24 A (EC) Yes, as my colleague Ms. Tolfo has  
25 mentioned, FINTRAC has been fairly proactive in



1 communication with our prudential regulator on  
2 many topics amongst which AML is one.

3 Q Thank you. My next question is for Ms. Herring.  
4 Thank you, Mr. Chhoa.

5 Ms. Herring, I have a note from your  
6 evidence that you have monthly reporting  
7 regarding Canadian sanctions and that primary  
8 interactions with law enforcement in various  
9 jurisdictions, and I take when you refer to  
10 various jurisdictions are you referring to other  
11 provinces or federal jurisdictions? I just  
12 wanted to clarify on that point.

13 A (LH) Yeah, it's a good question. Mainly  
14 jurisdictions where we do business I would say  
15 is probably the best way to describe that. But  
16 when we do have investigations and again just to  
17 be clear, it's mainly on the fraud side of  
18 things. If it crossed jurisdictional evidence,  
19 that needs to be shared or discussed, we will be  
20 engaged by other areas, different provinces.

21 Q Okay. Different provinces. Has the United  
22 States ever asked for reports to their AML  
23 authorities?

24 A (LH) We've dealt with the US Secret Service on  
25 several investigations. However, again going

1 back to that it's been mainly fraud related.

2 Q And those are specific investigations I take it?

3 A (LH) Yes, they are.

4 Q Is there any -- let me put it this way: are you  
5 aware if there is any reporting obligation to  
6 the United States?

7 A (LH) Not that I am aware.

8 Q In your role, and perhaps I'll open this up to  
9 the panel, you don't actively report to the  
10 United States authorities on their AML regime  
11 requirements?

12 A (LH) No.

13 (EC) No, we do not.

14 (ET) No, we do not either.

15 MR. RAUCH-DAVIS: Thank you. Those are my questions  
16 for these witnesses.

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

18 Anything arising, Ms. Stratton?

19 MS. STRATTON: Nothing arising. Thank you,  
20 Mr. Commissioner.

21 THE COMMISSIONER: Mr. Martland?

22 MR. MARTLAND: No, thank you, Mr. Commissioner.

23 THE COMMISSIONER: Thank you. I would like to thank  
24 the panel for taking the time and in sharing  
25 their experience and expertise with us in this

Ezekiel Chhoa (for the commission)  
Lindzee Herring (for the commission)  
Erin Tolfo (for the commission)  
Exam by Mr. Rauch-Davis

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1 area of concern. It's been very helpful and I  
2 now excuse you from further attendance at the  
3 hearing, virtually of course. Thank you.

4 **(WITNESSES EXCUSED)**

5 THE COMMISSIONER: Mr. Martland, I take it that this  
6 is an appropriate time to take a break; is that  
7 right?

8 MR. MARTLAND: Yes. My suggestion would be that for  
9 benefit of media and the public on the live  
10 stream we will be resuming our hearings tomorrow  
11 morning at 9:30. We will proceed with the  
12 in-camera hearing, and my suggestion would be we  
13 might plan to start that at 11:00 a.m. And if  
14 we need to hold off the start time by a few  
15 moments to make sure everything is ready for it,  
16 we'll do so, but that's a separate process for  
17 that panel.

18 THE COMMISSIONER: All right. Thank you. We'll  
19 stand down until 11:00 a.m. then.

20 THE REGISTRAR: The hearing is stood down until  
21 11:00 a.m. Thank you.

22 **(PROCEEDINGS ADJOURNED AT 10:42 A.M.)**

23 **(PROCEEDINGS RECONVENED AT 11:00 A.M.)**

24 **(IN CAMERA UNDER SEPARATE TRANSCRIPT)**

25 THE REGISTRAR: The hearing is adjourned until

Ezekiel Chhoa (for the commission)  
Lindzee Herring (for the commission)  
Erin Tolfo (for the commission)  
Exam by Mr. Rauch-Davis

1                                    January 20th, 2021 at 9:30 a.m. Thank you.

2                                    **(WITNESSES EXCUSED)**

3                                    **(PROCEEDINGS ADJOURNED AT 1:33 P.M. TO JANUARY 20, 2021)**

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