

**PROCEEDINGS AT HEARING
OF
NOVEMBER 25, 2020**

COMMISSIONER AUSTIN F. CULLEN

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November 25, 2020
(Via Videoconference)

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

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

THE COMMISSIONER: Thank you, Madam Registrar. Yes, Ms. Patel.

MS. PATEL: Thank you, Mr. Commissioner.

Mr. Commissioner, today we are hearing from a panel of individuals who are involved in the virtual asset industry in various advisory compliance and anti-money laundering, counterterrorist financing roles. They're appearing before the commission as witnesses with expertise in their field garnered from years of experience in both virtual currency and AML roles in the virtual currency world and traditional banking world as well and as witnesses who, because of their current and recent work, have good insight into the state the virtual currency business in Canada.

And I'll ask, Madam Registrar -- they had each, I think, indicated that they will affirm this morning.

THE COMMISSIONER: Thank you.

1 THE REGISTRAR: Witnesses, please unmute yourselves.
2 Thank you. Would each of you please state your
3 full name and spell your first name and last
4 name for the record. I'll start with
5 Ms. Cieslik.

6 THE WITNESS: (CC) yes, Charlene Cieslik. First name
7 C-h-a-r-l-e-n-e. Last name Cieslik,
8 C-i-e-s-l-i-k.

9 THE REGISTRAR: Thank you. And Mr. Dixon.

10 THE WITNESS: (GD) Giles Dixon. First name is
11 spelled G-i-l-e-s. Second name is Dixon,
12 spelled D-i-x-o-n.

13 THE REGISTRAR: Thank you. Mr. Mueller.

14 THE WITNESS: (RM) Hi. My name is Ryan Mueller.
15 First name is R-y-a-n, last name M-u-e-l-l-e-r.

16 THE REGISTRAR: Thank you. Mr. Warrack.

17 THE WITNESS: Peter Warrack. P-e-t-e-r. Surname
18 W-a-r-r-a-c-k.

19 **CHARLENE CIESLIK, a**
20 **witness called for the**
21 **commission, affirmed.**

22 **GILES DIXON, a witness**
23 **called for the**
24 **commission, affirmed.**

25 **RYAN MUELLER, a witness**

1 called for the
2 commission, affirmed.
3 PETER WARRACK, a witness
4 called for the
5 commission, affirmed.

6 THE COMMISSIONER: Thank you. Yes, Ms. Patel.

7 **EXAMINATION BY MS. PATEL:**

8 Q Mr. Warrack, I'm just -- I'm going to start by
9 reviewing the credentials, the CVs of each of
10 the witnesses, and I'll start with you,
11 Mr. Warrack.

12 MS. PATEL: Madam Registrar, if you could pull up
13 Mr. Warrack's CV. Thank you.

14 Q Mr. Warrack, just can you confirm that you
15 recognize this document as being your CV? And
16 I'm sorry, Mr. Warrack, I'm not sure if you
17 responded. I didn't hear an affirmative.

18 A (PW) That's correct. I recognize this document
19 as being my résumé.

20 MS. PATEL: Thank you very much. We can take that
21 down now, Madam Registrar, and if we could have
22 that mark as the next exhibit.

23 THE COMMISSIONER: 261.

24 THE REGISTRAR: It's 260, Mr. Commissioner.

25 THE COMMISSIONER: I'm sorry. Thank you.

1 **EXHIBIT 261: Curriculum Vitae of Peter Warrack**

2 MS. PATEL: Thank you. And, Mr. Commissioner, I'll
3 just note.

4 THE COMMISSIONER: Just to interrupt, Ms. Patel. A
5 small point, but was not the Chainalysis Reactor
6 webpage 260, Madam Registrar?

7 THE REGISTRAR: Yes. My apology, I forgot about
8 that. It's 261.

9 THE COMMISSIONER: All right. Thank you.

10 THE REGISTRAR: Thank you.

11 THE COMMISSIONER: I'm sorry for the interruption.

12 MS. PATEL: Just a note, Mr. Commissioner. You'll
13 that note Mr. Warrack is wearing a face mask
14 today for medical reasons, and we just ask the
15 indulgence of the Commissioner to allow him to
16 continue to do so.

17 THE COMMISSIONER: Yes, that's just fine.

18 MS. PATEL: Thank you.

19 Q So, Mr. Warrack, you are a certified anti-money
20 laundering specialist; is that right?

21 A (PW) That's correct, Commissioner.

22 Q And you are also a certified bitcoin specialist?

23 A (PW) That's correct.

24 Q A certified fraud examiner?

25 A (PW) That's correct.

1 Q And I'll note that you've twice received
2 recognition, both in 2011 and 2017, from the
3 Association of Certified AML Specialists as
4 the -- or ACAMS, as the ACAMS professional of
5 the year and you were also the recipient of an
6 ACAMS public/private partnership award in 2018;
7 is that right?

8 A (PW) That's correct, Mr. Commissioner.

9 Q Okay. And we'll return to that, but I'll
10 continue with your background for now. And as
11 your -- in your roles -- your current and former
12 roles and in with that expertise you have
13 knowledge of the requirements of the *Proceeds of*
14 *Crime (Money Laundering) and Terrorist Financing*
15 *Act*, FINTRAC guidance and various Financial
16 Action Task Force, FATF, guidance documents; is
17 that right?

18 A (PW) That's correct.

19 Q Okay. I also note that your résumé indicates
20 you've taken the Canadian Securities Course and
21 Canadian Securities Institute chief compliance
22 officer exam. And so you also have familiarity
23 with Canadian securities laws; is that right?

24 A (PW) That's correct.

25 Q Your résumé indicates you have over 30 years of

1 experience in the investigation, prevention and
2 management of serious crime. You started your
3 career in the British army where you moved into
4 military intelligence and then went into the
5 police service where you held the rank of
6 detective sergeant, detective inspector and
7 detective chief inspector; is that right?

8 A (PW) Acting detective chief inspector.

9 Q Thank you. And in those roles you investigated
10 terrorist and non-terrorist crime and later
11 economic crime?

12 A (PW) That's correct.

13 Q Okay. And you led the investigation of serious
14 and complex fraud, organized crime, money
15 laundering and terrorist financing?

16 A (PW) That's correct.

17 Q Following your military and policing career, I
18 understand that you moved into the private
19 sector in roles in intelligence and
20 investigations with banks. Is that right?

21 A (PW) Intelligence, investigations, anti-money
22 laundering and risk management with two Canadian
23 banks.

24 Q Okay. The first one was RBC. Can you just tell
25 us what your role was there?

1 A (PW) Initially I was recruited from the police
2 in the UK to form and head up RBC's intelligence
3 unit as it related to financial crime.
4 Subsequently I was tasked with reforming RBC's
5 financial intelligence unit, their anti-money
6 laundering unit, through -- transitioning it
7 from a checklist approach to a risk-based
8 approach consistent with regulatory guidance at
9 the time.

10 Q And you were with RBC for approximately
11 11 years. Does that sound right?

12 A (PW) I believe I left RBC in 2010.

13 Q And from RBC you went to the Bank of Montreal.
14 Can you just briefly describe your role there.

15 A (PW) I was recruited by the Bank of Montreal to
16 essentially do the same thing that I did at RBC
17 in relation to upgrading their money laundering
18 function, their financial intelligence unit.
19 Once I had done that, I then was in a senior
20 risk management role and the senior Fintech role
21 specializing in virtual assets, cryptocurrency.

22 Q Okay. And so it was in that role at the Bank of
23 Montreal that you first started work with
24 virtual currencies; is that right?

25 A (PW) In a paid capacity. But prior to that, I

1 think probably 2014, now, is when I -- or even
2 before that, 2012 maybe, is when I first started
3 to take a real interest in cryptocurrency and
4 educate myself on the subject.

5 Q In 2018 you made a move into consulting for --
6 consulting in respect of AML compliance for the
7 virtual currency industry. Can you just
8 describe the work that you've done since 2018 in
9 broad strokes.

10 A (PW) I resigned -- or sorry, I retired from Bank
11 of Montreal in May 2018, formed my own company,
12 Blockchain AML Consulting Services, which is a
13 consulting training company specialized in
14 blockchain technology, cryptocurrency. I also
15 have a contractual consultant arrangement with
16 one of the world's largest cryptocurrency
17 trading platforms, a company called Bitfinex, as
18 their Chief Compliance Officer.

19 Q And I'll just note you're not here today as a
20 representative of Bitfinex or any other of your
21 clients, but rather in your personal capacity as
22 an individual with extensive experience in both
23 traditional financial institutions and virtual
24 currency service providers and their AML
25 efforts?

1 A (PW) That's correct.

2 Q Thank you. Ms. Cieslik, if --

3 MS. PATEL: Madam Registrar, if we could pull up
4 Ms. Cieslik's résumé.

5 Q Ms. Cieslik, do you recognize this document as
6 being your CV?

7 A (CC) Yes, I do.

8 MS. PATEL: I'll ask that this be marked as the next
9 exhibit, please.

10 THE COMMISSIONER: 262.

11 THE REGISTRAR: Exhibit 262.

12 **EXHIBIT 262: Curriculum Vitae of Charlene**
13 **Cieslik**

14 MS. PATEL: And, Madam Registrar, you can take that
15 down. Thank you.

16 Q Ms. Cieslik, you've got a master's degree in
17 criminology and you are also a certified AML
18 specialist; is that right?

19 A (CC) Yes, that's correct.

20 Q And just -- maybe I should have done this
21 earlier with Mr. Warrack, but I'll ask you. Can
22 you just -- can you tell us what is a certified
23 AML specialist? What does it mean? What does
24 that designation mean in your field?

25 A (CC) It is an accreditation issued by the

1 Association of Certified Anti-Money Laundering
2 Specialists. It requires a period of study and
3 the writing of an exam and maintenance of a
4 certain skill level and experience in the
5 anti-money laundering compliance field, and
6 they're an international organization based out
7 of the United States. And I was a founding
8 member of the Canadian chapter, the Toronto
9 ACAMS chapter many moons ago. They do have
10 chapters around the world that allows people in
11 the industry to meet, attend webinars, training
12 sessions, et cetera, in order to maintain a
13 skill level and interest level and experience.

14 Q Your background. You have, like Mr. Warrack, a
15 background of experience in your I guess about
16 20 years in both traditional financial
17 institutions and with virtual currency
18 businesses. And I understand that you started
19 your career with our Canadian regulator, with
20 FINTRAC. Can you tell us a little bit about
21 what your role was there. And am I correct that
22 you were there in fairly early days for FINTRAC,
23 starting in 2002?

24 A (CC) Yes, I was there in the sort of very early
25 inception. I had previously worked for the

1 Auditor General of Canada. We had done an audit
2 of drug enforcement in Canada which led me to
3 you know, find out about FINTRAC's creation. It
4 was a newly created agency in respect of United
5 Nations requirements, so I had started there as
6 a junior investigator in the anti-money
7 laundering investigation unit. After one year I
8 had applied for and was promoted to an analyst
9 level. My role there was to investigate
10 anti-money laundering cases and make
11 recommendations for escalation to the committee
12 for disclosure to law enforcement both
13 domestically and/or internationally at the time.

14 Q And you continued to have some interaction with
15 FINTRAC. You're on the FINTRAC virtual currency
16 working group and have been since 2018. Can you
17 tell us a little bit about that working
18 group.

19 A (CC) Sure. Yeah. I mean, that was part of the
20 outreach to virtual asset service providers in
21 aiding their understanding and development of
22 the new cryptocurrency-based regulations and
23 amendments to the existing regulations in order
24 to bring virtual asset service providers under
25 the auspice of the *Proceeds of Crime (Anti-Money*

1 *Laundering) and Terrorist Financing Act and*
2 regulations.

3 Q I note you've also participated in Financial
4 Action Task Force forums with respect to virtual
5 currency?

6 A (CC) Yes, I attended the public sector
7 consultation in Vienna in 2019 where the FATF
8 had come up with the recommendations, amendments
9 to existing recommendations to bring virtual
10 currency asset service providers into their
11 40+9.

12 Q Your background -- you have some background as a
13 senior advisor at Ernst & Young and financial
14 advisory services, other -- a boutique
15 consultancy firm as well. Can you tell us a bit
16 about your work with traditional brick and
17 mortar financial institutions.

18 A (CC) Sure. After my time at FINTRAC I did move
19 into big 4 consulting firms at the time when the
20 regulations were newer and burgeoning. My role
21 there was an advisory capacity as part of their
22 advisory services generally to advise
23 traditional financial institutions on the
24 implementation and interpretation of the roles
25 which, again, at the time were relatively new in

1 terms of operationalizing. So I spent some time
2 working with -- I mean, at this point I think
3 I've worked with most, if not all, of the big
4 banks in Canada, smaller banks, credit unions,
5 financial services companies as well. Through
6 that I also spent some time in the United States
7 working with large correspondent banking
8 institutions there where they had gotten in some
9 hot water with regulators and were required to
10 complete look-back remediations of activity and
11 make certain reports to regulators that they
12 might have missed over the prior time period.
13 Came back to Canada and continued to do the same
14 thing for a little while with, again, the big 4,
15 consulting at a domestic level.

16 Q And just to clarify. When you just mentioned
17 that you were consulting and helping --
18 consulting with banks on the new regulations,
19 you weren't speaking about the new new
20 regulations from under the *Proceeds of Crime*
21 *(Money Laundering) and Terrorist Financing Act*;
22 you were talking about the new regulations in --
23 as they applied to banks back in the early
24 2000s?

25 A (CC) Yes, yes. I mean, there were regulations

1 in place, but there were amendments made and
2 improvements made and banks were really ramping
3 up and becoming -- you know, working on their
4 anti-money laundering programs as this was
5 approximately 15 years ago. You know, there was
6 some work to be done in that area in terms of
7 regulatory compliance, control mapping, program
8 design, execution and reporting.

9 Q Okay. And like Mr. Warrack, in early 2018 you
10 moved into compliance officer roles at virtual
11 currency businesses. And you were the chief
12 compliance officer at an Ontario-based virtual
13 exchange called Coinsquare; is that correct?

14 A (CC) I'll correct you on that. I was the chief
15 anti-money laundering officer at Coinsquare, but
16 I was also the Chief Compliance Officer of one
17 of their US-based crypto-ATM businesses called
18 Coinsquare Networks.

19 Q Thanks for the correction. You are now a
20 consultant on AML and anti-money laundering and
21 anti-terrorist financing matters for financial
22 services businesses and virtual currency
23 businesses in Canada and other jurisdictions?

24 A (CC) Yes, I am.

25 Q And you very recently have started to act as the

1 Chief Compliance Officer for another company
2 that operates bitcoin or crypto-ATMs?

3 A (CC) Yes, that's true.

4 Q Okay. Can I just ask you. We've had some
5 debate here about what the appropriate
6 terminology is. I've heard "bitcoin ATM,"
7 "crypto-ATMs" and also we had a witness
8 yesterday who preferred the term "kiosks." Is
9 there a standard that's accepted in the
10 industry?

11 A (CC) I mean, I think it varies. I'm comfortable
12 with the term "bit ATM." I feel like it just
13 rolls off the tongue easier. But it does vary.
14 It depends on their usage, and I think their
15 usage is slightly different in the US than
16 Canada.

17 Q Well, as long as we all know what we're talking
18 about.

19 A (CC) The traditional white label ATM machines
20 that are not tied to any financial institution,
21 that these ones specifically cryptocurrency
22 purchase based.

23 Q I just outlined your experience in broad strokes
24 and I'll just say that -- would you agree that,
25 like Mr. Warrack, as a result of the experience

1 I've just outlined, you have knowledge of and
2 familiarity with the requirements of the
3 *Proceeds of Crime (Money Laundering) and*
4 *Terrorist Act*, its regulations, FINTRAC guidance
5 and various Financial Action Task Force
6 guidances and publications that relate both to
7 financial institutions and to virtual
8 currencies?

9 A (CC) Yes, I would agree with that.

10 Q And I'll also just note that, like Mr. Warrack,
11 you are not here today as a representative of
12 any of your clients, but rather in your own
13 capacity as an individual with extensive
14 experience in both traditional financial
15 institutions and virtual currency service
16 providers?

17 A (CC) Yes.

18 Q Thank you. Mr. Mueller. I'm going to ask Madam
19 Registrar to pull up your résumé. And I think
20 it will be easy for you to confirm that this is
21 yours because it has your picture on it.

22 A (RM) Yeah. I'd recognize that head anywhere.
23 Yeah.

24 MS. PATEL: Okay. Madam Registrar, if we could have
25 this marked as the next exhibit, please.

1 THE COMMISSIONER: We're at 163, I think.

2 THE REGISTRAR: 263, Mr. Commissioner.

3 THE COMMISSIONER: Sorry, 263.

4 **EXHIBIT 263: Curriculum Vitae of Ryan Mueller**

5 MS. PATEL:

6 Q Mr. Mueller, you have 18 years of experience in
7 various financial enterprises, including payment
8 processors, and currently you are with a
9 cryptocurrency platform called Netcoins?

10 A (RM) Correct.

11 Q And your role there is as the Chief Compliance
12 Officer?

13 A (RM) Correct.

14 Q Okay. And you are -- as we see in your résumé
15 here, you are a certified fraud examiner?

16 A (RM) Yes.

17 Q Can you just tell us what a certified fraud
18 examiner is.

19 A (RM) Yeah, it's very similar to the CAMS
20 credential. It's just offered by the
21 Association of Certified Fraud Examiners. So
22 similarly to what Charlene mentioned with ACAMS
23 is there's a period of study, there's an
24 accreditation exam and there are ongoing CPE
25 requirements. I think some of the key

1 differences would be that the CFE credential has
2 a focus on forensic accounting and kind of draws
3 a difference between money laundering and fraud.

4 Q You are also a certified anti-money laundering
5 specialist?

6 A (RM) Yes.

7 Q And a certified cybercrime investigator?

8 A (RM) Correct, yeah. That one is offered by the
9 International Association of Financial Crime
10 Investigators, which is a similar network,
11 similar organization with lots of banking
12 investigators, lots of law enforcement,
13 et cetera, but it's similar.

14 Q And in your current role --

15 MS. PATEL: Madam Registrar, we can take that down
16 now. Thank you.

17 Q In your current role as Chief Compliance Officer
18 at Netcoins you create and maintain policy
19 documents, you conduct anti-money laundering,
20 counterterrorist financing training and you
21 manage -- your résumé indicates that you manage
22 "enterprise, AML and fraud efforts," and I
23 assume that means anti-fraud efforts?

24 A (RM) Yes, absolutely.

25 Q All right. And as such you are familiar with

1 Financial Action Task Force guidance with
2 FINTRAC, guidance with the *Proceeds of Crime*
3 *(Money Laundering) and Terrorist Financing Act*
4 and its regulations; is that right?

5 A (RM) Correct.

6 Q And also you indicate that you -- on your résumé
7 that you have a critical role in undergoing
8 securities registration and regulation, and I
9 understand that flows from the fact that
10 Netcoins is currently going through the
11 registration process with the BC Securities
12 Commission?

13 A (RM) Correct. We're doing a volunteer
14 registration as an exempt broker-dealer.

15 Q Okay. So you have knowledge of the -- both the
16 registration process and of the obligations
17 which will apply to Netcoins upon registration?

18 A (RM) Correct.

19 Q Thank you.

20 MS. PATEL: Madam Registrar, if we could please pull
21 up Mr. Dixon's résumé.

22 Q Mr. Dixon, you are a senior manager with Grant
23 Thornton Canada?

24 A (GD) That's correct.

25 Q And you are the leader of the virtual asset risk

1 advisory group; is that right?

2 A (GD) Yes, that's correct.

3 Q Do you recognize this document as your résumé --
4 as your CV?

5 A (GD) Yes, I do.

6 MS. PATEL: All right. Mr. Commissioner, if we could
7 please have this marked as the next exhibit, and
8 we can take it down.

9 THE COMMISSIONER: Thank you. 264.

10 THE REGISTRAR: Exhibit 264.

11 **EXHIBIT 264: Curriculum Vitae of Giles Dixon**

12 MS. PATEL:

13 Q And you provide advisory services to a range of
14 virtual currency businesses in your role at
15 Grant Thornton?

16 A (GD) Yes, that is true. And I would add that
17 it's not solely dealers in virtual currency that
18 I advise for; it's financial services broadly.
19 But yes, the virtual currency industry is one of
20 the segments that I advise to, yeah.

21 Q And can you give us an overview of the types of
22 advisory services that you personally have
23 experience in giving?

24 A (GD) Sure. Yeah. So my -- I sit within a team
25 within Grant Thornton Canada called the

1 anti-money laundering and forensic advisory
2 team. So really what we do is we provide
3 consulting services to primarily financial
4 institutions. So, for example, helping
5 financial institutions to understand how to
6 comply with AML regulations, sometimes
7 conducting independent anti-money laundering
8 effectiveness reviews for those groups,
9 assisting with investigations into potential
10 wrongdoing, even assisting with remediation for
11 regulatory findings. There's a longer list of
12 services, but that's primarily what we do.

13 Q Okay. And as a result of that experience, like
14 the other panel members here, you have
15 familiarity with the *Proceeds of Crime (Money*
16 *Laundering) and Terrorist Finance Act*, its
17 regulations, FINTRAC guidance and Financial
18 Action Task Force guidance?

19 A (GD) Yes, that's fair to say.

20 Q Thank you. I'm going to -- I'm going to start
21 by asking a question to the panel, and I'll
22 direct it to -- I'll direct who should
23 answer first just to keep some order. There's
24 been extensive media coverage in recent years of
25 virtual currency businesses that has been

1 unfavourable, and a couple of notorious examples
2 are -- well, one notorious example is
3 QuadrigaCX, an exchange that collapsed when its
4 founder died, leaving 76,000 users or so without
5 access to their funds and leading to a
6 loss of approximately \$170 million of customer
7 funds.

8 So my first -- first, would you agree -- and
9 I'll direct this question first to Ms. Cieslik
10 -- that this media coverage has created a
11 negative public impression of the vulnerability
12 of virtual currency businesses generally in
13 Canada to fraud and money laundering?

14 A (CC) Yes, of course I would agree with that. It
15 certainly is not a proud moment in Canadian
16 history of cryptocurrency.

17 Q All right. And then the deeper question is
18 whether this is a fair perception, and I'll ask,
19 Ms. Cieslik, if you can start with that.

20 A (CC) Sure. I mean, I don't believe it's a fair
21 perception. I do believe that it was quite, you
22 know, a headline-grabbing case and of course was
23 a terrible, you know, incident, but I do think
24 that that's sort of one large case, you know,
25 and of course there are -- a few others have

1 In relation to money laundering and virtual
2 asset service providers, exchanges,
3 crypto-exchanges for want of a better
4 description, they have certain similarities with
5 the traditional banking system and then they
6 have obvious differences, one difference being
7 the fact that cryptocurrency transactions are
8 borderless, for instance. That would be a
9 vulnerability unless properly mitigated through
10 appropriate controls.

11 There are others challenges -- I wouldn't
12 describe them as vulnerabilities necessarily --
13 but the process by which one opens an account on
14 an exchange depending on the jurisdiction,
15 online, an online process. There are
16 arguably -- or some people would argue that
17 depending on the nature of the token, for want
18 of a better description, the coin, that's being
19 traded, bitcoin being an example -- on one hand
20 people may argue that certain aspects of it are
21 anonymous, i.e., who owns these coins, on the
22 other hand there is a high degree of comfort
23 from the fact that transactions are visible,
24 they are public and can be tracked and that has
25 been manifested in a positive way in many

1 investigations internationally where criminals
2 have been caught basically because they engaged
3 in using cryptocurrencies.

4 Q And we heard yesterday evidence from a
5 representative of Chainalysis, which is one of
6 those firms that provides that blockchain
7 analysis software that you were just describing.

8 Now, has -- whether or not the perception of
9 money laundering or fraud vulnerability is
10 merited, has exposure -- public exposure in the
11 media through instances such as Quadriga, which
12 I mentioned, and, Mr. Warrack, where you -- in
13 your reference to an exchange that collapsed due
14 to liquidity problems, were you referring to the
15 Vancouver-based Einstein Exchange?

16 A (PW) That's correct.

17 Q Has this media exposure caused any industry
18 response, and what has that response been? And
19 Maybe I'll look to Mr. Dixon to give the first
20 answer on that one.

21 A (GD) Sure. Thank you. Yeah. I think it's
22 probably -- I mean, in my experience it's worth
23 noting maybe upfront that, you know, my personal
24 experience has been -- at least on the side of
25 the industry I'm seeing is that rather than

1 those particular incidences causing some kind of
2 response -- and, you know, I think there was
3 actually very much a response happening before
4 those incidents happened and, you know, I will
5 say that there are a number of groups in Canada
6 but also, you know, around the world and
7 international groups who are demonstrating a
8 level of, let's say, proactivity in regards to
9 compliance with either regulations that are
10 currently in force within Canada or elsewhere
11 or, in absence of any formal regulation, you
12 know, trying to understand proactively what they
13 can do to better manage risk and so on on their
14 platforms.

15 So I think, you know, my experience
16 hasn't -- I haven't noticed a response solely
17 from those incidents. However, what I would say
18 is that -- and I can't speak to whether these
19 are directly as a result of these, but certainly
20 recently I've observed in the cryptocurrency
21 ecosystem there are, let's say, increased levels
22 of collaboration between different parties,
23 different types of stakeholders to -- that are
24 independently run and proactively set up. And
25 there's an example -- I forget the name of it

1 now, but there is a group of, for example, Asian
2 exchanges who have been able to set up
3 communication channels proactively by themselves
4 to work together, for example, to alert one
5 another of hacks, hacks and potential thefts on
6 their platform and, you know, for purposes of
7 their own protection but their customers'
8 protection also.

9 I would also say -- and, again, not -- this
10 isn't a direct response to those incidents, but
11 it's somewhat timely as I'm sure we'll talk
12 about it today, are other initiatives such as
13 Project Participate and other public/private
14 partnerships where, you know, there's a real
15 effort within the industry to try to get ahead
16 of some of this risk and understand how they can
17 work together to better identify and manage risk
18 across their platforms. So, you know,
19 certainly -- I don't know if any one of those
20 instances has sort of been a direct result of
21 those responses, but it's certainly, I would
22 say, warranted the need for them going forward,
23 and I've certainly seen more of that happening
24 in the last 12 months or so, or 18 months.

25 Q There was a very long lead-up period between the

1 FATF starting to provide guidance for virtual
2 currency businesses and -- about virtual assets,
3 as the FATF calls them, and virtual asset
4 service providers, as it calls businesses that
5 deal with virtual currencies.

6 The first Financial Action Task Force
7 publication on it was in June of 2014 and the
8 response of -- the regulatory response, at least
9 in Canada, has been developing since then. Is
10 that a fair description of the beginning of that
11 timeline? And maybe I'll ask Ms. Cieslik.

12 A (CC) Yes, that sounds about right.

13 Q And my question following up on that. So the --
14 and we'll get to the new regulations, the
15 amended regulations under the *Proceeds of Crime*
16 *(Money Laundering) and Terrorist Financing Act*
17 that apply to virtual currency businesses, but
18 my question for now is that the period of
19 development between the Financial Action Task
20 Force first starting to publish guidance on
21 these matters and the coming into force of
22 regulations -- the Canadian regulations just
23 came into force in June of this year -- has that
24 caused any -- has that caused problems for the
25 industry in terms of knowing what its eventual

1 AML obligations are going to be, and has it --
2 has that delay, in your view, allowed for bad
3 actors to take a position in the market?

4 And maybe I'll ask Mr. Mueller. I haven't
5 turned to you yet, so I'll ask you to give a
6 first crack at answering that rather long-winded
7 question.

8 A (RM) Certainly. I think that a different factor
9 might be the jurisdictional laws as they apply.
10 So, for example, when we were doing payments for
11 crypto-exchanges seven years ago in Canada, we
12 had requirements that they have compliance
13 regimes, that they have customer identification
14 programs and so on. So there was not yet an MSB
15 requirement in Canada, but for them to access
16 financial institutions, we wanted that. Where
17 some clients would apply with us from fiscal
18 paradises or more lax jurisdictions that there
19 was no requirement. So I think it would be less
20 the time lag between an FATF guidance and local
21 enforcement and more just what the state of
22 compliance is in those countries.

23 So, for example, places that allow bit
24 mixers to operate would be well in operation
25 regardless of FATF guidelines and regardless of

1 any delay in enforcement. And in my opinion,
2 like in Canada, you mentioned Quadriga, I
3 believe they were an MSB, so, you know, there
4 was no impact of that registration on their
5 behaviour.

6 Q And I would just invite any other panel member
7 who had thoughts on that question to jump in.

8 A (CC) Sure, if I could jump in there. I do
9 believe, you know, that it has been a longer
10 time lag than I think some industry participants
11 would have liked. My former employer had
12 petitioned to become a registered money service
13 business prior to this year's, you know,
14 addition of cryptocurrency. So I think, you
15 know, if you were working in the industry and
16 you were following where things were going from
17 that 2014 FATF, you know, guidance issued and
18 other things happening in the US as well which
19 was -- predates that, I think, slightly, that
20 you kind of could see where it was going and you
21 can get an idea that most people were -- most
22 countries were considering this to fall under a
23 similar regime to a money service business.

24 So in order to achieve the FINTRAC licence
25 as a money service business without crypto being

1 included, the requirements for KYC, transaction
2 monitoring, risk assessment training, et cetera,
3 you know, would have been fairly consistent.
4 You know, they were consistent with the existing
5 legislation, just without some crypto-specific
6 requirements. So there were efforts being made,
7 I think. As a Ryan had mentioned, people
8 requiring participants to start implementing
9 these things that were already documented and in
10 law for traditional money services businesses.

11 (PW) If I could add something to that,
12 Commissioner.

13 Q Please go ahead.

14 A (PW) yeah, I think it is correct to say there
15 was a gap, a time lag, between FATF's initial
16 publication circa 2014 and the regulations more
17 recently in Canada. But I think it's also fair
18 to say that, not just in Canada but also
19 internationally, increasingly that gap was
20 filled by people in the private sector taking
21 steps themselves to put into place policies,
22 procedures, shared best practice, et cetera.
23 For instance, going back a couple of years,
24 maybe three or four years, we started to see the
25 appointment of people like myself from the

1 traditional financial industry into the
2 crypto-world and that transferred knowledge into
3 that world to strengthen the regime within the
4 crypto-sector.

5 Q The delay in your view, Mr. Warrack, was the
6 delay between FATF starting to look at this in
7 2014 or starting to publish on it in 2014 and
8 implementation of regulations, is any of that
9 attributable to a lack of expertise at the level
10 of oversight bodies and regulators?

11 A (PW) Absolutely. Without doubt. At the FATF
12 level -- at every level regulators within Canada
13 until not that many years ago didn't have that
14 much knowledge, I would say. Similarly with law
15 enforcement.

16 Q And do you see the state of knowledge improving
17 recently?

18 A (PW) Not just recently but for a period of time
19 now, yes. Certainly.

20 Q Okay. What efforts have you seen regulators
21 taking to get the kind of expertise that's
22 required to adequately oversee this industry?

23 A (PW) Well, within Canada dialogue with the
24 private sector with people like myself,
25 Charlene, Ryan, et cetera. Internationally. I

1 belong to a Europol working group up until
2 COVID, you know, where the annual meetings which
3 lasted a number of days where regulators from
4 around the world, including in Canada, would
5 come and converse and share ideas and best
6 practice and knowledge with each other, and
7 there were many other examples of that.

8 Q So what you're describing -- is what you're
9 describing interactions of regulators with
10 industry members to acquire the knowledge that's
11 required?

12 A (PW) Yeah. I would say it's a two way process
13 as well and the regulators imparting their
14 knowledge to the industry about what to expect,
15 for instance, from a regulatory perspective in
16 the future.

17 MS. PATEL: Before I move on, I'm going to ask --
18 just to give some context to some of the matters
19 that we've been talking about already
20 specifically Quadriga, I'm going to ask, Madam
21 Registrar, if you could pull up the Ontario
22 Securities Commission report from April of this
23 year. Thank you.

24 Q This is an Ontario Securities Commission report
25 "QuadrigaCX: Review By Staff of the Ontario

1 Securities Commission" dated April 14, 2020.

2 Can I ask the panelists if they've -- each
3 panelist if they've reviewed this, if they're
4 familiar with this document. Mr. Dixon?

5 A (GB) Yes, I'm familiar.

6 Q Mr. Mueller?

7 A (RM) Yes.

8 Q Ms. Cieslik?

9 A (CC) Yes, I'm familiar.

10 Q And, Mr. Warrack? Mr. Warrack?

11 A (PW) Yeah, sorry. Somewhat familiar. I did
12 read it at the time. I haven't certainly read
13 it recently.

14 Q That's fine. Just establishing that we're all
15 familiar with it.

16 MS. PATEL: Madam Registrar, if I could ask you --
17 I'm just going to go to the executive summary,
18 and I believe it's at page 3. So if you could
19 just scroll down. And this is, just for the
20 benefit of Commissioner and our participants, to
21 understand -- to give some context to what we've
22 been talking about. The -- at the executive
23 summary I'm going to look at the second
24 paragraph where it says:

25 "The collapse of Quadriga caused massive

1 losses for investors from Canada and
2 around the world. On January 14, 2019,
3 Quadriga announced that Cotten --"
4 Gerald Cotten, its founder.

5 "-- had died in India the previous month.
6 By February 5, the Quadriga platform had
7 ceased operations and filed for creditor
8 protection. Over 76,000 clients were owed
9 a combined \$215 million in assets.
10 Approximately 40 per cent of these clients
11 were Ontarians. Ernst & Young, the
12 bankruptcy trustee, was able to recover or
13 identify just \$46 million in assets to pay
14 out to clients. The people who trusted
15 Quadriga with their money and
16 crypto-assets collectively lost at least
17 \$169 million."

18 And then I'm just going to go down to the
19 paragraph that starts with "it has."

20 "It has been widely speculated that the
21 bulk of investor losses resulted from
22 crypto-assets becoming lost or
23 inaccessible as a result of Cotten's
24 death. In our assessment, this was not
25 the case. The evidence demonstrates that

1 most of the \$169 million asset shortfall
2 resulted from Cotten's fraudulent conduct,
3 which took several forms."

4 The next paragraph, it goes on to describe
5 Mr. Cotten's fraudulent trading on the Quadriga
6 platform.

7 And the last paragraph there -- if you could
8 just scroll down a little bit, Madam
9 Registrar -- describes that he lost an
10 additional -- so he lost \$115 million from
11 fraudulent trading. The next paragraph says
12 that:

13 "[He] lost an additional \$28 million while
14 trading client assets on three external
15 crypto asset trading platforms without
16 authorization from, or disclosure to,
17 clients."

18 And what the Ontario Securities Commission
19 concludes here at the first full paragraph of
20 the next page is what happened that:

21 "What happened at Quadriga was an
22 old-fashioned fraud wrapped in modern
23 technology. There is nothing new about
24 Ponzi schemes, unauthorized trading with
25 client funds and misappropriation of

1 assets. Crypto asset trading platforms,
2 however, are novel and the regulatory
3 framework for these platforms is
4 evolving."

5 And I just -- sorry, it's not the role of
6 commission council to give evidence here, but
7 just to provide that report for some context for
8 the discussion we're going to be having, and
9 I'll probably return to this for a couple of
10 points as we develop the discussion about that
11 regulatory framework that is evolving for, as
12 the Ontario Securities Commissions says here,
13 crypto-asset trading platforms but also virtual
14 currency businesses generally.

15 MS. PATEL: Madam Registrar, you can take that down
16 for now. Thank you. And actually, I'd ask,
17 Mr. Commissioner that the Ontario Securities
18 Commission report be marked as the next exhibit,
19 please.

20 THE COMMISSIONER: 265.

21 THE REGISTRAR: Exhibit 265.

22 **EXHIBIT 265: Ontario Securities Commission**
23 **Report - April 14, 2020**

24 MS. PATEL:

25 Q I'd like to move into a discussion now of that

1 new regulatory framework that is being
2 established for virtual currency businesses,
3 businesses dealing with virtual currencies in
4 various ways. As I mentioned earlier, the
5 amendments to the *Proceeds of Crime (Money*
6 *Laundering) and Terrorist Financing Act* came
7 into force -- came into effect on June 1st of
8 this year and further requirements will come
9 into force in June of next year.

10 And just to give us an understanding of what
11 is involved in this new regulation of the
12 industry, I'm going to -- I'm going to turn
13 again -- Ms. Cieslik, I'm sorry I've been
14 relying on you for some background here, and I'm
15 going to rely on you again because I know you've
16 been participating in this FINTRAC virtual
17 currency reporting working group since 2018.
18 Can you please briefly describe what are the new
19 obligations and requirements on virtual currency
20 businesses as of June 2020.

21 A (CC) Yes. Sure. I don't mind going through
22 those at a high level. FINTRAC has defined a
23 virtual asset service provider or the act of
24 dealing in virtual assets as what qualifies any
25 kind of person or entity that would be subject

1 to this regime. So that was a start is defining
2 a virtual asset service provider and defining
3 what dealing in virtual assets means to them.

4 That in effect brought into place the
5 registration requirement. So they captured this
6 under the definition of a "money service
7 business." So there's -- you know, there's
8 three qualifying transactional activities that
9 would make you a traditional money service
10 business, whether it's trading FX, dealing in
11 negotiable instruments or effecting some kind of
12 transfer of funds on behalf of someone. They've
13 added dealing in virtual currency to that
14 definition, which, as I said, brings about the
15 registration requirement. So you're then
16 required to register your business with FINTRAC.

17 They have added an element of distinguishing
18 between a local money service business and a
19 foreign money service business and clarified
20 some definitions around what would make you a
21 foreign money service business in terms of
22 engaging -- being engaged in any of the
23 activities, having place of business in Canada,
24 directing services at people who live in Canada
25 and you provide services to clients who live in

1 Canada.

2 Q And sorry, can I just ask you as a followup to
3 that. Are foreign money services businesses
4 also required to register with FINTRAC?

5 A (CC) Yes, they are. They have some additional
6 responsibilities to achieve that registration
7 versus local or domestic money services
8 businesses, but the program requirements are
9 similar -- you know, are the same for both local
10 and foreign in terms of you're required to have
11 a compliance program, appointing a compliance
12 officer who's responsible for the development
13 and execution of the program, having policies
14 and procedures, a risk assessment, a training
15 program so that people at your company know the
16 roles and responsibilities, and this includes
17 also a review of effectiveness through some kind
18 of external audit.

19 There has been a slight bit of confusion as
20 to what is required to be implemented from the
21 program perspective now and in the future, but
22 through some clarity and some digging. Right
23 now there are requirements to file suspicious
24 transaction reports of any amount as per the
25 traditional, you know, in-place suspicious

1 activity reporting requirements. There also is
2 the requirement to keep records obviously of
3 those filed reports. And you are required to,
4 you know, take reasonable measures to complete a
5 KYC on people that you are filing suspicious
6 transaction reports on.

7 However, the broader KYC, know your client,
8 requirements that are tied to money service
9 businesses for virtual asset service providers
10 don't come into effect until the following year
11 along with an additional large virtual currency
12 transaction report requirement and the travel
13 rule. I don't know how in depth you want me to
14 get on either of those things right now. I'm
15 happy to talk about those, if you want a little
16 bit of description of what those are.

17 Q If you could give a little bit of description of
18 both of those, that would be -- that would be
19 helpful.

20 A (CC) Sure. So as a money service business -- I
21 think I mentioned previously, a traditional
22 money service business has obligations as it
23 pertains to a transaction level versus an
24 account level. There are allowances under the
25 existing money service business law

1 threshold-based transactions under which you do
2 not have to conduct KYC and over which you do.
3 That threshold is a thousand dollars. So you
4 can do up to a thousand dollars per transaction
5 with no KYC. That requirement to verify the
6 identities of persons over a thousand comes into
7 effect next year.

8 The travel rule, which again is part of
9 the -- sort of the, you know, international FATF
10 recommendations and all the working groups -- I
11 think that, you know, Peter had mentioned
12 earlier -- is that, again, similar to the
13 traditional financial entities and reporting
14 entities under FINTRAC, information must travel
15 with a transaction over -- of a thousand dollars
16 or more, including the name, full address, you
17 know, civic address as well as an account number
18 or traditional -- sorry, in virtual currency, a
19 virtual currency address must travel with
20 transactions and include the name, address and
21 account number or virtual currency address of
22 the recipient as well.

23 So those things -- and, again, a little bit
24 more complex than the initial things that have
25 come into effect this calendar year -- they are

1 slated to come into effect more robustly of
2 course in June of next year. You're muted.

3 MS. PATEL: It's bound to happen. I'm going to ask
4 the panel members a little bit more about the
5 travel rule because I know it has been the
6 subject of some scrutiny and review by the
7 Financial Action Task Force.

8 And just to ground this discussion I'd ask
9 Madam Registrar, if you could please pull up the
10 document, the Financial Action Task Force
11 12-month review, which we have as appendix F to
12 exhibit 248. And I'll give you a moment just to
13 find that. So if you could -- perfect. Thank
14 you, Madam Registrar.

15 So this is a publication of the Financial
16 Action Task Force, the 12-month review of the
17 revised FATF standards on virtual assets and
18 virtual asset service providers that was
19 published, I believe -- if you could scroll down
20 just a bit, Madam Registrar. I believe June of
21 this year. Thank you. And the part that I'd
22 like to go to is at page 143 of the PDF. And
23 actually, I was mistaken. If you could scroll
24 up slightly. That's perfect. Thank you very
25 much.

1 Q The implementation of the travel rule. The
2 Financial Action Task Force, I understand, sets
3 out here some industry concerns with the
4 implementation of this rule. And maybe I could
5 go to -- rather than me saying what the
6 Financial Action Task Force says that the
7 industry is concerned about, maybe I'll ask
8 industry members, you yourselves, what are those
9 concerns; what are the problems with this
10 obligation that Ms. Cieslik has just described?

11 And, Mr. Mueller, do you have any insight
12 into that?

13 A (RM) Yeah, I think one of the key challenges is
14 that there's so many ways -- there's so many
15 wallet providers, there's so many ways to move
16 bitcoin and not all of them require KYC and not
17 all of them are going to be friendly to sharing
18 the same kind of information that you would
19 expect on a wire transfer. Additionally, you
20 could be sending cryptocurrencies into pooling
21 wallets that are then settled to an end customer
22 in the same way that, like, a correspondent bank
23 relationship might obscure end recipients. So I
24 think that's one challenge in implementing the
25 travel rule is getting all the players on board

1 and similarly having a common language to share
2 all that information.

3 We tried to do this when we were processing
4 payments for multiple cryptocurrency
5 exchanges years ago, and we found that everyone
6 had their own method to identify the device that
7 was initiating a transaction and not all of
8 those methods could talk to each other. And
9 everyone had their own language for encrypting
10 customer information and so on.

11 Q And as a background question -- maybe I'll
12 direct this to Mr. Warrack -- Mr. Warrack, can
13 you explain what is the anti-money laundering,
14 counterterrorist financing value of a rule like
15 the travel rule? What does it get at?

16 A (PW) It's designed to track and to have a record
17 of the movement of funds, so who is sending
18 funds to who, from what jurisdiction to what
19 jurisdiction, from what account to what account,
20 as Ryan has said, similar to a wire transaction.
21 And that information has obvious use to law
22 enforcement. If there is a crime associated
23 with those funds, law enforcement can then go to
24 the relevant exchange and get information about,
25 you know, who owns that account or who initiated

1 that transaction.

2 Q So it's critical information about what the
3 source of a transfer was?

4 A (PW) Not just the source but also the recipient
5 of the -- the source and destination of funds.

6 Q Am I correct, though, in understanding that the
7 problem from the industry perspective in
8 implementing the travel rule isn't so much with
9 documenting the recipient if you're virtual
10 asset provider. If you're on the receiving end
11 of a transfer, presumably you have that
12 information at hand. The problem is identifying
13 the sender. Am I right in that understanding?

14 A (PW) The problem -- it is a problem. The
15 challenge with the travel rule is that no single
16 technological solution certainly existed in a
17 workable format when this requirement, the
18 recommendation 16, was formulated by the FATF.
19 As one of the speakers had said, the requirement
20 is that the information about the parties to the
21 transaction accompany the transaction.

22 What does that mean? So using a bitcoin
23 transaction, for instance, clearly the bitcoin
24 transaction itself is visible on the public
25 blockchain, but then how do you add or how do

1 you attach the information about -- from whom
2 the funds are going and to whom the account is
3 owned to where it's going in a way that's close
4 to -- proximate to the actual transaction
5 itself. You could send a batch file, for
6 instance, with all the transactions during the
7 day with the different solutions.

8 The good news is that certainly over this
9 last year the industry really has come together,
10 and I'm a big part of that discussion, to
11 establish a number of technology solutions. A
12 lot of work has gone into what Ryan was saying
13 about common standards, common language,
14 et cetera, similar to SWIFT terminology. And it
15 may well be that instead of one solution, there
16 will be a number of solutions which an exchange
17 will have to employ depending on who the other
18 party is that they're dealing with.

19 Just to be clear, in case there's any doubt,
20 the travel rule requirements under
21 recommendation 16 from FATF relate to
22 transactions between VASPs, so between
23 exchanges. It doesn't relate to a transaction
24 between an exchange and a private wallet, for
25 instance. Just between exchanges.

1 Q And I'll just note -- Madam Registrar, if you
2 can scroll down to paragraph 45 on the next
3 page -- indeed the review concludes that it
4 "does not consider that these are fundamental
5 barriers to the continued development of
6 technological solutions to implement the travel
7 rule." And the -- just a little bit further
8 down it says:

9 "... the FATF calls upon the VASP sector
10 to redouble its efforts towards the swift
11 development of holistic technological
12 solutions encompassing all aspects of the
13 travel rule."

14 So this is the Financial Action Task Force
15 calling out for assistance from the industry
16 essentially and asking for that type of
17 technological assistance that you've just
18 described is in development. Is that right,
19 Mr. Warrack?

20 A (PW) That's correct. And there have been recent
21 discussions with FATF. I've been part of those
22 discussions, part of working groups in dialogue
23 with each other within the industry but also
24 with the FATF and other regulators. Just by way
25 of disclosure, I'm advisor to one of these

1 solutions. So there is a lot of work being
2 conducted.

3 Q Ms. Cieslik, have I given you the opportunity to
4 go through the obligations that will apply to
5 virtual currency dealers under the new Proceeds
6 of Crime (Money Laundering) and Terrorist
7 Financing Regs?

8 A (CC) Yes, I believe I've covered them at a high
9 level.

10 Q Okay. And so my followup question, and we kind
11 of got into it with the discussion of the travel
12 rule, is -- actually before I ask this. Do the
13 amendments place any obligations -- any new
14 obligations on traditional financial
15 institutions with respect to virtual currencies?
16 And maybe, Mr. Dixon, you're in a position to
17 answer this.

18 A (GD) Yes. Yeah, they do. So there are
19 similar -- there are some overlap with more
20 traditional financial institution requirements,
21 for example -- exposure for a more traditional
22 financial institution's customer to virtual
23 currency over certain thresholds will at some
24 point in a future require additional
25 determinations for politically exposed persons,

1 for example. Again, the reporting of large
2 virtual currency -- receipt of large virtual
3 currency and so on. So yes, the regulations
4 don't just pertain to dealers and virtual
5 currency themselves. They have similar effects
6 in terms of the requirements across other more
7 traditional financial institutions, securities,
8 banks, even money service business -- more
9 traditional money service businesses.

10 (CC) I think if I could add to that, the law
11 has been amended to say that any reporting
12 entity that deals in virtual currencies, those
13 that are under the law currently -- as Giles
14 mentioned, if you are financial entity, casino,
15 securities dealer, et cetera, if you deal in
16 virtual currency that there would be these
17 additional requirement. I believe it largely
18 focuses on ensuring that you are doing
19 transaction reporting, the large virtual
20 currency transfer report, ensuring the travel
21 rule follows and of course including that as
22 part of your suspicious transaction reporting
23 model. But essentially how I interpreted it was
24 that you can be a traditional financial services
25 entity and deal in cryptocurrency without

1 necessarily becoming registered but that you
2 would have these additional obligations with
3 respect to virtual currency.

4 Q The -- with respect specifically to the issue of
5 customer source of funds, do the new regulations
6 address that?

7 A (CC) Is this -- I should answer this?

8 Q I think probably, yes.

9 A (CC) The legislation itself does not reference
10 source of funds. Where source of funds has come
11 into requirements -- I shouldn't use that word
12 "requirements," but there is a requirement to
13 have a risk-based approach so to do a risk
14 assessment on your entity as a whole and its
15 exposure to money laundering and terrorist
16 financing as well as on your individual customer
17 base, whether they be human customers or entity
18 corporate customers. And that upon -- you know,
19 upon designing that risk assessment and
20 completing risk ratings, that one part of
21 enhanced due diligence would be -- recommended
22 under their guidance is to complete a source of
23 funds validation or declaration. I don't think
24 they use those words specifically but that one
25 way to mitigate your risk where you think

1 somebody has been rated high risk is to validate
2 or verify, come up with some kind of
3 documentation as to where they got their money
4 from.

5 Q And I understand that registration as an MSB
6 involves some kind of criminal record check. Is
7 that right?

8 A (CC) I would -- it's not for domestic money
9 service businesses but only for foreign money
10 service businesses under this law change here.

11 Q Okay. Currently do registrants for MSB status,
12 whether as a virtual currency dealer or
13 otherwise, have an obligation to undergo
14 criminal record checks before -- prior to
15 registering or as a condition of registering
16 with FINTRAC?

17 A (CC) Not that is specified in the legislation.

18 Q I'm going to put a question to the panel at
19 large, which is what is the -- how is the fit of
20 the amendments -- and I appreciate that this
21 might be an answer that's developing given the
22 brand -- you know, the new status of the rules
23 and industry's efforts to comply with them, but
24 how is -- the fit of the obligations that are
25 required of money service businesses under the

1 act and the new requirements pertaining
2 specifically to virtual currencies, is it a good
3 fit with how the industry actually operates and
4 with how virtual currency transactions take
5 place? And I will start here with Mr. Warrack.

6 A (PW) Yeah. Thank you for that. Because I don't
7 think it is a perfect fit at all. And this is
8 not just a comment regarding Canada, but also
9 internationally whereby cryptocurrency
10 exchanges, VASPs, basically have been fitted
11 into the label of an MSB, a money service
12 business. A traditional money service business,
13 you know, where somebody wants to remit some
14 funds to the Philippines, et cetera, is a very
15 different model to the way a lot of VASPs
16 operate where in fact they are actually trading
17 platforms with very, very different rules, a
18 very, very different activity to what would be
19 expected in a traditional MSB.

20 For instance, rapid trading, rapid movement
21 in and out of funds might be very normal for a
22 cryptocurrency trading platform, a VASP, whereas
23 in the traditional world -- and I believe the
24 sergeant from the RCMP the other day mentioned
25 rapid in and out movement as a red flag. It

1 certainly is a red flag in the traditional world
2 but in the cryptocurrency world, not
3 necessarily. And there are other significant
4 differences in relation to that.

5 Q Are there any other aspects to the regulations
6 that are ill fits?

7 A (PW) I believe so. And I believe -- well, my
8 answer is aligned to what I have just said. So
9 the requirement, for instance, to report the
10 receipt of virtual currency of \$10,000 or
11 more -- and there would have to be an automated
12 way to FINTRAC -- to me is somewhat ridiculous,
13 and I don't see any real value to the regulators
14 by trying to gain that information for a number
15 of reasons, not least for a trading platform --
16 a cryptocurrency trading platform. It would be
17 very normal for a customer who's a trader to
18 have maybe thousands of transactions in an hour
19 above that amount in and out of their account.
20 Particularly if they're using automated trading
21 bots, et cetera.

22 I don't believe the regulations take into
23 account the concept of change transactions,
24 which could be in excess of \$10,000 or more and
25 would be captured, as I understand it, in the

1 reporting process.

2 And also although the -- I'm not sure if the
3 regulations but certainly the guidance from
4 FINTRAC talks to this: how do you value that
5 transaction? Every exchange has their own value
6 for the price of a bitcoin, for instance, at any
7 given moment of time. One exchange might value
8 it at \$10,100. Another exchange might value it
9 at \$9,600. There's no common standard. I think
10 they have -- FINTRAC or the regulations have
11 tried to capture that by specifying where you
12 got your information on when you submit this
13 \$10,000 report. But that would be my biggest
14 concern about the regulations.

15 And at the time, along with Charlene, I was
16 part of that working group that met with
17 Department of Finance and FINTRAC in Ottawa
18 quite regularly and I provided this feedback at
19 the time.

20 Q You mentioned change transactions. And just for
21 the benefit of the Commissioner, can you explain
22 what a change transaction is and why it poses a
23 problem with respect to the records that have to
24 be kept or reports made to FINTRAC?

25 A (PW) Yeah. The way -- using bitcoin as an

1 example, the way transactions are structured is
2 similar to the typical fiat currency
3 transaction. So if you have a 20 pound note in
4 your pocket and you want to purchase something
5 worth \$10, you hand over the \$20 note and you
6 get \$10 back in change. Similarly, if you have
7 transactions in your wallet -- a transaction in
8 your wallet that -- let's say you have a single
9 transaction that somebody has sent you
10 20 bitcoin, for instance, maybe worth \$400,000
11 and you want to send 10 bitcoin somewhere else
12 by car or whatever, you have to send the full
13 amount. You have to send that 20 bitcoin
14 transaction through the blockchain and receive
15 back the 10 bitcoin transaction as change. That
16 receipt back, as I understand it, to the wallet
17 on an exchange would trigger the \$10,000
18 reporting rule and to me would be of absolutely
19 no value to whoever is looking at it.

20 MS. PATEL: Madam Registrar, I am sorry, I should
21 have mentioned, you can take down this document.
22 Thank you very much.

23 Q And the issue with the change transactions is --
24 I understand from what you've said is that it's
25 going to result in a large amount of perhaps

1 irrelevant information being submitted to
2 FINTRAC. Is that the issue?

3 A (PW) Yeah. I would describe it as noise.

4 Q Okay. Which in turn can obscure information
5 which might actually lead to valuable
6 intelligence?

7 A (PW) Yeah.

8 Q Okay. Do any of the other panelists want to
9 weigh in on the fit of the new regulations
10 before I move on?

11 A (CC) I mean, I think if I could can add to what
12 Peter mentioned. You know, I think it would be
13 helpful for FINTRAC to be clear about this
14 inclusion or exclusion of change transactions
15 because I think there is a wide discrepancy in
16 the industry over whether those are or not part
17 of the large virtual currency transaction
18 report. I do think it is important to note --
19 you know, again, I think, as Peter mentioned,
20 the magic number of \$10,000 that was set in
21 place some 30 years ago as a high amount, not
22 necessarily a good fit for cryptocurrency given
23 the price fluctuations as well as the fact
24 that -- you know, again, I'm just -- I'm not
25 sure that 10,000 is the magic number anymore.

1 And there has already been an amount of
2 criticism levied against the reporting
3 requirements for large cash and large wire being
4 of that amount. And it does, I believe, add to
5 the noise, as Peter mentioned, in providing, you
6 know, sort of a lot of information in and not
7 sure of the value out of receiving that.

8 Q Mr. Dixon.

9 A (GD) I would just add -- yeah, and so we've
10 talked about the foreign money service business
11 requirement previously, but this was something
12 which, you know, had come up in some of the
13 round table and consultation that I was part of,
14 which was to say that, you know, arguably
15 there's the requirement of what determines you
16 to be a foreign money service business. One of
17 the criteria related to this is whether you're,
18 for example, actively directing or directing --
19 I forget if it's -- if actively is in there and
20 in the wording, but somebody directing services
21 to persons within Canada. And, you know, that
22 might be considered -- for example, if you're
23 marketing or advertising to Canadian citizens
24 but your place of business is located outside of
25 Canada, you know, then you would be considered

1 potentially as a foreign money service business.

2 There are other criteria in there, but that
3 is one example and -- which had come up in
4 discussions primarily -- I mean, we're talking
5 about the fit with the context of the industry
6 here. And, you know, it's my experience, at
7 least historically, that certainly even, you
8 know, a lot of virtual currency exchanges don't
9 typically, you know, advertise in newspapers or
10 sort of, you know, websites advertising their
11 services. So there's a certain challenge here
12 which was raised around, you know, is there a
13 loophole here in terms of what would constitute
14 a foreign money service business? Could I
15 operate outside of Canada, not be seen to be,
16 quote, sort of actively directing services, but
17 Canadians could be using my platform because I
18 don't have a physical place around the world,
19 it's a website, and I could somehow potentially
20 circumvent the regulations in Canada through
21 sort of avoiding that criteria.

22 So there's nuance to that, what I've just
23 described. There's further nuance to that, but
24 it was certainly one of the areas in the
25 consultation over the last couple of years that

1 had come up from -- in the discussions.

2 (CC) I would just add to that too. I think
3 there's several factors that qualify a foreign
4 money service business that can be questioned
5 similarly, as Giles raised, about the one factor
6 of advertising.

7 Q I just want to clarify one point about the
8 regulations. And I believe one of the panelists
9 mentioned this -- I think it might have been
10 you, Ms. Cieslik -- that they apply to virtual
11 currency dealers in virtual currency; they don't
12 apply to transactions between unhosted wallets,
13 wallets of private individuals that are not
14 hosted on an exchange other another platform.
15 Is that right?

16 A (CC) I think that was Peter that mentioned that.
17 I mean, if I can add to that, Peter. The FATF
18 recommendations were specifically dealing with
19 what they call VASP, virtual asset service
20 providers. I do think there's some challenge
21 country by country as to how each country's laws
22 define who a VASP is and then therefore who this
23 travel rule would apply to. I think there has
24 been an industry-wide and FATF rolled-up
25 understanding that really this is going to

1 capture sort of the bigger -- the exchanges, the
2 platforms.

3 But there have been a lot of questions about
4 how this would impact exchange to private
5 wallet, exchange to, you know, hot wallet
6 service providers that, you know, don't -- I
7 mean, they may fall under the definition of
8 VASP, they may not fall under the definition of
9 VASP depending on the country that they're in.
10 And that how -- you know, whether an exchange
11 would allow a communication of a transaction
12 between a non-qualified VASP that would be
13 subject to this versus not.

14 So I think there's a bit of an -- sort of
15 misunderstanding in the crypto -- or about the
16 crypto-industry that it is one thing and it is a
17 VASP and that money only moves between VASPs.
18 But, you know, you can create your own wallet
19 online every minute of the day if you'd like.
20 You know, you can have it on a USB key. So
21 those things would not be qualified as a VASP
22 and therefore would not be subject to the rule.
23 But if you go to a VASP and they ask you for
24 your beneficiary, like, who's on the other side
25 of this? You say, well, it's my hot wallet or

1 my cold wallet, so it just belongs to me, put in
2 that information. I mean, I think there is a
3 deeper issue and discussion, I don't know if
4 this is the right time for it, but, you know,
5 about validation of the other side of that
6 activity if somebody says that.

7 Q And, I mean -- and the rationale -- I mean, of
8 course there's a regulatory problem. You can't
9 tell everybody who has their own private wallet
10 out there that they have to make reports to
11 FINTRAC when they engage in a transaction. The
12 rationale in targeting VASPs is that at some
13 point somebody who is trying to transfer their
14 virtual asset into fiat currency has to -- you
15 know, or vice versa has to use an on-ramp or an
16 off-ramp and that's going to be one of these
17 regulated industries. Is that -- regulated
18 entities. Is that right? Is that the
19 rationale?

20 A (PW) That might be the rationale. I'm not sure
21 how true in practice it is. You know, you have
22 non-VASPs, local bitcoin -- one way, you know,
23 can go to somebody in the street and they'll
24 take your crypto and give you cash.

25 Q So my next question was flowing from that.

1 We've identified -- which is what are the gaps
2 in the proceeds of crime, money laundering,
3 terrorist financing regulations that exist even
4 after the further requirements come into effect
5 in June of 2021. One gap is -- which may or may
6 not be significant is are these unhosted
7 wallets. Are there any others that strike the
8 panelists as being significant?

9 A (PW) I think -- if I may comment, I think the
10 capacity of FINTRAC in its current format to,
11 for want of a better word, police VASPs within
12 Canada given the challenges that FINTRAC already
13 faces with its other reporting entities in terms
14 of numbers, et cetera, do they have the capacity
15 to even look at it?

16 Q So not a gap in the regulation but just a
17 capacity to enforce.

18 A (PW) Yeah. Yeah.

19 (CC) I do feel there is sort of a gap in
20 maybe interpretation in the regulation. And I
21 would say that, you know, it's not specific to
22 VASP, but it existed in money traditionally
23 service businesses previously. The requirement
24 for completing know your identity verification
25 transactions of a thousand dollars or more --

1 and again I'll just caveat this with -- that
2 this is for any money service business and now
3 in virtual asset service providers is how many
4 under-\$1,000 transactions should you allow in a
5 day before you believe that somebody is doing
6 them specifically this way to evade the
7 know-your-client requirement.

8 As far as I'm aware -- and I could be wrong,
9 but I feel like I've tried to keep up on it as
10 best I can over the 20 years of my career, is
11 that one platform may say, I don't want you
12 doing more than two a day, where some platforms
13 may decide in their risk-based assessment to
14 say, we don't care how many you do a day as long
15 as they're under a thousand; therefore we don't
16 have to ID anybody.

17 I think there's some -- you know, some work
18 that may need to be done there, some guidance
19 that may need to be provided there. It does
20 lead to -- I think, you know, we're past the
21 point of debating whether [indiscernible] or
22 not. They are in place, and they -- you know,
23 we are obligated to them. How it's interpreted
24 and operationalized and applied between local,
25 you know, virtual currency dealers, how it's

1 applied or not applied by those who are foreign
2 and operating in Canada, I believe creates a
3 little bit of an uneven playing field with
4 regards to who's got the identity requirements.

5 Now, I like the idea that you don't want to
6 be the lowest point in the floor because it will
7 impact your ability, I think, to get bank
8 accounts and do -- you know, do other types of
9 things. But I do think there is some elasticity
10 in the application of that.

11 Q And I would just like to -- unless I'm
12 interrupting any panel member who was about to
13 jump in on that last question. Okay.

14 I'd just like to confirm that the proceeds
15 of crime regulations that we've just discussed
16 are targeted at AML counterterrorist financing
17 goals, and they don't address issues of customer
18 or investor protection such as an exchange's
19 custody of funds. And is that right?

20 A (RM) I would say that's correct. And one of the
21 things that I think we -- maybe I should have
22 jumped in on is the regulations don't
23 necessarily address instances of consumer fraud,
24 be that first-party fraud, where a customer buys
25 a bunch of bitcoin, states they didn't do it and

1 their bank is unfriendly to VASPs and allows
2 that chargeback, that malicious chargeback
3 resulting in a loss, or where third-party
4 investment platforms are, you know, duping
5 newbies to crypto, telling them that hey, you
6 can buy bitcoin or buy a share in my bitcoin
7 mining pool. You know, there's all sorts of
8 tried and true fraud typologies that I think are
9 evolving kind of around these regulated VASPs.

10 And an additional thing that I think is not
11 addressed is regulation of third-party payment
12 processors which virtually every VASP has to use
13 unless you're lucky enough to have a sponsoring
14 bank, which is getting scarcer and scarcer
15 especially in Canada. So, you know, if you're
16 dealing in cash you have to find an armoured car
17 company that will clear out your ATMs and then
18 wire the cash to you. If you have bank account,
19 great. If you are using another exchange to
20 accept those wires, that's where you're landing
21 and so on, so ...

22 And I think this is just kind of a broader
23 aspects of what everyone else touched on that
24 the regulations are a great starting point but
25 they don't always bullseye how people are

1 actually using the vehicles and exchanges and so
2 on, so ...

3 MS. PATEL: Well, that's a great segue into our next
4 topic, which is going to be regulations that are
5 more aimed at consumer investor protection, the
6 role of the securities regulators. But I think
7 that this is probably a good time,
8 Mr. Commissioner, for us to take the break.

9 THE COMMISSIONER: Very well. We will take
10 15 minutes. Thank you.

11 THE REGISTRAR: This hearing is adjourned for a
12 15-minute recess until 11:13 a.m. Please mute
13 your mic and turn off your video. Thank you.

14 **(WITNESSES STOOD DOWN)**

15 **(PROCEEDINGS ADJOURNED AT 10:59 A.M.)**

16 **(PROCEEDINGS RECONVENED AT 11:13 A.M.)**

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

19 **CHARLENE CIESLIK, for**
20 **the commission,**
21 **recalled.**

22 **GILES DIXON, for the**
23 **commission, recalled.**

24 **RYAN MUELLER, for the**
25 **commission, recalled.**

1 **PETER WARRACK, for the**
2 **commission, recalled.**

3 THE COMMISSIONER: Thank you, Madam Registrar. Yes,
4 Ms. Patel.

5 MS. PATEL: Madam Registrar, I'm going to ask you to
6 pull up a document. It's the Ernst & Young 5th
7 report of the monitor respecting Quadriga dated
8 June 19th, 2019. Thank you. And if you could
9 scroll down to page 10. And this is simply to
10 give some context to the discussion that I
11 indicated we'd be going into before the break.
12 Sorry, not page 10. Paragraph 10, page 6.
13 That's it. Thank you.

14 **EXAMINATION BY MS. PATEL:**

15 Q And I -- here the Ontario Securities Commission
16 report also goes -- relates these findings, but
17 this is a convenient place where they are
18 summarized. And just want to get them out here
19 so that -- to give some context to the
20 discussion we're about to have about what
21 investor or customer protections exist for
22 clients of exchanges. And this just illustrates
23 the problems that can occur in what we hope of
24 course is a worst-case scenario.

25 So paragraph 10.

1 "The Monitor's preliminary
2 investigation --"

3 And, I'm sorry, this is a report of Ernst &
4 Young, the monitor for Quadriga, to the Nova
5 Scotia Supreme Court. And the date of this is
6 June 2019.

7 The Monitor says:

8 "Quadriga's operating infrastructure
9 appears to have been significantly flawed
10 from a financial reporting and operational
11 control perspective. Activities were
12 largely directed by a single
13 individual ... and as a result, typical
14 segregation of duties and basic internal
15 controls did not appear to exist."

16 (B):

17 "No accounting records have been
18 identified by the Monitor and there
19 appears to have been no segregation of
20 assets between Quadriga Funds and User
21 Funds."

22 I'll go down to the next paragraph.

23 "The Company appears to have engaged in
24 significant 'cash' transactions. The
25 Monitor has been unable to verify if cash

1 deposits were deposited into accounts
2 containing User Funds or properly
3 recorded."

4 And down to (d):

5 "The Monitor has been unable to locate
6 basic corporate records including the
7 location and security passwords associated
8 with Quadriga's Fiat and Cryptocurrency
9 inventories between TPP --"

10 Third-party payment processors, I understand.

11 "-- bank accounts, wallet addresses and
12 third-party exchanges. In addition, the
13 Monitor understands passwords were held by
14 a single individual, Mr. Cotten, and it
15 appears that Quadriga failed to ensure
16 adequate safeguard procedures were in
17 place to transfer passwords and other
18 critical operating data to other Quadriga
19 representatives... "

20 Going down to (e):

21 "The Company relied extensively upon the
22 services of TPPs --"

23 Third-party payment processors.

24 "-- to administer its fiat treasury
25 functions."

1 Mr. Mueller, this is an issue that you just
2 raised before the break, and we will get back to
3 this. I'm just noting it here. (F):

4 "User Cryptocurrency was not maintained
5 exclusively in Quadriga'S hot and cold
6 wallets. Significant volumes of
7 Cryptocurrency were transferred off
8 Platform outside Quadriga to competitor
9 exchanges into personal accounts
10 controlled by Mr. Cotten."

11 Down to (g):

12 "Mr. Cotten created Identified Accounts
13 under aliases where it appears that
14 Unsupported Deposits were deposited and
15 used to trade within the Platform
16 resulting in inflated revenue figures,
17 artificial trades with Users and
18 ultimately the withdrawal of
19 Cryptocurrency deposited by Users."

20 And finally (h):

21 "Substantial Funds were transferred to
22 Mr. Cotten personally and other related
23 parties. The Monitor has not located any
24 support justifying these transfers."

25 So the Ontario Securities Commission overview

1 that we looked at previously described the fact
2 that there were 76,000 users who lost their
3 funds in amounts -- from after the trustee was
4 able to recover some in an amount of
5 \$169 million. And this overview gives us a
6 little insight into why that was, and I put that
7 out there. None of you, I know, were involved
8 as far -- well, as far as I know, in this
9 particular work, but just to give some context
10 to our discussion.

11 MS. PATEL: And, Madam Registrar, if we could mark --
12 Mr. Commissioner, if we could have this marked
13 as the next exhibit, and then it can be taken
14 down.

15 THE COMMISSIONER: 266, I think, Madam Registrar.

16 THE REGISTRAR: Yes, exhibit 266.

17 MR. COMMISSIONER: Thank you.

18 **EXHIBIT 266: Fifth Report of the Monitor -**
19 **June 19, 2019**

20 MS. PATEL:

21 Q All right. So that is a nightmarish report of
22 the internal operations of an exchange that a
23 customer might read, you know, having deposited
24 their funds or their virtual currencies there,
25 would be very distressed to read about those --

1 that lack of internal operational control and
2 the things that happened there. And my -- this
3 is a segue into a discussion about what
4 regulations and oversight exist currently that
5 could have prevented this -- what regulatory
6 framework exists that can address these kinds of
7 failings. And I'm going to I think address this
8 first to Mr. Dixon.

9 A (GD) Sure. Thank you. Yeah, I think the
10 framework and the sort of set of standards that
11 most immediately comes to mind which is very
12 common in, let's say, quote/unquote, more
13 traditional financial institutions or
14 non-cryptocurrency world relates to, -for
15 example, it's quite common in the fiat world,
16 the non-crypto-world for firms who are, let's
17 say, custodying users assets to engage in
18 independent audit of how they manage the custody
19 of their customer's funds.

20 And typically the frameworks that are used
21 to undertake that assessment and provide an
22 opinion on those things are what we call system
23 and organization control audits or reports.
24 These are standards which are set in the US by
25 the American Institute of Certified Public

1 Accountants in Canada, the Canadian standard on
2 insurance engagements, and they are audits.
3 They are reports which have presented primarily
4 to, let's say, the management of a firm to give
5 an independent opinion on risk associated with
6 this type of thing. And it could be the --
7 providing an opinion depending on the type of
8 audit, and there are various different types
9 which I'm happy to talk to.

10 One of them will focus in on, for example,
11 financial controls within an organization. That
12 would be titled a SOC 1 report there is a SOC 2
13 report, which focuses in more on the efficacy of
14 the system-based controls in an organization.
15 And then underneath those SOC 1, SOC 2 there are
16 other kind of subtypes depending on the
17 anticipated audience of the report that's
18 required. But effectively at a high level what
19 they get at is it's having an independent third
20 party come in and attest to the effectiveness of
21 controls, whether they be financial or systems
22 based.

23 This is a very common standard in which, you
24 know, non-crypto-based financial institutions
25 who are custodying assets will commonly hold

1 themselves to. And in some cases there is a
2 third type of report, a SOC 3. And let me know
3 if I'm going into too much detail, here, but --
4 which is presented as a public-facing report
5 which are sometimes used to not just assure the
6 management, the internal individuals in an
7 organization who control the company, of the
8 efficacy of those controls, but also the public
9 at large.

10 So that to me is the most common sort of set
11 -- or the most immediately relevant, I would
12 say, set of standards and frameworks which could
13 apply here. And it is fair to say in some
14 scenario -- in certain circumstances now,
15 particularly in the United States, we are seeing
16 VASPs and dealings in virtual currency going
17 down this route of independent SOC reports for
18 just this reason. Because from a consumer
19 protection point of view what those audits
20 attempt to get at, as we've described, is how
21 these organizations are -- what controls, what
22 governance do they have in place around the
23 custody of their users' funds. And it gets --
24 there's a whole bunch of detail that it can
25 go -- that we can go into on it, but effectively

1 it sets out what the controls should look like,
2 what good practice looks like and whether the
3 company is operating against those best
4 practices.

5 So that's where my mind immediately goes in
6 term of a potential set of standards that could
7 help with this type of thing.

8 Q And you say "potential". There is no legal
9 requirement currently on exchanges to engage in
10 this kind of audit and control process?

11 A (GD) I'd need to double-check that. I do
12 know -- I mean, for example, if we -- I was
13 reading the joint CSA/IIROC consultant paper
14 that was drafted in March 14, 2019, and they
15 actually suggested this as a potential, you
16 know, solution to some of these issues that
17 we've been seeing and they make reference to the
18 fact that, you know, traditional custodians that
19 hold assets for clients, they will -- the
20 wording is typically engage an internal -- an
21 independent auditor.

22 I'd have to double-check whether it's a
23 legal requirement, but certainly I think from --
24 for example, from the CSA point of view that it
25 is often a requirement at their level for an

1 organization coming in to be a registered dealer
2 and so on. There will be certain requirements
3 related to that which may come from that side of
4 things. Yeah.

5 Q There could be a requirement under securities
6 laws.

7 MS. PATEL: And actually I'm going to ask Madam
8 Registrar to bring up that document you just
9 mentioned, the joint CSA/IIROC consultation
10 paper at 21402. And that is an appendix to an
11 overview report, Madam Registrar, overview
12 report that is exhibit 247. And I'm just going
13 to pull the -- and I think what I'm looking
14 for ...

15 THE REGISTRAR: Yes. Which appendix are you looking
16 for?

17 MS. PATEL: It is appendix D. At page 32 of the PDF
18 is where I'd like you to go. Okay. Actually,
19 if we could just scroll up slightly. Oh, sorry.

20 THE REGISTRAR: Is it this page?

21 MS. PATEL: It's at appendix D. Yeah. So if you go
22 to page 30 of the PDF. And actually if you
23 could just scroll up to the title page. Down a
24 bit further. Yeah.

25 Q So I'm just identifying this document as the

1 "Joint CSA/IIROC Industry Paper on a Proposed
2 Framework For Crypto-Asset Trading Platforms."
3 And that's what you've been discussing,
4 Mr. Dixon? Okay.

5 A (GD) Correct.

6 MS. PATEL: And I'll just -- and, Madam Registrar, if
7 you could scroll forward to -- this is, I
8 understand, a paper that contemplates a
9 framework, a regulatory securities framework for
10 virtual currency platforms; is that right?
11 Mr. Dixon, is that your understanding?

12 A (GD) My understanding is this is a proposed
13 framework, yeah.

14 Q And so at page 32 of the PDF. Yeah. There's --
15 part 3 down there, if you could scroll, they set
16 out risks related to platforms. I don't need to
17 go through those. They largely -- they echo the
18 findings of the Ontario Securities Commission
19 with respect to Quadriga, the monitor's report
20 that we just went to.

21 And just what I do want to go to is on
22 page 39 of the PDF. And here where -- the
23 paragraph that says:

24 "We understand, however, that there have
25 been challenges with crypto asset

1 mentioned -- I think -- I mean, I think I'd like
2 to also just point out that as FINTRAC and the
3 Department of Finance are defining those who
4 deal in virtual currencies as money service
5 businesses, this proposed framework adds an
6 additional challenge of defining them
7 alternatively based on some certain factors that
8 are not addressed under the *Proceeds of Crime*
9 Act. So not every person who deals in virtual
10 currency would necessarily be subject to having
11 to register as a securities broker/dealer and
12 therefore be subject to these requirements.

13 But in my past experience there were times,
14 A, we couldn't find qualified auditors who had
15 the skills and capabilities to complete these
16 kinds of audits. Secondly, there was, if I
17 recall correctly, a stance taken by some central
18 audit standards bodies for the firms to not
19 complete these audits due to that fact -- due to
20 that and as well as other factors as is the
21 liability of asserting on an audit of something,
22 though not understanding necessarily yet all
23 that was needed to understand in order to make
24 such an audit-level opinion, prevented them from
25 continuing an audit.

1 So while an audit may have begun, the
2 auditors were pulled and not permitted to
3 complete the audit until some further clarity
4 was provided by that central body. And forgive
5 me, I don't -- I'm not familiar with where that
6 landed, if that was resolved appropriately.
7 Possibly Giles knows something about that that I
8 don't. But, you know, that people were either
9 unwilling or unable or prevented from completing
10 these audits for an exchange.

11 Q Mr. Dixon, is there any response you'd like to
12 make to that?

13 A (GD) It's -- so that is certainly one of the --
14 I would say there's a smaller list of
15 challenges, and that's a big one. I'm not an
16 auditor myself. I work with colleagues who are
17 auditors, and so I have some exposure to some of
18 these challenges that my panelist has been
19 referring to.

20 But yes, the audit landscape is -- much like
21 the AML regulatory landscape is growing in
22 regards to cryptocurrency. It's much like the
23 PCMLTFA and some of the challenges we've spoken
24 about. There are interpretation issues and
25 challenges for us -- I use the term broadly --

1 as auditors in how some of those standards apply
2 to, you know, the still relatively new world of
3 virtual currency. So it makes it a challenge
4 from a risk perspective for a professional
5 services organization to deliver public opinions
6 when there is still, you know, for example a
7 lack of guidance or ambiguity in interpretation
8 of how the current audit standards apply to the
9 virtual currency world. So for sure that's a
10 challenge.

11 I believe Charlene -- it was the CPAB, the
12 Canadian Public Accountability Board who had
13 issued some -- to my understanding it wasn't
14 statements that said that auditors could not
15 undertake audits, but the requirements that were
16 set from the -- that body made it, let's say,
17 very difficult to -- you know, to -- but we're
18 certainly seeing, as time goes on, professional
19 services firm becoming slowly more comfortable
20 in issuing opinions to the virtual currency
21 industry.

22 If I may, I could mention a couple of other
23 of the challenges because that is, I think, one
24 of them, but there are other, you know, broader
25 challenges, so I'm happy to speak to those if

1 you would like.

2 Q I think probably it's a good opportunity to,
3 yeah, jump into that.

4 A (GD) Sure. So, you know, some of these
5 challenges are actually quite linked to some of
6 the things we have spoken about and what we
7 probably will talk about. So we've talked
8 about, you know, the regulatory guidance and
9 whether there is still some ambiguity on how,
10 say, current standards apply to the audit world
11 in order to allow for those types of services to
12 be provided. As the CSA report notes, however,
13 the sort of relatively nascent stage of the
14 industry has resulted, in terms of what I've
15 seen, in certain of these funds and perhaps not
16 being ready themselves to receive an audit of
17 this kind.

18 And so, for example -- to give you just a
19 very high level example. My understanding is if
20 a company is requesting, say, a SOC 2 report --
21 and just to remind us that is related to
22 attesting to the efficacy of system-based
23 controls. And that would very much relate, for
24 example, to how crypto-assets are governed and
25 handled within a virtual currency exchange. You

1 know, one basic requirement as an auditor coming
2 in to assess those controls is that those
3 controls are documented and are able to be
4 audited. And, you know, that is often a
5 challenge in, let's say, less mature, newer
6 dealers in virtual currency who, you know,
7 rightly so in some respect have had to focus on
8 the commercial side of the business and get that
9 up and running. But it presents challenges to
10 external parties to actually come in and
11 undertake the work, if they could, in the first
12 place.

13 There are even some other overlapping
14 challenges related to some of the banking
15 challenges, which I'm sure we'll get onto at
16 some point, and, you know, independence issues
17 that stem from that. And we've seen certain
18 groups who, you know, for example, have a large
19 holding in a particular bank and puts into
20 challenge some of the independence and how much
21 we can rely on the data that we need to be
22 auditing in the first place. And then of course
23 the cost of doing this type of work can be
24 prohibitive for some as well, so there's a
25 challenge there too.

1 So I would say they're multifaceted
2 challenges and often overlapping.

3 Q I'd just like to note, and this a bit of -- a
4 way of an evidentiary shorthand here. At the
5 back of the report we were just -- we've just
6 been looking at -- oh, it's still there. At
7 appendix B -- and, Madam Registrar, you don't
8 need to go there. I'm just noting this for the
9 record. At appendix B and appendix C of that
10 report the authors have very helpfully set out a
11 summary of regulatory requirement that are
12 applicable under appendix B to marketplaces and,
13 under appendix C, applicable to dealers. So
14 that's -- just put a note there of a good
15 shorthand reference to what regulatory
16 requirements would apply to entities registering
17 under securities legislation as -- in various
18 capacities.

19 And with that I'd like to turn to --
20 Mr. Mueller, you know, Netcoins is currently
21 undergoing the process of applying for
22 registration with the BC Securities Commission;
23 is that right?

24 A (RM) That's correct.

25 Q Are you aware of any other virtual currency

1 platforms that are engaged in the same process?

2 A (RM) I've heard that Bitvo is looking at Alberta
3 securities registration, but I haven't seen any
4 documents, so that's hearsay.

5 Q Are there any platforms that are currently
6 registered?

7 A (RM) I don't believe so. Maybe Wealthsimple,
8 but Wealthsimple, you can't move crypto on and
9 off their platform, so I'm not sure that it is a
10 direct analogue.

11 Q Okay.

12 A (CC) Wealthsimple, I believe, is operating under
13 their exempt market dealer licence. An
14 announcement has recently come out on *Business*
15 *Wire* that Coinsquare, under new leadership, has
16 submitted their application for their
17 broker-dealer licence with the OSC.

18 Q Thank you. Mr. Mueller, is it your
19 understanding that Netcoins is required to
20 register with the BC Securities Commission?

21 A (RM) There is no requirement. We're undergoing
22 a voluntary registration.

23 Q Okay. And in the context of the discussion
24 we've just had, Mr. Dixon raised the -- you
25 know, one of the barriers to getting additional

1 oversight is the cost of such endeavours. Why
2 voluntarily take this up from Netcoins'
3 perspective?

4 A (RM) I believe that we would like to -- I mean,
5 the cryptomarket is growing. There's certainly
6 more and more newbie users. There's more volume
7 there and more established guys are not looking
8 for a new platform. Newbies are looking for a
9 safe platform. So I think what we want to do is
10 establish that, you know, we're undergoing this
11 registration and we're abiding by these
12 regulations to attract those new users.

13 Q So in effect your view is that the additional
14 regulatory expense is going to be justified by
15 the value to the customer -- the perceived value
16 to the customer base in terms of stability and
17 assurance provided by regulation?

18 A (RM) That's certainly one factor, yes.

19 MS. PATEL: Okay. I'd like to turn now, and I'm --
20 Mr. Commissioner, just so you know, I'm hoping
21 to the turn the floor over to my colleagues who
22 do have questions of that panel at noon, and so
23 I'm going to move rapid fire through my
24 remaining topics.

25 Q And one thing we've touched on several times,

1 and I want to get at it directly now, is the
2 issue -- and this is has been raised by other
3 witnesses this week, the issue of virtual
4 currency businesses accessing banking services.
5 And I -- we've heard evidence that these
6 services have difficulty in accessing banking
7 services. We could see that again in the
8 Ontario Securities Commission report regarding
9 Quadriga. They had and then lost banking
10 services.

11 So my question is -- I'll ask maybe --
12 Ms. Cieslik, you've had some experience in this
13 area, I know. First of all, if you can confirm
14 that this is true, and then say why it is the
15 case from your understanding. Obviously you
16 can't tell us what the banks are thinking
17 exactly.

18 A (CC) Absolutely. I mean, my original foray in
19 leaving traditional finance and getting into
20 cryptocurrency I believe was very largely
21 predicated on the fact of difficulty in
22 achieving -- getting a big 4 or big 5 Canadian
23 bank account to accept a cryptocurrency
24 exchange. So at the time in 2018 there were no
25 rules for cryptocurrencies to be registered with

1 FINTRAC or comply with regulations, but that was
2 about the time, again, like, people were
3 starting to and expecting, you know, movement
4 happen in that area. And as I mentioned, my
5 prior employer had been successful in
6 registering prior to any inclusion of virtual
7 assets being part of the MSB definition.

8 You know, in the early days of course
9 getting bank accounts was achieved through
10 probably less than transparent methods. So
11 banks were not at all happy with people using
12 their accounts for crypto-services when they
13 found out and started closing all of their
14 accounts.

15 Now, I will say I experienced a similar
16 response approximately 10 or 12 years ago
17 working with traditional money services
18 businesses being -- the common phrase is
19 demarketed. So banks had decided the risk of
20 dealing with those type of entities was too high
21 and they would no longer provide them access to
22 the banking system. A big part of my role then
23 was helping them build up and solidify their
24 anti-money laundering programs and going back to
25 the bank, you know, hat in hand saying, hey,

1 we've had this 20-year relationship with you
2 where you were okay with us and suddenly you
3 decided to kick us out; here's all the work and
4 effort we've done to shore up what we have --
5 you know, what our compliance regime looks like
6 from the anti-money laundering perspective and
7 please give us a bank account back. So I feel
8 like this is a bit of a repeat of that with a
9 new industry.

10 Certainly the headlines, such as the one we
11 referenced with Quadriga among other -- and I
12 don't know if we'll address that further on, but
13 initial coin offering-type scams and schemes has
14 given this negative -- you know, negative pallor
15 on cryptocurrency.

16 So generally what I have found is that
17 banks', you know, risk-based decisions have
18 included decisions to no longer provide services
19 or a refusal to provide services to anyone who
20 deals in virtual assets and how that has sort of
21 evolved or changed over the last few years. I
22 mean, certainly I'll say one of the feathers in
23 my caps was getting what we were told at the
24 time was the first transparent bank account for
25 cryptocurrency exchange in Canada with a big 4

1 bank with their full awareness and cooperation
2 after jumping through several hoops. Happy to
3 jump through those hoops. However, taking on
4 sort of the risk expectations of the financial
5 institution in instilling them in the
6 cryptocurrency service themselves in order to
7 achieve that access.

8 So it was quite -- you know, sort of a
9 tenuous time of will we or won't we be able to
10 service our customers as we don't have access to
11 that fiat on-ramp and off-ramp, as variously had
12 been referred to throughout this morning, or
13 afternoon in the eastern side. That they
14 really -- you know, financial institutions hold
15 the key to being able to do this and without
16 them your business is at a very significant
17 disadvantage in order to serve clients as well
18 as support your own business with your own
19 operating accounts. So things like being able
20 to make payroll, buy, you know, computers,
21 everything that you need to run your business.

22 Q I mean, the need for banking services, it seems
23 clear enough. You were working at an entity
24 that was fortunate enough to be able to have
25 your persuasive powers to get banking services

1 from a traditional bank. What are the options
2 for businesses that cannot get banking services
3 at all?

4 A (CC) Sure. I mean, I think there was a period
5 of time where there were people looking into --
6 like the financial institution that we were able
7 to work with in my past role that were open to
8 hearing about, you know, what we're making in
9 terms of efforts towards compliance so that it
10 started to open up a little bit. But that's
11 variously sort of waxed and waned over time.
12 Some people have met their threshold to say, we
13 will no longer; like, we've taken a few, but
14 it's -- our risk appetite is this and we don't
15 want to expand this offering to a greater group
16 of cryptos.

17 So -- and prior to this and also subsequent
18 to this any dealers in virtual currency -- and
19 certainly has been my experience not only
20 working with them but providing services to them
21 is that without access to big 4, big 5, you
22 know, banking services locally, they have two
23 options really. They use payment service
24 providers. You know, as I think one of the
25 other panelists had mentioned, you know, it sort

1 of puts a wall between the crypto-asset company
2 and the bank itself because they're going
3 through a third-party payment processor.

4 Obviously some less -- you know, sort of
5 less proper methods of not revealing who you are
6 to your financial institutions. And that
7 certainly happened previously and I'm sure
8 continues today. You know, and in terms of
9 payment service providers, whether it uses sort
10 of a domestic payment service provider that is
11 Canadian or you may be using offshore payment
12 providers who have less stringent or less strict
13 concerns about regulatory status, and then also
14 even using offshore financial institutions
15 willing to provide sort of banking services
16 under those same criteria.

17 Q And I'm going to -- Mr. Mueller, you've got a
18 background in payment processors; is that --
19 that's right?

20 A (RM) That's correct.

21 Q And so I'm going to direct these questions --
22 this question at you, which is what is the
23 problem with using a payment processor from the
24 perspective of anti-money laundering concerns?

25 A (RM) Sure. So I think the simplest way to

1 explain it is if I'm a Canadian VASP and I
2 receive over \$10,000 in a wire from an offshore
3 customer, I'm required to report that and so is
4 my domestic bank. Where if I'm using, let's
5 say, a pseudobanking product like an IBAN which
6 functions just like a bank account but like a
7 sub kind of account from, say, a European
8 provider, my financial institution is it never
9 going to file a report with FINTRAC about that
10 transaction. And since it didn't enter or leave
11 Canada, I'm technically not required to report
12 it either.

13 So if I'm trying to do my best, I might
14 submit a VIR, a volunteer information report,
15 but you know, if I'm on the ropes and only three
16 people work here and I have an offshore account
17 that VIR may never be reported. So a
18 problematic transaction that for all intents and
19 purposes may have been fulfilled in Canada and
20 taken place on Canadian servers would not be
21 reported to the financial institution -- or
22 financial intelligence unit.

23 Q Are Canadian payment processors required to
24 report to FINTRAC?

25 A (RM) So that is actually a pretty grey area. So

1 technically you have to register as an MSB if
2 you are remitting funds, but, you know, if you
3 are a payment processors, there's no clear
4 designation that payment processing activities
5 fall under MSB. And there's been a lot of talk
6 about introducing analogues to what the UK does
7 with the Financial Conduct Authority to regulate
8 payment service providers in Canada, but that
9 hasn't really come to fruition yet. So, for
10 example, like, if you look at Paysafe, one of
11 the largest Canadian payment processors kind of
12 ever, I'm not sure that they have a current MSB
13 registration.

14 Q So if I can summarize in short, one of the AML
15 risks of VASPs not having access to banking
16 services is that it creates a bit of a black box
17 from FINTRAC's perspective when it comes to
18 reporting transactions?

19 A (RM) Certainly. It makes the flow of funds
20 opaque.

21 Q Okay. I'm going to move very briefly --
22 Ms. Cieslik, I just -- I want to give you an
23 opportunity to respond to some evidence that
24 we've heard earlier this week with respect to
25 the money laundering risks of kiosks or bit

1 ATMs. We've heard evidence from an RCMP panel
2 that they are -- they can be used as a
3 facilitator for money laundering. What -- and
4 as somebody who's got current experience and
5 past experience in the industry dealing with bit
6 ATM companies, do you have a response to this
7 perception of these kiosks, bit ATMs, being
8 particularly vulnerable to money laundering?

9 MS. PATEL: And, Madam Registrar, you can take down
10 the document. Thank you very much.

11 THE WITNESS: (CC) Yes, absolutely I can respond to
12 that. I mean, I think you had asked earlier in
13 today's testimony about, you know, perception
14 and vulnerabilities in this field. And, you
15 know, cryptocurrency we are talking about
16 broadly, a lot of talk about exchanges and
17 trading platforms and now we're moving sort of
18 to the bit ATM, as I call them. Kiosks, as they
19 were referred to.

20 You know, I certainly can't deny there is a
21 vulnerability. Where there's an opportunity for
22 an exploitation, a criminal element will exploit
23 it. And we -- you know, we've seen that happen
24 in the traditional financial services space.
25 And, you know, I don't think that sort of is

1 anything new. You know, with the emergence of
2 crypto, it was an unregulated industry. Fraud
3 and money laundering and illegal activity was --
4 part of it, I think, certainly was displaced
5 from that into crypto because of certain
6 factors. Ease of use, maybe lower fees in some
7 instances.

8 So when it comes to, you know, bit ATMs
9 specifically, obviously the way that they work,
10 they will take cash from a person and provide a
11 cryptocurrency purchase to them. I think the
12 fact that they have been used or exploited by
13 criminal elements does not necessarily mean that
14 the bit ATM companies want this or encourage it.
15 They are looking and always actively seeking
16 ways to mitigate it, and in fact they would be
17 considered victims too in this instance.

18 And certainly, again, I can't deny in the
19 earlier days of bit ATM companies where there
20 was no regulation or there were no limits and
21 there were no sort of monitoring and oversight
22 of them that some maybe have acted without
23 limits without monitoring. I think that much
24 like the rest of the crypto-industry, that that
25 sort of funnel has gotten smaller as these rules

1 come into effects and they do definitely apply
2 to the bit ATM machine companies. They are cash
3 based, which remains -- is and remains a
4 high-risk product for money laundering, both,
5 again, in traditional and crypto-environments.

6 But, again, I do think the introduction of
7 the recent, you know, amendments to rules will
8 disrupt this ability for criminals to exploit
9 this area in the same fashion that they have,
10 you know, with any other entity that has
11 previously not been under FINTRAC law and has
12 come under FINTRAC law.

13 Q And I'll ask you directly, I mean, given the
14 ability to go online and connect a bank account
15 or a credit card to a platform where you could
16 purchase, you know, bitcoin or any other virtual
17 currency, what is the -- what's the valid use
18 case for a bit ATM in a world where you can
19 engage in those transaction, you know, directly
20 through your bank as opposed to through cash?

21 A (CC) Sure. I mean, I think we always have to
22 remember that there is an economy of -- there is
23 a group of people that are cash based and
24 continue to operate cash based. I mean, I
25 definitely think the rules around cash movements

1 and controls have limited that, but, you know, I
2 wouldn't want to discount that there's still an
3 amount of people that operate in cash. Not all
4 of them are criminals.

5 You know, a bit ATM machine provides an
6 instant sort of on-ramp of fiat to crypto for
7 smaller scale transactions and provides an
8 instant delivery of virtual currency. So there
9 is no reliance on a third party to hold your
10 assets for you, that you are instantly delivered
11 what you are purchasing, like buying a chocolate
12 bar, so to speak.

13 I think another use case for virtual ATM
14 machines which are also -- you know, it's a good
15 and bad, I suppose, is that with some of the
16 frauds and explosions of things like Quadriga,
17 people have become increasingly concerned about
18 sharing their personal information. So when you
19 sign onto a platform and you're subject to
20 identity verification requirements based on the
21 opening of an account, you're required to
22 provide your identity documents, potentially a
23 proof of address document. Potentially, you
24 know, in some countries you're required to
25 provide social insurance -- social security

1 number. And where you might have concerns over
2 safety and security of both your personal
3 information and your assets, you might just want
4 to be taking that chocolate bar with you when
5 you buy it as opposed to leaving it at the store
6 and going to visit it later when you want a bite
7 of it.

8 And so I think it's a low barrier of entry
9 for those who wish to get into the market. And
10 I do think that there is a misconception that
11 someone can stand at a machine and enter
12 hundreds of thousands of dollars of bills to do
13 this -- these purchases at bit ATMs.

14 Q And just -- I just want to make sure it's clear.
15 You did mention that bit ATMs are MSBs under the
16 new regs?

17 A (CC) Yes, they are.

18 Q Right. And they're subject to the same -- at a
19 certain threshold deposits there are subject to
20 the same identification know-your-client
21 requirements as other MSBs; is that right?

22 A (CC) Yes. Yeah. I mean, that is the
23 requirement that's sort of staggered to come
24 into effect early sort of next year, mid next
25 year. But there are -- you know, the FATF has

1 released guidance, and this has been common in
2 the traditional money service, that certain
3 transactions under certain dollar values are
4 considered low risk and therefore not subject to
5 KYC but that that dollar amount here in Canada
6 is a thousand dollars. So if you do a single
7 transaction of a thousand dollars or more that
8 you would be subject to that same identity
9 verification.

10 MS. PATEL: The City of Vancouver recently -- staff
11 sent a memo to mayor and council addressing
12 certain money laundering concerns. And I'll
13 just -- I'll ask Madam Registrar to put it up,
14 the City of Vancouver staff memo dated
15 October 30th, 2020. And if you can just, Madam
16 Registrar, scroll down to page 5. Staff -- let
17 me check my reference. Sorry.

18 At page 4 of the document, page 4 of 12.
19 Staff is directed to consider the powers
20 available under the Vancouver charter including
21 but not limited to and here (iii):

22 "The creation of by-laws to regulate the
23 use and operation of cryptocurrency ATMs,
24 including the requirement for a business
25 license --"

1 And I'll just stop there and get to the
2 punchline on page 5. Madam Registrar, if you
3 scroll down.

4 At the bottom of page 5 it's the title
5 "Preferred Licensing Approach." And staff
6 concludes here that:

7 "The preferred licensing approach is to
8 continue to permit the operation of
9 cryptocurrency ATMs in the City and to
10 address potential concerns with fraudulent
11 activities by regulating them using
12 existing by-laws, including adding a
13 self-declaration about compliance with
14 FinTRAC, and to gather data through the
15 business licensing data base ... to report
16 out as needed. Implementation could begin
17 immediately."

18 Q Now, do you have any response, Ms. Cieslik, to
19 the suggestion that bit ATMs should be regulated
20 in this manner by municipal governments, the
21 City of Vancouver in this instance? In
22 particular will it do anything to address money
23 laundering concerns?

24 A (CC) Well, I mean, it seems, in reading this
25 prior to the testimony today, is that this is

1 largely driven by, you know, a concern over
2 fraud maybe necessarily above or primarily
3 instead of money laundering. I'm not really
4 sure what drove this determination or how they
5 came to this assessment that bit ATMs were a
6 risk necessary to -- you know, necessary for
7 specific additional requirements.

8 Now, with the new laws that have come into
9 effect in June at the federal level, I do see
10 that some suggestions in here do go above and
11 beyond the requirements for domestic, you know,
12 money service business registration, including,
13 you know, gathering information about the
14 ownership, et cetera, that, you know, is not
15 necessarily completed by FINTRAC for a local
16 money service business.

17 You know, I can't deny that having some
18 additional information would certainly aid law
19 enforcement when there was a case or if there
20 was a concern pertaining to a bit ATM company
21 that there would be some thing that is FINTRAC
22 is not covering that would be covered by a local
23 licence.

24 The self-declaration aspect, you know, I
25 don't think -- you know, FINTRAC itself doesn't

1 generally take self-declarations of anything.
2 So saying, you know, I swear, officer, I'm not,
3 you know, laundering any money here is similar
4 to, you know, I swear I'm complying with all
5 FINTRAC requirements. You know, I would be sort
6 of more interested in seeing a real oversight
7 and supervisory capacity of FINTRAC being
8 increased to be able to provide that kind of
9 assurance as opposed to relying on a
10 self-declaration which is not verifiable,
11 generally.

12 But, you know, again, I do go back to, you
13 know, the impetus of such a memo and why
14 specifically bit ATMs were singled out in the
15 group of what cryptocurrency offerings are
16 available to residents of Vancouver or Canada at
17 large that would say that this in particular
18 would require this additional step that isn't
19 covered necessarily by the new federal-level
20 rules.

21 MS. PATEL: And unfortunately we don't have time to
22 get into further exploration of that, but thanks
23 for your response on that.

24 And if we could this have I'd ask that be
25 marked as the next exhibit, please. And, Madam

1 Registrar, you can take down this document.

2 THE COMMISSIONER: Very well. Thank you.

3 **EXHIBIT 267: City of Vancouver Memo to mayor**
4 **re: Bitcoin ATMS - October 30, 2020**

5 MS. PATEL:

6 Q And then finally -- my final group of questions
7 is directed in particular to Mr. Warrack. I'd
8 like to ask you about a couple of industry
9 and -- well, partnerships with respect to -- one
10 is specific to virtual currencies and virtual
11 currency service virtual asset service
12 providers. That's Project Participate. And
13 then if time allows, I'll ask you about the
14 other one, Project Protect. But if I could ask
15 you, Mr. Warrack, if could you describe what
16 Project Participate is. And you're on mute.

17 A (PW) Yeah, Project Participate started in 2018
18 by myself with my appointment as Chief
19 Compliance Officer to the cryptocurrency trading
20 platform. And I wasn't aware that FATF were
21 going to be publishing guidance around
22 cryptocurrency and exchanges, et cetera, and
23 that guidance would include red flags and
24 suspicion and encouragement to report suspicious
25 activity by exchanges, et cetera. When I looked

1 at the guidance that actually came out from the
2 FATF in 2019, it struck me that whilst the
3 recommendation was that exchanges should report
4 suspicious activity, there's no information as
5 to what constituted suspicious activity. It was
6 kind of up to the exchange to guess, if you
7 will, about what that meant.

8 So I basically reached out to peers in the
9 industry, both in Canada but more
10 internationally, including other exchanges,
11 software providers such as Chainalysis,
12 et cetera. And we came together with our own
13 list of red flags, suspicions as we called them,
14 based on our own experiences. We also consulted
15 with law enforcement internationally, including
16 Europol, and basically published a report called
17 Project Participate which was sent to the FATF
18 and I know had a large part in the -- what
19 became the FATF report September of this year.
20 It had a large input into that.

21 And the indicators of suspicion were
22 designed to inform the design of transaction
23 monitoring programs in an exchange, for
24 instance, what to look for that's suspicious but
25 also investigative behaviour by exchanges and by

1 law enforcement, et cetera.

2 So it was that collaboration. More recently
3 -- and it was very informal. It was very, very
4 informal. Just -- people just getting together
5 to do the right thing and share their indicators
6 with each other.

7 More recently, the project is still going on
8 a more limited scale, certainly in Canada, with
9 collaboration with the RCMP and other law
10 enforcement agencies and some of the banks in
11 terms of shared best practice as it relates to
12 cryptocurrency investigation.

13 Q As a result of this collaboration that you've
14 just described, you published a document called
15 "Indicators of Suspicion For Virtual Asset
16 Service Providers." Is that right?

17 A (PW) That's correct.

18 Q And the FATF document that you were just
19 referring to is the September 2020 "Red Flag
20 Indicators Money Laundering and Terrorist
21 Financing For Virtual Asset Service Providers"?

22 A (PW) That's correct, yeah.

23 Q Which is a similar but a shorter document but
24 highlights many of the same red flag indicators.
25 Would you say that's fair?

1 A (PW) Yeah, I'd like to think that the FATF took
2 the best of the Project Participate and
3 incorporated it in their document. And I do
4 know for a fact that Canada was represented
5 on -- with FATF on this project by FINTRAC and
6 Participate did form a large part of that,
7 formation of the document.

8 Q Are you aware of any similar industry endeavours
9 in other areas, for example, in traditional
10 banking, in other groups of reporting entities,
11 say, [indiscernible] this kind of work.

12 A (PW) Certainly within -- yeah, certainly --
13 there are many, but within Canada certainly, you
14 know, things like Project Protect, which you
15 mentioned and subprojects that came out of that
16 where the private sector and industry have got
17 together and do get together to share best
18 practice to discuss the interpretive guidance
19 and in some cases result in changes to that.

20 And this is a fairly recent phenomenon.
21 Prior to 2015 it was kind of unheard of. The
22 regulated entities and the regulator, whether it
23 be FINTRAC or OSFI, kind of didn't talk to each
24 other informally. It a very, very formal
25 relationship and not discuss it.

1 Q Throughout the evidence we've heard today
2 there's been several references to or
3 discussions of industry stepping in and --
4 stepping in and taking up kind of the burden in
5 the regulatory space, whether it's -- whether
6 we're talking about education of regulators, the
7 implementation of standards before regulation is
8 in force, the development of technologies to
9 allow regulations to be effected. We referred
10 to that when we spoke of the travel rule. And
11 we've had another example of the industry
12 stepping forward and creating this document
13 through Project Participate, the indicators of
14 suspicion, to allow industry to know how to meet
15 its AML compliance.

16 And maybe this -- do any -- you might have a
17 different answer here, this panel, than maybe a
18 regulator or government would have. Do any
19 concerns arise that the AML regulation of this
20 industry has been very much -- and you can take
21 issue with that characterization -- very much
22 driven by industry itself?

23 A (PW) I don't believe so. I believe, you know,
24 in more recent years since 2016 and Project
25 Protect in particular, which was the first, the

1 regulators are still in charge, but there's a
2 realization that we all have a role to play.
3 And I think this also coincided with FINTRAC's
4 change of strategy at the time where beforehand
5 it was a very checklist approach to compliance.
6 You know, you check all these boxes, a bank is
7 or isn't doing what the rules say, now to --
8 their strategy is one of compliance for
9 intelligence, intelligence for law enforcement.
10 And how a bank, for instance, is performing in
11 terms of its AML function, it's measured in
12 terms of effectiveness, not checklist points.

13 Q Do any of the other panel members want to
14 respond to that?

15 A (CC) I mean, I'd like to just add, I think,
16 that, you know, FINTRAC and Department of
17 Finance were working quite closely with the
18 Financial Action Task Force at an early stage.
19 And, you know, when we were at the Vienna public
20 sector consultation with the FATF, FINTRAC's
21 draft laws had already been in place in
22 anticipation of what the FATF was going to
23 recommend.

24 So I do think -- you know, as Peter
25 mentioned I still think it is -- you know, they

1 are still in charge. There is still a top down
2 or there has been consultation. I think what
3 we've come up with has been largely driven by
4 working closely with the FATF and implementing,
5 you know, at an earlier stage maybe than some
6 what the recommendations were anticipated to be
7 there along with a couple of things that aren't
8 necessarily FATF recommendations but their own
9 interpretation of risk, risk-based requirements
10 that don't -- you know, that have been subject
11 of debate sort of within the VASP industry.

12 (PW) To answer your question, Ms. Patel, in
13 terms of is the tail wagging the dog, is the
14 private sector wagging the public sector's tail
15 in terms of regulation. I think it's true to a
16 certain extent but in a good way in terms of
17 efficacy of the whole purpose and *raison d'être*
18 of the whole program and purpose of AML
19 legislation. I think it's made it a lot more
20 effective.

21 Q I guess -- sorry, the term actually I was
22 searching for is regulatory capture, or tail
23 wagging the dog. And I did ask -- I would ask
24 for the indulgence of my colleagues who I know
25 have questions.

1 I would like to ask you, Mr. Warrack, if
2 you could describe the other endeavour
3 that you referred to, Project Protect.

4 A (PW) Very quickly, Project Protect relates to
5 human trafficking or anti-human trafficking
6 efforts in Canada and beyond. It started in
7 early 2016, again by myself, inspired by a
8 survivor -- a well-known survivor of human
9 trafficking in Canada. And basically I reached
10 out publicly in a public forum, the regulators
11 were there and committed the banks at that time
12 to working to combat human trafficking.

13 And FINTRAC were in the audience and this
14 aligned with their strategy, the change of heart
15 in terms of compliance for intelligence,
16 intelligence for law enforcement. And very,
17 very quickly it became an extremely successful
18 partnership which has resulted in massive
19 STR filings and more importantly disclosures to
20 law enforcement.

21 I was looking at the recent FINTRAC report
22 this morning actually, which came out about a
23 month ago I think, and year over year the number
24 of disclosures to law enforcement regarding
25 human trafficking have increased substantially.

1 And it's basically industry and public sector
2 work and in partnership sharing best practices,
3 indicators of suspicion to enable the banks, for
4 instance, to detect human trafficking, report it
5 to FINTRAC and FINTRAC to share that with law
6 enforcement.

7 And as a result of that there have been a
8 number of subprojects since, all of which
9 delivering similar results on an ongoing basis
10 in relation to fentanyl trafficking, elderly
11 fraud, et cetera.

12 MS. PATEL: All right. Thank you. Mr. Commissioner,
13 those are my questions for these witnesses.

14 THE COMMISSIONER: Thank you, Ms. Patel. And I think
15 Ms. Chewka for the province has been allocated
16 30 minutes.

17 MS. CHEWKA: Yes. Thank you, Mr. Commissioner.

18 **EXAMINATION BY MS. CHEWKA:**

19 Q Mr. Giles, I have a question beginning with you.
20 So you gave evidence that there is some desire
21 or what you're seeing as some trends in the
22 private industry to proactively develop strong
23 anti-money laundering policies separate from
24 what's required by government. Is it fair to
25 say that not every private entity in this

1 context is in fact doing this?

2 A (GD) It might be. It might be fair to say that.
3 I think there a broad -- there's a spectrum of
4 entities in this industry who are -- some are
5 taking a very proactive approach, some are
6 taking a very reactive approach. I probably am
7 on one end of that scale, you know, experiencing
8 the proactive side of that. You know, people
9 are coming forward to understand how to comply.
10 But yeah, I would say it's probably a fair
11 statement.

12 Q In your experience is there a way to incentivize
13 private entities to develop these strong AML
14 policies separate and apart from the use of what
15 I'll call a regulatory stick?

16 A (GD) That's a good question. I think that --
17 from what I've seen where the appetite to, let's
18 say, comply or to proactively get ahead of
19 regulations has -- the motivation is perhaps --
20 there's a couple of reasons for it and, you
21 know, there is a very real -- I see a very real
22 even commercial impact of doing the right thing
23 from a regulatory point of view, certainly as a
24 customer of several exchanges. You know, I put
25 stock in those groups who are -- who seem to be

1 doing the right thing from a regulatory point of
2 view.

3 I think the other sort of factor there would
4 be, you know, when there's a recognition of
5 collaboration and trying to develop a framework
6 that can most appropriately fit this industry.
7 And I think that's been some of the really
8 positive outcomes of the consultations and round
9 tables of regulators and so on is there's, I
10 believe, a genuine effort there to make efforts,
11 to make sure that these regulations and/or any
12 standards for that matter are -- you know, apply
13 appropriately to this industry and make sense
14 and are, you know, not just compliance for
15 compliance sake.

16 So yeah, so I think that those are -- that's
17 probably a couple of reasons that I would give.

18 Q And I'll ask the same question of Mr. Mueller as
19 well. Based on your experience within the
20 private sector, can you explain to the
21 Commissioner how you might say how we could
22 incentivize this private sector to develop AML
23 policies separate and apart from that regulatory
24 stick?

25 A (RM) Certainly. And I think one thing that

1 we've discussed fairly extensively throughout is
2 access to banking. So I think incentivizing
3 operators by giving them access to, say,
4 commercial banking at the same costs that a
5 normal business might have or even a luxury car
6 dealership, which is just as vulnerable to money
7 laundering as cryptocurrency, that would be a
8 great incentive. So I think -- and, you know,
9 Giles alluded to this earlier as well -- that a
10 lot of operators have been focused on the
11 commercial aspects maybe to get their business
12 up and running and less so on the compliance
13 aspects or the risk management. I think -- so
14 they're seeing the potential of fines, the
15 spectre of fines as the reason for compliance
16 and they're seeing compliance as a cost centre.

17 So if there was, for example, something like
18 access to banking to drive real value or at
19 least for them much more easily identified
20 value, that would be one incentive.

21 Q Ms. Cieslik?

22 A (CC) Yes. I mean, I agree with my panelists'
23 assessment of that so far as well. I mean, I'm
24 not sure if this qualifies as a regulatory
25 stick, but I think one of the things that is

1 disincentivizing is that, you know, the global
2 aspect of virtual currency and the regional
3 aspect of compliance in Canada are at odds with
4 each other where you can operate a foreign
5 company that doesn't have to comply with the
6 Canadian rules rather easily, and those entities
7 remain outside of any real reach of the
8 regulators for monitoring, supervision and
9 enforcement. So you are competing with other
10 exchanges that don't have these same
11 requirements and don't have the same threat
12 because they've found creative ways of
13 structuring their business, location-wise and
14 jurisdictions of lower regulatory oversight.
15 And -- but that does not prevent them from
16 reaching Canadians.

17 So I mean, I'm sorry if that does sort of
18 fall into the stick category, but I've often
19 said at the FINTRAC consultations and obviously
20 more so in my previous employment you could
21 literally walk down the street and audit me at
22 any time and I would have been well ready for
23 them, but you're doing the same to all the other
24 entities that serve Canadians and possibly can
25 harm Canadians that aren't down the street. And

1 so an unevenness of application is a perception.
2 Again, sorry, that might not be a stick thing,
3 but I'll go to Ryan's banking comment and really
4 push that one too as a non-stick option.

5 Q And, Mr. Warrack, do you have anything to add to
6 those comments?

7 A (PW) Yeah, I was actually going to say what Ryan
8 had said about banking. I think that's the
9 biggest incentive that could be offered.

10 Q Ms. Cieslik, in your evidence today you discuss
11 some of the limits inherent to the FINTRAC
12 reporting requirements. Would you say that one
13 of the limits to the FINTRAC requirements is
14 that they are largely reactive in nature as
15 opposed to preventative?

16 A (CC) Yeah, I mean, certainly the reporting
17 regime is reactive because you're looking for
18 activities after they occur, you know, when it
19 comes to the value-based reporting requirements,
20 so large cash large wire and, soon to come,
21 large virtual currency. You know -- and
22 suspicious activity reporting again is reactive,
23 you know, forgetting -- without talking about
24 attempted suspicious activity for now. But that
25 there is, you know, sort of a very subjective

1 assessment as to what is suspicious in the new
2 and burgeoning industry.

3 So I do think -- sorry, could you maybe just
4 repeat the question so I that can make sure I
5 fully answer it.

6 Q Of course. My question was whether or not you
7 would agree that the FINTRAC reporting
8 requirements or the FINTRAC requirements
9 generally, one of the limits may be that they
10 are largely reactive rather than preventative in
11 nature?

12 A (CC) Yeah, I think that would go for, you know,
13 Canada as well as any other jurisdiction that
14 has implemented, you know, post-reporting
15 requirements. It's just -- it's a fact that it
16 happens after.

17 Q We've heard from witnesses this week that
18 realtime monitoring is critically important when
19 attempting to address illicit activity,
20 particularly money laundering, in the context of
21 virtual assets. Would you agree with that
22 regarding the importance of realtime monitoring?

23 A (CC) Yes, I would agree with that. I would only
24 want to distinguish, you know, a couple of
25 things here is that I know there's been a focus

1 on the risk-based tools such as Chainalysis, and
2 I do believe -- and correct me if I'm wrong --
3 that that the general sentiment about what
4 realtime reporting is, so being -- or
5 monitoring, so being able to screen those
6 wallets at -- you know, at the time of
7 inception. And that works well for use of those
8 softwares who have risk analytics and they sort
9 of all have different methodologies, proprietary
10 methodologies, about how they assess that risk.

11 But I think we also can't forget about the
12 fact that there is fiat movements requiring
13 monitoring that don't offer that same, you know,
14 sort of risk analytic built in. And that when
15 you look at suspicious activity, ongoing
16 transaction monitoring requirements, there may
17 be -- need to be a longer time period in order
18 to evidence a pattern of activity that would be
19 able to be captured and assessed as a red flag
20 as opposed to sort of a -- you know, a one-off
21 that might be able to be caught in a
22 CipherTrace, Chainalysis-type software as this
23 is a bad wallet. That's that sort of immediate
24 gratification of risk as opposed to a suspicious
25 activity that takes a longer group of

1 transactions to determine.

2 Q As I understand it -- and please correct me if
3 I'm wrong in my understanding -- is that a lot
4 of our focus on regulation has really been
5 reactive in nature and not so much preventative
6 with the exception of things like KYC policies
7 and things like that. In your view and based on
8 your experience, what additional steps can be
9 taken to prevent or mitigate the risks such as
10 money laundering associated with virtual assets?
11 So how do we get ahead of it instead of
12 responding to this after the fact?

13 A (CC) Well, I mean, I think that's a difficult
14 thing to do, you know, to sort of -- you know, I
15 think I'm famous for saying I don't have a
16 crystal ball when I'm looking at somebody's
17 financial activity to imagine they might be
18 doing something wrong. While the red flags and
19 indicators exist to sort of look at behaviour
20 and make some determination, the standard of
21 reasonableness changes depending on who is
22 looking at that output. And, you know, you
23 can't really sort of pin that down to a science,
24 I don't think, quite yet.

25 Is the mandate to prevent money laundering?

1 I believe those words are in the mandate for
2 FINTRAC. Is that in the mandate of a private
3 business, is another, you know, sort of good
4 question. Certainly I don't think any business
5 wants to welcome with open arms criminal
6 activity because it's bad for business generally
7 overall, though it might be profitable to start.

8 I don't necessarily think I have an
9 answer to the preventative aspect and I've
10 worked in this industry for almost 20 years at
11 this point, and it can be somewhat disappointing
12 to know. But I think we also have to remember
13 that any time there is a new payment method, a
14 new type of -- you know, a way to move value,
15 there is going to be somebody who's ten steps
16 ahead of you who knows how to exploit that and
17 you won't even know about them. And that this
18 all does tend to be reactive because of the way
19 intelligence is shared.

20 And I think one of the -- if I can make one
21 final point on that is that, you know, I did
22 listen in on the RCMP presentation the other day
23 kind of expecting to hear, like, what are they
24 going to say about crypto? And I've worked with
25 most of the people on that panel previously in

1 educational aspects and, you know, very familiar
2 with kind of what the RCMP is looking at from
3 their national virtual currency, you know,
4 group.

5 But that we don't know things that they
6 know. So, like, they may be investigating cases
7 and there isn't that sharing of information
8 that -- you know, so we don't find out until
9 long after potentially that somebody is a
10 confirmed criminal. And then maybe looking back
11 at the pattern of activity it's, like, oh, okay,
12 well, maybe. But the intelligence sharing --
13 the lack of intelligence sharing, and I do
14 understand that there are reasons for not
15 sharing and not sharing. But that, you know, a
16 better balance there might allow for some more
17 preventative measures as opposed to three years
18 after a case is final and then there's a *Globe*
19 *and Mail* news article, and you say oh, let's
20 search that name and then we report everything
21 that we have.

22 Q When you say "information sharing," can you be
23 more specific as to between which entities you
24 would say would be key for information sharing
25 for this purpose of preventing or mitigating

1 these risks?

2 A (CC) Yeah, I think we've seen some evidence, you
3 know, by the other panelists of sort of the
4 interVASP community sharing information. And
5 certainly there's been a little bit of that
6 with -- when it comes to fraudulent activity or
7 stolen funds. There is a group of people that
8 share wallet addresses to ensure, like, if money
9 is coming from this to you guys, like, don't
10 accept it or block that wallet. So there's some
11 of that sort of grassroots movement there.

12 I know one of my larger challenges in
13 dealing with financial institutions was, you
14 know, the lack of sort of reciprocal sharing of
15 information under the auspices of *PIPEDA*, which
16 I fully respect and understand, you know,
17 although there are carveouts for threats to the
18 security of Canada. But, you know, that --
19 where crypto-companies have a view into the
20 activity that they're doing with a customer at a
21 single point in time whereas a bank or financial
22 institutions of another sort -- let's not just
23 pick on banks -- securities company, et cetera.
24 They have accounts. They have history of
25 relationship. They might have more than one

1 product. You have your RSP, your loan, your
2 mortgage. And we're only seeing this one aspect
3 of their behaviour.

4 Again, I don't think I have the full
5 answer or how to best share information in
6 respect of privacy, but I'll point to the thing
7 that everybody points to in the cryptospace is
8 that in the US they've had the 314 -- I can
9 never remember it's (a) or (b), but 314(a) and
10 (b) where law enforcement can send out a
11 bulletin, you know, to all participating
12 entities, and saying hey, we know something
13 about this guy.

14 And I've worked with those in the US in my
15 time in New York and, you know, being able to
16 kind of -- that was a very timely way to sort of
17 get out some police-level information and rally
18 all the financial entities that are kind of
19 under that rule, under *BSA*, to respond
20 accordingly and provide good intelligence to
21 police officers, and, again, in a quicker
22 fashion than going through the STR disclosure
23 process.

24 Q Mr. Warrack, can you add anything to that
25 answer with respect to what can be done as a

1 preventative or mitigate these risks?

2 A (PW) I disagree with the kind of statement that,
3 you know, STRs, et cetera, are reactive as
4 opposed to preventative. I think that's true on
5 a kind of one-off basis, but I think over a
6 period of time if an exchange or a bank has
7 robust policies and regimes in place that
8 includes reporting, et cetera, the criminal
9 lawyers are going know, the bad actors are going
10 to go somewhere else and there will be less and
11 less places for them to go until they make that
12 step into the dark side of things where they
13 don't go to a bank at all or they don't use an
14 exchange at all. I would say that.

15 Q Mr. Mueller?

16 A (RM) I mean, I would kind of echo what Charlene
17 said, like, you certainly -- like, we can
18 prevent third-party transactions. We can do PEP
19 determinations. We can tend to discourage
20 bribery and corruption. But it -- I mean, you
21 can never prevent a person that comes in using
22 their own identity documents and bank account
23 expressly to launder money.

24 So, like, one case that I would say, we
25 received a subpoena for information on the

1 client some two years after the transactions.
2 Came in, properly identified himself, identity
3 document, proof of life video. So we have
4 people move a bit to prove they're alive while
5 they're signing up so that you, you know, you
6 can't game us with a selfie. Proof of address,
7 corporate bank accounts, corporate documents
8 proving that he was a signatory with the ability
9 to move funds out of the account, bought a lot
10 of bitcoin that seemed relevant to the stated
11 purpose of business. And then years later it
12 was hey, this guy actually was laundering
13 600,000.

14 And I think that one thing that I've gone
15 back and forth with heads of sales at many
16 businesses that I've worked at is requesting an
17 unredacted bank statement showing the previous
18 30 days' activity when someone is doing a
19 high-amount wire to show that it isn't a
20 straight in-out wire. So those funds aren't
21 coming from a compromised bank account in the
22 chain or things like this. But, you know, the
23 ability to implement those and the impact on the
24 commercial volumes of your business as well as a
25 customers -- a legitimate customer, especially

1 in crypto where people are, you know, very often
2 privacy focused, there's a lot of kind of push
3 and pull in that regard.

4 So I can definitely picture a customer's
5 intake process in a transaction validation
6 process that eliminates 99 point, you know, a
7 lot of 9s percent of fraud and money laundering,
8 but that's also going to scare off lots of
9 customers that -- you know. We have people with
10 bitcoin going up that they're putting their life
11 savings in hoping for a short-term return and so
12 on and they may not understand why I would want
13 their bank statements and they may not want to
14 give them to me.

15 So I think it's a achievable, but -- you
16 know, to use a platitude, but at what cost?

17 Q And Mr. Dixon?

18 A (GD) Yeah, I think I would echo a lot of what my
19 fellow panelists have said. And I would
20 probably add that, you know, it's important to
21 perhaps note that even if some of the money
22 laundering controls that perhaps have either,
23 you know, been enforced through regulation or
24 even just proactively on exchanges, it's
25 important to know that even if they appear

1 perhaps somehow reactive, the nature of those
2 controls, I would argue, allow you to have a
3 better chance at being preventative in the
4 future.

5 So what I mean by that is by monitoring for
6 customer behaviour or for, you know, collecting
7 identification from a customer at on-boarding,
8 you know, there's an element of that which is
9 very much preventative. So, you know, sanction
10 screening or understanding who you're dealing
11 with as a customer in an attempt to curb
12 potential risk and identify and mitigate
13 potential risk going forward.

14 However, if the risk were to occur, the idea
15 of, for example, ongoing monitoring, as we've
16 talked about and the panelists have talked
17 about, and other forms of control from a money
18 laundering perspective while reactive, should
19 serve to inform a better preventative, you know,
20 money laundering program going forward. So
21 it's -- they're both -- they both sort of
22 fulfill each other even though they may appear
23 to be somehow reactive.

24 The other thing I would add is at perhaps an
25 industry level, you know -- and we've talked

1 about, I think, your previous question around
2 the regulation being reactive or the approach to
3 regulation. You know, I think there are --
4 whilst it is reactive, I think there are
5 certainly things that can be done to, say,
6 increase the speed of reaction, let's say, to
7 those regulations.

8 And, again, I'm repeating a lot of what
9 we've talked about but are good examples of all
10 the good collaboration that we've talked about
11 in the industry, the engagement in which -- you
12 know, I must give credit to the regulators for
13 doing with the crypto-industry and helping to
14 shape and form the regulations is all good.
15 However -- you know, we've talked a lot about
16 exchanges. We also have a number of other
17 business models and developing types of business
18 in this crypto-industry which, you know, really
19 the -- it's extremely grey on how and if the
20 regulations can even capture them.

21 So there is a need for, let's say, increased
22 collaboration, but certainly there's a lot that
23 we can do to speed up that reaction.

24 Q On that point, we've actually heard from
25 witnesses this week about some what they say are

1 potential solutions to some of these risks that
2 we're seeing with respect to third-party public
3 exchanges. And so on the one hand we have
4 Sergeant Vickery of the RCMP proposing the
5 elimination of third-party public exchanges and
6 the incorporation of virtual assets directly
7 within financial institutions, on the other hand
8 we have Mr. Spiro testifying that there would be
9 some benefit of legitimizing these third-party
10 public exchanges by bringing them into a
11 regulatory framework that simultaneously would
12 respect their expertise.

13 And I'm wondering, Mr. Dixon, if you can
14 comment on where you fall on either one those
15 solutions or whether there's a third option
16 available here as to how to address some of
17 these money laundering risks that we're seeing
18 associated with third-party public exchanges.

19 A (GD) Can you help me, what you is your
20 definition of a third-party public exchange?

21 Q As I understand it -- and you can correct me if
22 I'm wrong on this, but as I understand it there
23 is -- financial institutions are not dealing
24 directly with virtual assets. And so in order
25 to have an on- or off-ramp into this area you

1 need to have a third party transferring the
2 virtual asset into a fiat currency, essentially.
3 And so it's basically the third party that's
4 communicating between the two, is how it's been
5 defined or used by the witnesses this week.

6 A (GD) Okay. I'm not sure I follow. I think --
7 yeah, I mean -- so maybe I'll pick up on
8 something that you've said. So the -- I think
9 one of your points was around whether the
10 banks -- or the banks currently don't interact
11 directly with virtual currency. So -- and let
12 me know if this is some kind of response.

13 So I think -- yeah, I don't know -- what
14 I -- I would like to make a distinction perhaps
15 between cryptocurrency and the technology that
16 underpins cryptocurrency and -- you know,
17 because we have seen the large banking
18 institutions starting to utilize, I would say,
19 the technology that underpins virtual currency
20 and cryptocurrency for -- to improve their
21 processes or offer additional services to their
22 customers. I don't know that sort of wiping out
23 that industry is necessarily the best approach.
24 I would always like to think that there would
25 be, you know, good dialogue and an opportunity

1 to understand how oversight could be applied to
2 that industry in an appropriate way. But,
3 again, I'd have to understand a bit more about
4 the type of company you're referring to.

5 Q Do any of the other panelists have a comment to
6 be made on that? Yes, Ms. Cieslik.

7 A (CC) If I could interject now. I didn't quite
8 interpret Sergeant Vickery's statement the same
9 way, now, and I feel like -- if I can offer some
10 perspective on it. She may have been referring
11 to the third-party payment processors in the
12 sense that if you're a cryptocurrency
13 exchange -- we'll just pick on exchanges right
14 now -- and you can't get a bank account, that
15 you're using a third-party payment processor who
16 is effectively shielding the bank's knowledge of
17 you operating through them by virtue of this
18 payment service provider. Again, I still
19 wouldn't advocate for elimination of that, you
20 know, because I think there's room for sort of
21 all models of that. I mean, eliminating a
22 payment service provider because they might have
23 a risk of this is just as bad a kicking out all
24 cryptos or kicking out all original MSBs. I
25 don't think any of that positive for the

1 Canadian landscape of business particularly with
2 any of these being able to be done in another
3 country.

4 But secondly what I took her comment maybe
5 to say too was that this lack of being able to
6 have a bank account is sort of the -- is one of
7 the blockers and that, you know, bringing
8 cryptos in -- you know, out of the shadows and
9 into the fold of being able to directly have
10 these relationships does allow for, you know, a
11 greater sort of amount of transparency and
12 oversight and enforcement where, you know,
13 FINTRAC may not have. And I think we've all
14 sort of read about that and seen that, you know,
15 have the resources to manage, you know, the
16 thousands of entities currently under their
17 reporting entity requirements. You're now
18 adding potentially thousands of more. And who
19 is sort of -- without a secondary regulator. I
20 mean, we've got -- the securities dealers have
21 the securities regulators provincially and sort
22 of the CSA and we've got banks with OSFI. You
23 know, MSBs don't have that sort of second-level
24 regulator.

25 I won't say I'm advocating for yet another

1 regulator, but I will say, you know, one the
2 things I've learned in my dealings with banks is
3 that they're sharing place to keep you in line
4 with your anti-money laundering requirements
5 where FINTRAC might not be.

6 Q And Mr. Mueller?

7 A (RM) Sorry, I was muted. So I actually would
8 tend to agree with, you know, what everyone else
9 has kind of said. I don't have much to add on
10 this one.

11 Q Mr. Warrack? Mr. Warrack, do you have anything
12 to add on that or no?

13 A (PW) Yeah, if your initial interpretation, as
14 you described it, of what the sergeant had said
15 is correct, that you eliminate the third
16 party -- I'm not sure what you called them, but
17 I think that is a very myopic approach and
18 misses the whole point of cryptocurrency. And
19 why it came about in the first instance with
20 bitcoin was to do away with banks and
21 intermediaries and third parties.

22 Q This actually leads quite nicely into last
23 question I have for the panel today. We've
24 spoken a lot about how to regulate in this area,
25 and maybe how to regulate more effectively. My

1 question is are there any disadvantages that you
2 see to a more heavy-handed regulatory approach?
3 For example, I'm thinking about stifling of
4 innovation. And I'm wondering if, Mr. Warrack,
5 you can comment on that first, and then we'll go
6 through the other panel members.

7 A (PW) Yeah, I would agree with that, I think it
8 would stifle innovation, but it would also drive
9 the transactions away from the regulated
10 entities such as VASP into the dark world of --
11 whether there's no visibility.

12 Q Mr. Dixon?

13 A (GD) Yeah. There is -- I think I would agree
14 with the innovation approach. There's -- I
15 think what I've seen -- what we've seen in
16 Canada is there's been some partially, you know,
17 successful attempts in terms of sandboxes and so
18 on which allow for a little bit more flexibility
19 to sort of play out, let's say, some different
20 types of business models in a confined
21 environment which, you know, I think is an
22 attempt to get around some of that stifling of
23 innovation. But yeah, for sure, stifling of
24 innovation. I think it could have the effect
25 of -- and one of our fellow panelists was

1 talking earlier about the sort of alignment of
2 regulation between jurisdictions.

3 And, you know, I think we've seen and maybe
4 touched on a little bit of one of the impacts of
5 this, which is that entities operating, for
6 example, in Canada who might feel that the
7 approach is too heavy handed or unreasonably so
8 will potentially move out of the jurisdiction or
9 this jurisdiction and across to others. There
10 are certainly, you know, intelligence
11 disadvantages from that in terms of the
12 information that will somehow then not flow to
13 the Canadian -- the people in Canada, the
14 intelligence units. But it also has a
15 competitiveness advantage as well for the
16 cryptocurrency industry as a whole, if we're
17 using Canada as an example, you know, in Canada.

18 So not only are there money laundering or
19 are there intelligence implications there's also
20 broader, you know, competitive implications, I
21 think, of that.

22 Q And Ms. Cieslik?

23 A (CC) I mean, that's been a very common theme and
24 topic across the last few years of this is
25 that -- I don't think -- you know, I hope that

1 Canada and many other countries, like, don't
2 want to make it so difficult that it drives out
3 a whole industry that creates jobs, that
4 enhances the tech capabilities of a country and
5 that kind of thing.

6 So while the spirit of the legislation in
7 saying, you know, nobody -- I don't think
8 anybody actually actively set out and wants this
9 to be the area of choice for criminal activity
10 and therefore I don't think it should be
11 penalized as such particularly, I think more
12 comparison and more sort of an impact type of
13 analysis needs to be done of, say, this industry
14 versus the already larger well-established
15 multibillion dollar industries that are
16 currently under regulatory reviews and regimes,
17 and where crypto fits in with that.

18 I mean, I certainly think a measured
19 regulatory response in relation to that true
20 assessment of risk to Canada and Canadians would
21 be more helpful in defining a more specific
22 regulatory machine that isn't just saying well,
23 it's like an MSB or it's like a broker-dealer or
24 it's cash but it's -- you know, you're trying to
25 fit -- again I'll use a platitude -- a square

1 peg into a round hole. I think over time we'll
2 see, like, it's not any of those while being a
3 little bit of all of those, will hopefully lead
4 maybe to a very -- a more targeted, you know,
5 regime around what it actually is for the
6 industry.

7 Q Lastly, Mr. Mueller, I think you've hinted maybe
8 at some of this already in one of your responses
9 to my earlier questions. But I'm wondering if
10 you can speak to this question of disadvantages
11 to regulation. And you kind of, I think, hinted
12 to one of them being privacy concerns as well.
13 And so I'm wondering if you can maybe speak to
14 that and any other disadvantages you've seen.

15 A (RM) Sure. So, I mean, I've been -- like,
16 before I was Chief Compliance Officer of --
17 Chief Compliance Officer of Netcoins I was, you
18 know, head of risk management and business
19 development for a payment processor that did
20 lots of bitcoin businesses in Canada. So I'm
21 not sure that I've seen a disadvantage to
22 applying the MSB regulation to the number of
23 businesses operating in the virtual currency
24 space in Canada. I think the only ones that
25 crossed our desk back then that are no longer

1 around were Quadriga, a related exchange Taurus.
2 You know, everybody else is still kind of
3 around.

4 So I'm not sure that applying MSB
5 regulations has necessarily eliminated anyone
6 from operating in Canada. It may have, as Peter
7 alluded to, driven some of the bad traffic
8 offshore into privacy coins and these kind of
9 things, but I don't necessarily think that
10 characterizing MSB registration and compliance
11 as heavy handed is correct because you can
12 register as an MSB and get your number fairly
13 easily. And based on the resources that FINTRAC
14 has to apply desk exams, you may operate
15 for years without anyone necessarily knowing if
16 your regime is compliant with the requirements
17 and so on.

18 So I think that I'm kind of wandering around
19 a short answer that is, you know, in my
20 experience I haven't seen the current regulation
21 necessarily stifle any technological
22 developments or anything of that nature. And I
23 think Dash was developed in Canada. So, I mean,
24 MSB regulation didn't stop a privacy coin from
25 starting here.

1 So yeah, I think it remains to be seen what
2 impact MSB registration and requirements will
3 have on VASPs because, I mean, it's only been
4 five months since June.

5 MS. CHEWKA: Thank you. Those are my question for
6 this panel, Mr. Commissioner.

7 THE COMMISSIONER: I'm sorry, I muted myself. Thank
8 you, Ms. Chewka.

9 I'll now ask Ms. Shelley on behalf of Canada
10 to commence her questions. And I think you've
11 been allocated 10 minutes, Ms. Shelley.

12 MS. SHELLEY: Thank you, Mr. Commissioner. Based on
13 the testimony this morning, Canada does not have
14 any question for these witnesses.

15 THE COMMISSIONER: Thank you, Ms. Shelley.

16 Ms. Magonet for the British Columbia Civil
17 Liberties Association, who has been allocated
18 30 minutes.

19 MS. MAGONET: Thank you, Mr. Commissioner. Can
20 everyone hear me okay? Okay. Great. Thank
21 you.

22 **EXAMINATION BY MS. MAGONET:**

23 Q So I first have some general questions for the
24 panel regarding virtual assets and blockchain
25 technology. And I would just say that whoever

1 feels best positioned on the panel to
2 answer these questions can address them.

3 So my first question is whether you would
4 agree that blockchain technology, which is the
5 foundation of cryptocurrency, has applications
6 outside the realm of cryptocurrency?

7 A (RM) Yes, I would agree with that.

8 (CC) As well, I would agree.

9 (GD) I agree.

10 Q Fantastic. And would you agree that some
11 examples of these applications include digital
12 voting, art, music, collective decision-making
13 platforms?

14 A (CC) Yes, would agree with that.

15 (RM) I agree.

16 (GD) Yeah.

17 Q And would you agree that an overly aggressive
18 approach to the regulation of cryptocurrency
19 could stifle innovation in the uses of
20 blockchain technology, both in the financial
21 sector and non-financial sector?

22 A (CC) I think as part of the consultation process
23 that I was part of with FINTRAC and Department
24 of Finance there was a deep concern for ensuring
25 a limitation, you know, on regulation, that it

1 wouldn't address certain things as you
2 mentioned, art or, you know, even a close-looped
3 type of token, you know, anything sort of
4 smart-contract based. You know, I think that
5 list is maybe small to medium sized now, but I
6 do know that there was, you know, the industry
7 outcry, for lack of a better word, and a
8 receptiveness from the government agencies to
9 provide some interpretation on what is and isn't
10 subject to MSB rules, although I do think that
11 continues to evolve and will need work over
12 time.

13 Q Thank you. And would you agree if Canada took a
14 draconian approach to regulating cryptocurrency
15 and didn't bear these concerns in mind, as you
16 say they did, that in the future there could be
17 a potential to stifle the development of
18 blockchain technology?

19 A (GD) I might jump in on this one, if that's
20 okay.

21 Q Certainly.

22 A (GD) I think it's important to make the
23 distinction between cryptocurrency and
24 blockchain and what they are and what they're
25 not and how they're linked and how they are not.

1 And so that's very vague, so I'll be a bit more
2 specific.

3 The regulations -- so blockchain is the
4 underpinning technology of cryptocurrency, as
5 we've talked about. But as you've alluded to in
6 your questioning, the technology itself,
7 blockchain, has a lot of potential applications
8 outside of cryptocurrency, which traditionally
9 has been more of a use case of transferring
10 value. So a blockchain is typically a sort
11 of -- a fancy way of storing data. It doesn't
12 have to be about necessarily moving monetary
13 value. So I think the regulation of
14 cryptocurrency specifically or, maybe being even
15 more specific, the entities that are
16 facilitating the movement of money or value
17 through blockchain, if the regulation in that
18 side of the house, the cryptocurrency side of
19 the house is overly burdensome, it may well
20 stifle innovation within the cryptocurrency's
21 sphere. But I think that's partly somewhat
22 removed from the broader blockchain conversation
23 where we're not getting into the conversation
24 around movement of value and where the financial
25 regulators are looking. They're not looking so

1 much in that aspect. It's more around the
2 movement of monetary value, which is
3 cryptocurrency, versus blockchain more broadly,
4 which is to do with storage of data.

5 Q Thank you, Mr. Dixon. Perhaps I'll address my
6 next question to Ms. Cieslik. Did I pronounce
7 your name properly?

8 A (CC) Yes, you're doing good at that.

9 Q Okay. Great. Thank you. Because you alluded
10 to this a bit earlier. Would you agree that
11 some virtual assets are non-fungible?

12 A (CC) Define "non-fungible."

13 Q So that they are -- I'm referring to
14 non-fungible tokens that are unique rather than
15 mutually interchangeable.

16 A (CC) You are speaking about these close-looped
17 type of things, they have no value outside of an
18 ecosystem?

19 Q No, I'm not referring to -- well, perhaps those
20 also fall within this category. But I'm
21 referring to -- for example, to non-fungible
22 tokens like crypto-art, crypto-games and
23 crypto-collectibles.

24 A (CC) Can you repeat the question, then.

25 Q Certainly. You would agree that the category of

1 virtual assets includes non-fungible tokens?

2 A (CC) It depends on who you ask. You know,
3 again, I think back to my earlier comment is
4 that this question had definitely come up during
5 the FINTRAC, you know, consultation process and
6 I think Giles alluded to the idea that, you
7 know, cryptocurrency is one movement of value
8 but that there are these sorts of alternate, you
9 know, blockchain uses, some of which may allow a
10 movement of a different kind of value.

11 So I think it is -- you know, it hasn't been
12 clarified specifically by Canadian government.
13 I think it is still sort of under definition in
14 several jurisdictions. But that -- I think
15 people might be familiar with CryptoKitties or
16 other kind of -- you know, even, as you
17 mentioned, game-based tokens. These things do
18 have a value. If you tokenize an asset that has
19 a value, then certainly you can move value with
20 that, even if it's not the cryptocurrency
21 itself. And I think art is often one of the
22 things that is brought up. I know there are
23 lots of companies working on tokenization of
24 those kinds of assets. Ad regardless of the
25 blockchain application of it, I think all of

1 those have been discussed in the industry at
2 large about their culpability in being able to
3 use to move funds and launder money.

4 (RM) Can I just add to that.

5 Q Of course. Sorry. Go ahead.

6 A (RM) So I have, like, a lot of experience with
7 payment processing and I think when there is a,
8 quote/unquote, non-fungible token, for example,
9 *World of Warcraft* Blizzard or *Second Life*
10 dollars, you'll find that people are actually
11 really willing to pay real money for this.

12 So I worked for a payment processor years
13 ago and our number one fraudulent merchant -- we
14 serviced gambling merchants and very nascent
15 digital currencies, our number one fraudulent
16 merchant was sold *Second Life* dollars. So we
17 would have people signing up fraudulent
18 accounts, going to this exchange based in
19 Austria and exchanging real money for a bar in
20 *Second Life* or for a *Warcraft* sword. And we
21 didn't anticipate this to happen and we didn't
22 anticipate these currencies to have value
23 outside of these games, but users were willing
24 to pay real money for them and steal real money
25 to pay for them and then sell them again.

1 So I guess what I'm just adding is that even
2 where a token is not intended to have that kind
3 of usage, users might figure out a way to do it.

4 (CC) I'll just add to that that both
5 fraudulent and non-fraudulent transactions could
6 occur in that way.

7 Q Thanks to both of you. Would you agree that
8 there's a -- or sorry. Let me rephrase this
9 question. Would you agree that non-fungible
10 tokens, including CryptoKitties, allow users to
11 engage in expressive and associative activities
12 like the creation and sharing of art?

13 A (CC) Certainly.

14 Q And would you agree that in order to purchase a
15 non-fungible asset like a CryptoKitty, users
16 generally need to use a virtual currency to do
17 so?

18 A (CC) Yes.

19 Q And would you therefore agree that the
20 regulation of fungible virtual assets like
21 bitcoin may have implications for the use and
22 development of non-fungible virtual assets?

23 A (CC) Of course. Yes.

24 Q Thank you. I would now like to ask some
25 questions about a document.

1 MS. MAGONET: And I would ask if Madam Registrar
2 could please pull this up. It's the Central 1
3 Credit Union anti-money laundering
4 counter-terrorist financing requirements
5 document. And I believe it was also listed as
6 an appendix, though I'm now forgetting which
7 appendix it was. Oh, you've nonetheless found
8 it. Thank you.

9 Q Is the panel familiar with this document?

10 A (CC) Very much, yes.

11 Q Sorry, please go ahead.

12 A (PW) I'm somewhat familiar with it. I did read
13 it.

14 (GD) Somewhat.

15 Q Okay. Thank you. I will -- so I just have a
16 few questions about this document. I think
17 Ms. Cieslik or Mr. Warrack might be best
18 positioned to answer them, but I leave it to you
19 to determine that.

20 Do you know if these requirements resemble
21 the AML requirements adopted by other credit
22 unions? Is this representative of frequent
23 practice, in your knowledge?

24 A (PW) I don't have that information.

25 (CC) Yeah, I might be able to speak to that.

1 So, I mean, as a -- full disclosure, as part of
2 my work as a consultant in sort of the eight to
3 ten years ago area I worked quite closely in the
4 Central 1 body and credit unions all across
5 Canada and the US, although this is specific to
6 credit unions here.

7 So the Central 1 issues guidance out to the
8 credit unions network to say, this is what
9 you're allowed to do and not allowed to do. I
10 do remember when this came out, and I've seen it
11 previously -- and if you can just scroll down a
12 touch -- you know, I think the reason also I
13 became more familiar with it in my later career
14 is that in attempting to get bank accounts for
15 crypto-based companies or even traditional money
16 services businesses ten years ago there -- that
17 sort of stigma carried through and put upon
18 cryptocurrency-based companies. So many -- I
19 won't say all but many credit unions in my
20 experience have declined or denied access to
21 banking to crypto-based companies. And I
22 believe -- I would strongly believe that it is
23 party to this -- release of this document.

24 Q Thank you. Sorry, go ahead.

25 A (CC) I won't say that all credit unions are like

1 that.

2 MS. MAGONET: Okay. Thank you. Madam Registrar, if
3 you could scroll down a little bit. That's
4 perfect.

5 Q So here you would agree that Central 1 lists
6 some transactions that are prohibited between
7 certain times of entity or countries?

8 A (CC) Yes.

9 Q And you would agree that on the list of
10 prohibited types of entities and industries
11 pornography is listed?

12 A (CC) Yes, it is there.

13 Q And would you agree that the pornography
14 industry frequently faces barriers in facing
15 access to banking services and credit cards?

16 A (CC) From my experience, yes, I would agree with
17 that. There is a category of customers commonly
18 or sometimes referred as "the sin group" that
19 may have previously or currently are rejected
20 based on their activities, though not illegal,
21 may be determined to be a risk that the
22 financial institution does not wish to manage.

23 Q Thank you. And are you aware that
24 cryptocurrency is therefore increasingly popular
25 as a method of payment among sex workers?

1 A (CC) I am familiar with that, yes.

2 Q And that its advantages include not only the
3 fact that sex workers can face barriers in
4 accessing banking services but also due to the
5 pseudo anonymity provided by cryptocurrency?

6 A (CC) Yes, I'm familiar.

7 MS. MAGONET: Thank you. If -- Madam Registrar, if
8 you could please go to page 2 of this document.
9 That's a great spot.

10 Q On this page Central 1 explains that
11 international wire transfers cannot be sent to
12 or from the countries or clients listed there.
13 You would agree with that?

14 A (CC) Yes.

15 Q All right. Okay. Great. Thank you. And that
16 these clients include businesses that are legal
17 in Canada such as marijuana distributors. You
18 would agree?

19 A (CC) Yes, I would agree. I would like to point
20 out sort of the dual column, you know, item is
21 that there are countries restricted and there
22 are entities restricted. Now, countries will
23 come from some level of sanction. All the
24 regions listed there have sanctions against
25 them, some of which require a full ban, not all

1 contrabands and the rest are specific names or
2 types of activities. So, again, there's some
3 interpretation on the countries there.

4 Q And would you agree generally that this document
5 demonstrates that some entities and individuals
6 face barriers in accessing banking services?

7 A (CC) Absolutely. I would agree with that.

8 Q And that in some cases cryptocurrency may
9 provide a viable alternative for them to engage
10 in financial transactions?

11 A (CC) Yes. And I do believe that's one of the,
12 you know, positive features of virtual currency
13 and one that is widely discussed in the
14 industry.

15 MS. MAGONET: Thank you. Mr. Commissioner, if this
16 could be please be marked as the next exhibit.

17 THE COMMISSIONER: Yes. Very well. That will be --
18 are we at 266, Madam Registrar?

19 THE REGISTRAR: This one will be 268. The last one
20 was the City of Vancouver memo, 267, so this is
21 268.

22 THE COMMISSIONER: Thank you.

23 **EXHIBIT 268: Central 1 Credit Union Anti-Money**
24 **Laundering and Counter-Terrorist Financing**
25 **Requirements**

1 THE COMMISSIONER: Thank you.

2 MS. MAGONET: Madam Registrar, if you could please
3 pull up the City of Vancouver memo again. That
4 would be great.

5 So earlier Ms. Patel discussed -- or took
6 the panel through this memo and discussed how it
7 explains that Vancouver is considering the
8 regulation of bitcoin ATMs.

9 Madam Registrar, if you could please go to
10 page -- I think -- I believe it's page 4 of the
11 moment. Yes.

12 Q And I would like to ask the panel if you're
13 aware that in this memo the working group takes
14 the position that it would not be appropriate to
15 ban bitcoin ATMs but that regulation is a better
16 approach?

17 A (RM) Yes.

18 (CC) Yes.

19 (PW) Yes.

20 MS. MAGONET: Thank you. Madam Registrar, if you
21 could please go to page 5.

22 Q And would the panel agree that some of the
23 reasons given -- or rather, one the reasons
24 given for adopting a regulatory approach was a
25 fear that banning bitcoin ATMs could stifle

1 innovation?

2 A (RM) I might have misread the memo, but it
3 seemed to me that their position was that this
4 might have a negative impact on the businesses
5 that are hosting these ATMs, for example,
6 convenience stores and so on, not necessarily --
7 I mean, Charlene, you can correct me if I'm
8 wrong, but I don't know that there's any, like,
9 groundbreaking innovation happening in the
10 bitcoin ATM space. It's kind of like there's a
11 wheel and we might, you know, improve on the
12 wheel, but I don't know if there's, like,
13 wheel 3.0 in the pipeline kind of thing.

14 (CC) I mean, I would separate the idea that,
15 you know, the machines themselves may undergo
16 some form of innovation because they're fairly
17 straightforward and simple types of -- you know,
18 it's like white label ATM machines before them.
19 You know, it is sort of a single- or
20 dual-function aspect. But what I interpreted
21 the innovation paragraph as being is that this
22 is a recognized method of entry into the virtual
23 asset space and that a ban on it would be
24 perceived as, you know, a negative slight to
25 acceptance of cryptocurrency generally by sort

1 of demonizing this one entry point.

2 I think they use the words here "hostile,"
3 "hostility" and "lack of government support"
4 which would just move them away and certainly,
5 you know, remove jobs, and I would agree with
6 that impact against innovation, meaning that
7 businesses would -- who do these [indiscernible]
8 transactions would suffer and potentially leave
9 and jobs would suffer as a result and the
10 convenience and access of residents to being
11 able to use them and therefore benefit from, you
12 know, use of cryptocurrency.

13 Q Thank you. And would you agree that another
14 reason listed for adopting a regulation -- or a
15 regulatory approach rather than a ban is that
16 white paper ATMs are also susceptible to fraud?

17 A (CC) Yeah, I mean, did find the term "white
18 paper ATMs" to be a little offside. I mean, I
19 think commonly they're referred to as "white
20 label ATMs," but potentially there's a different
21 vernacular in the west that those of us in the
22 east don't use. Again, I did go through this
23 the first time around in my role as a consultant
24 both with big 4 and smaller boutique consulting
25 firms when white label ATMs first appeared. And

1 to clarify, those are not connected to any
2 specific bank but can be privately owned and
3 popped up in places very similar to where bit
4 ATMs are located. Gas stations, convenience
5 stores, et cetera. That, you know, there was a
6 suspicion that they were susceptible to fraud
7 and of course it was true of at the start, but
8 that, you know, again, banning them was decided
9 against and now they're fairly commonly
10 accepted. You see them everywhere you go. The
11 frauds have been somewhat mitigated, though not
12 completely removed. And so I do think what
13 they're pulling for here is a regulatory equity
14 in not sort of prohibiting one while allowing
15 the other.

16 Q Thank you. My last series of --

17 MS. MAGONET: Madam Registrar, you can take down the
18 document. Thank you very much.

19 Q My last series of questions or for Mr. Warrack
20 and they concern Project Participate.

21 Mr. Warrack, you would agree that Project
22 Participate indicators of suspicion for virtual
23 asset providers, that document sets out a list
24 of indicators that a virtual asset service
25 provider should consider in determining whether

1 a transaction is suspicious?

2 A (PW) That's correct. And it's not an exhaustive
3 list.

4 Q And you would agree that virtual asset service
5 providers have obligations to report suspicious
6 transactions to FINTRAC?

7 A (PW) Under the new regulations, yes.

8 Q Thank you. And you would agree that some of the
9 indicators listed in this Project Participate
10 document may be present even if a transaction is
11 made for a legitimate purpose?

12 A (PW) Absolutely. Indicators always have to be
13 taken into context and weighted with the -- in
14 combination with other indicators.

15 Q So, for example, the use of a VPN on its own is
16 not enough to indicate that -- or rather the use
17 of a VPN could occur in the context of a
18 legitimate transaction?

19 A (PW) Absolutely. And it's also seen, for
20 instance, as good security practice.

21 Q Thank you. And you would agree that this
22 document has some indicators related to
23 geography?

24 A (PW) Correct.

25 Q And that the FATF in its guidance also has

1 indicators related to geography?

2 A (PW) Correct.

3 Q And you would agree that these indicators could
4 lead to transactions being reported or flagged
5 based on the nationality or location of the
6 people who are sending them?

7 A (PW) Not solely for that purpose. It would have
8 to be in combination with other indicators.

9 Q Thank you. Would you agree that those
10 indicators could lead to higher levels of
11 surveillance for individuals in certain
12 jurisdictions or sending money to certain
13 jurisdictions?

14 A (PW) Again, if seen in combination with other
15 indicators.

16 Q And would you agree that a VASP is likely to err
17 on the side of reporting in the face of a
18 suspicious indicator given their legal
19 obligation to do so?

20 A (PW) No, I would not agree with that.

21 Q Okay. Thank you. I have just one last
22 question, which is for Ms. Cieslik. Sorry, I
23 said these were my last questions, but I just
24 thought of one more.

25 Earlier the province in their

1 cross-examination asked you about preventative
2 approaches that you might recommend for
3 addressing money laundering, and you discussed
4 the benefits of information sharing between the
5 private and public sector. Would you agree that
6 an overabundance of information sharing could
7 raise privacy concerns?

8 A (CC) Absolutely I would agree with that.

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

10 THE COMMISSIONER: Thank you, Ms. Magonet.

11 And now Mr. Gratl on behalf of Transparency
12 International Coalition, who has been allocated
13 30 minutes.

14 MR. GRATL: Thank you, Mr. Commissioner. I expect to
15 be -- to take less time than that.

16 **EXAMINATION BY MR. GRATL:**

17 Q Ms. Cieslik, you'll agree with me that the
18 FINTRAC reporting requirements really only
19 function by requiring a person engaged in a
20 transaction to generate plausible deniability
21 about the source of the funds?

22 A (CC) I may have to ask to you rephrase that
23 question.

24 Q Sure. FINTRAC requires -- both for suspicious
25 transactions and for transactions that meet the

1 monetary threshold, they require a report of the
2 transaction; is that right?

3 A (CC) Yeah, that is correct.

4 Q And then they require some explanation about the
5 source of the funds involved?

6 A (CC) I would say for the suspicious activity
7 there would be an expectation of a description
8 of what you did to come to your analysis of
9 suspicion and that may include a source of
10 funds, you know, sort of request or result as
11 part of your description.

12 Q Okay. And so when there is inquiry into the
13 source of funds, really from the point of view
14 of your client as the regulated entity, what
15 you're looking for is the threshold of plausible
16 deniability; right?

17 A (CC) Yeah, I would I agree with that. I mean,
18 I'd like to point out, though, that, you know,
19 as -- I think earlier in this testimony is that
20 source of funds is not an explicit regulatory
21 requirement for any specific report or any part
22 of the program. Where it does come in is as a
23 risk-based measure, so it has been mentioned in
24 risk-based guidance, to say that one of the
25 things that you can do to mitigate risk, one of

1 the suggestions, recommendations made by FINTRAC
2 is to look for a reason why it may not be
3 suspicious in the form of a source of funds or a
4 source of wealth.

5 Now, that's separate from -- I just want to
6 clarify. There is a requirement for
7 politically-exposed persons, but I don't want to
8 muddy the waters by discussing that particular
9 requirement as we're looking at reporting here,
10 unless of course the report was on a
11 politically-exposed person. But it has been
12 documented as a guideline for checking to see
13 what this is to have that, as you said -- you
14 put it, plausible deniability.

15 Q Now, in assessing suspiciousness, I take it that
16 the more money the client has or the institution
17 has, the easier it is for them to generate
18 plausible explanations for the transaction?

19 A (CC) I'm not sure I would necessarily say that.
20 I would say that a larger amount of money would
21 prompt a request for documentation and that
22 potentially it would be easier. Not -- maybe
23 not easier. I don't want to use that word. But
24 potentially what you would be looking for to
25 validate that would be easier in a larger

1 transaction.

2 If I can use a quick example, from my
3 traditional financial space. If someone said
4 that they had sold a property, because it was a
5 large amount of money you might -- if you might
6 be suspicious about where the source of that
7 came from, and the request that would be made
8 would be evidence of a sale with some
9 documentation.

10 Q All right. So is it true that the larger the
11 transaction, then, the greater the requirement
12 for due diligence into the source of the funds?

13 A (CC) I would say taking the risk-based approach,
14 you know, some approaches and some
15 recommendations and guidelines and in
16 discussions with regulators, not just in Canada
17 but around the world, is that larger volumes of
18 activity would need more suspect or under
19 suspicion for some explanation, for some
20 investigation, yes. Or should be.

21 Q Would it be of assistance if there were
22 statutory or regulatory guidelines in respect of
23 the level of due diligence required for larger
24 transactions?

25 A (CC) I will agree that over my 20-year career

1 that may have been helpful. I do think it's
2 difficult sort of to set those parameters, but
3 where, you know, the guidelines and the
4 legislation talk about the risk-based approach,
5 it's not so prescriptive and they leave it up to
6 you to determine your risk based on your
7 industry, your client type, the factors that are
8 required to be considered under risk. But there
9 hasn't been a lot in terms of feedback, in my
10 personal opinion, about industry sort of
11 specific expectations.

12 So, you know, if I can give another quick
13 example. I've seen some red flags around bit
14 ATMs saying if some ATM company is doing more
15 volume than another, well, certainly as a
16 competitive amount of knowledge that information
17 is not publicly available to all bit ATMs about
18 what volume their neighbour is doing, and
19 therefore what might be above or beyond that. I
20 would say the same goes for any kind of other
21 product you could mention. You know, how much
22 is casino 1 during versus casino 2 and what
23 would be sort of, you know, an uneven balance
24 that might raise a suspicion -- a reasonable
25 grounds of suspicion.

1 So I think that the -- maybe the risk-based
2 approach guidance has suffered for maybe not
3 being prescriptive enough. I would caution on
4 some, you know, ranges and level of prescription
5 but certainly would be helpful.

6 Q Mr. Mueller, I have the same series of questions
7 for you. Do you -- would you agree that some
8 level of prescription in regulation or statute
9 would be of assistance in determining what level
10 of due diligence is appropriate for high-amount
11 transactions?

12 A (RM) It would certainly be helpful, when acting
13 as a compliance professional, we do request this
14 information. Absolutely.

15 Q All right. There was some concern expressed
16 about the utility or futility of monitoring and
17 reporting low-value transactions in the sense
18 that FINTRAC might be given a noisy level of
19 data rather than a useful, the signal would be
20 lost in the noise, in essence. Would it be of
21 assistance to actually have a higher amount as a
22 reporting threshold but put it in the -- in,
23 say, a temporal aggregate, say, \$10,000 in any
24 given week or a \$100,000 in a given six-month
25 period? Would that improve the signal-to-noise

1 ratio?

2 A (RM) I think it would depend on the underlying
3 nature of the client. So, for example, if the
4 client or the reporting entity is a liquidity
5 provider, every single transaction is going to
6 meet the volume threshold because they are
7 servicing other high-volume entities.
8 Similarly, there is a useful distinction in the
9 reporting where, let's say, I'm an OTC desk -- I
10 happen to be -- and I use my own money to
11 purchase a large amount of bitcoin and that --
12 those funds happen to go cross border. Because
13 those aren't client funds, that's not reporting
14 eligible. So because I'm using my own money to
15 purchase -- to essentially pay an invoice, it's
16 no longer reporting eligible, so that eliminates
17 some of that noise.

18 But I think it would be difficult to find --
19 I mean, certainly I think we all kind of agree
20 that the \$10,000 threshold is not as relative to
21 crypto, especially with the current price of
22 bitcoin, but I think, like, a more sensible
23 guideline for aggregating multiple suspicious
24 transactions together would be are they linked.
25 So, you know, if there's tons of \$500

1 transactions that fit the typology of smurfing,
2 I would be much more likely to report that
3 regardless of any aggregate dollar amount on
4 that activity.

5 Q Ms. Cieslik, the same question. Would a higher
6 aggregate amount within a certain temporal
7 framework be more appropriate to reduce the
8 noise-to-signal ratio?

9 A (CC) I do feel like the \$10,000 number needs to
10 be re-examined, and potentially not even just
11 for crypto but for cash and for wires. Now this
12 application is being put on the large virtual
13 currency transfer, this 10,000. And I'm not
14 privy to -- and potentially there is behind the
15 scenes, and I don't -- and I'm not aware of it,
16 any real analysis on the value of that dollar,
17 that particular floor, I guess. And certainly,
18 you know, in the current industry that I work,
19 you know, 10,000 isn't even a number we would
20 get to in a 24-hour time period, you know, so
21 that it would eliminate that from here. But it
22 can vary greatly with the price of bitcoin.

23 I think -- all that to say is that I think
24 that magic number of 10,000 is quite old at
25 this point and that there needs to be some

1 reconsideration of that for all kinds of
2 threshold -- for all activities, cash wire and
3 certainly for virtual currency, I'm not sure
4 that it is as relevant.

5 Q Do you consider that there is a potential for
6 conflict of interest or moral hazard when
7 private business is recruited to conduct what is
8 essentially investigative activities on the part
9 of the government?

10 A (CC) Yes. I have been noted to be of that
11 opinion. Again, I've worked in this industry
12 now almost 20 years. I originally -- before I
13 ever worked for the federal government I was a
14 parole officer, so I have some -- you know, one
15 foot halfway kind of into that. What I have
16 found is my knowledge has matured and my work
17 experience, you know, has spread out over a
18 larger sort of group of financial entities.

19 I do find that the sort of ever pushing of
20 police-type responsibilities onto private
21 business -- I mean, of course it comes with an
22 inherent challenge of putting private business
23 in these roles. And I think -- if I can add to
24 that too is that we don't have the same tools
25 available to us that a law enforcement, you

1 know, force would have.

2 Now, Peter may disagree with me on this.

3 I'm not sure. But the major tools at a
4 financial entity investigator's disposal is
5 Google, potentially, you know, a name listing
6 service -- World-Check is a commonly known one
7 -- and, you know, as we've seen from CipherTrace
8 and Chainalysis some risk-based software.

9 I think Ryan had mentioned -- you know, he
10 talked about source of funds declarations.
11 There is sort of an ever-growing list you can
12 ask for this and you can ask for that. And I
13 see it sort of breaching into a privacy
14 threshold, you know, how much information you
15 are being asked to ask of people to contribute
16 to this has put private businesses again, I
17 think, in some awkward positions, conflict of
18 interest as well as competitively.

19 If someone asks me for my tax return, I
20 would not be willing to provide that. I don't
21 like to ask other people for their tax returns
22 as part of my role. So you know, I prefer to --
23 you know, the line is a line to tow as to what
24 is appropriate and what is not. And if your
25 competitor down the street is doing no such

1 asking -- and, again, in efforts to comply with
2 money laundering requirements you have to do
3 some kind of asking, but the -- you know, so
4 there is a uneven playing field that I think
5 evolves because of that. And I do have concerns
6 about the position it puts businesses in and
7 even compliance officers in in terms of even
8 safety and security and digging into people's
9 activity without protections of law enforcement.

10 Q Mr. Mueller, I see you nodding. Would you have
11 an addition aside from --

12 A (RM) I mean, I think that I tend to agree with
13 Charlene on a lot of things. The only thing
14 that was really jumping in my mind as we're
15 talking about, you know, the line between
16 privacy and validation of sources of funds and
17 everything, for example, we'll accept a bank
18 statement as proof of address with the account
19 activity redacted and the balance redacted. So
20 perhaps the customer doesn't want us to know
21 where they shop and how much money they have.
22 So I get that as an individual with a bank
23 statement. But as a compliance officer I love
24 to receive the unredacted one because it can
25 illustrate to me if somebody's conducting an

1 unregistered MSB and trying to be an agent of my
2 services, or if they are a business with a high
3 incidence of personal purchases on their
4 corporate account, this may put them in a
5 high-risk bucket.

6 So I think I was just kind of -- you know, I
7 was kind of vibing on those kind of -- those
8 document kind of red flags while I was listening
9 to what she was saying.

10 Q Mr. Warrack, do you have a view on that subject?

11 A (PW) Can you repeat the question. As I
12 understand it, I believe it was around the
13 private sector conducting investigations on
14 behalf of the government.

15 Q Yes. And in particular whether there is the
16 potential for conflict of interest or a moral
17 hazard in the government essentially recruiting
18 on a non-voluntary basis private business to
19 conduct investigative activities.

20 A (PW) I think -- sometimes I think the expertise
21 lies in the private sector as opposed to the
22 public sector.

23 Q That's --

24 A (PW) If I could give you an -- sorry, go ahead.

25 Q So, Mr. Warrack, you're the Chief Compliance

1 Officer for Bitfinex; is that right?

2 A (PW) That's correct. They're a client.

3 Q You're listed as the Chief Compliance Officer?

4 A (PW) That's correct.

5 Q All right. And that's an officer's role?

6 A (PW) Yes.

7 Q You're based in Canada; is that right? You are
8 personally resident in Canada?

9 A (PW) I live in Canada. Yeah, that's correct.

10 Q Now, I looked on the FINTRAC searchable index
11 for registered entities and I was able to find
12 Coinsquare and Netcoins, but I didn't find
13 Bitfinex. Is Bitfinex registered as a reporting
14 entity with FINTRAC?

15 A (PW) No, Bitfinex isn't registered in Canada.
16 Bitfinex is incorporated in the British Virgin
17 Islands.

18 Q All right. But you reside in Canada and you're
19 working for Bitfinex, are you?

20 A (PW) I don't work for Bitfinex. I am a -- I
21 have a contract with Bitfinex to supply services
22 to the company.

23 Q And you were hired in May of 2019; is that
24 right?

25 A (PW) 2018.

1 Q 2018. And was that one month after Bitfinex ran
2 into some regulatory trouble?

3 A (PW) I can't comment on that.

4 Q I had understood that Bitfinex ran into some
5 regulatory trouble in the United States; is that
6 true?

7 A (PW) And -- I wouldn't categorize it as trouble.
8 Any regulatory interest is still ongoing. So I
9 can't -- I really can't comment on that.

10 Q All right. And Bitfinex does business in
11 Canada; right?

12 A (PW) Not -- no, Bitfinex does not do business in
13 Canada.

14 Q It doesn't have Canadian customers?

15 A (PW) Bitfinex may have Canadian customers but it
16 does not do business as a company in Canada.

17 Q Oh, but it has Canadian customers; is that
18 right?

19 A (PW) Commissioner, I am really not comfortable
20 answering questions on behalf of Bitfinex. I'm
21 testifying here in a private capacity.

22 THE COMMISSIONER: All right.

23 MR. GRATL:

24 Q I just wonder because we were discussing earlier
25 about whether FINTRAC has the resources to

1 engage in enforcement of activities. And do you
2 know whether FINTRAC has the capacity to monitor
3 organizations like Bitfinex to ensure that they
4 are registering when they're required to?

5 A (PW) I don't have that information.

6 Q Your website is facing Canada; is that right?
7 The Bitfinex website faces Canada?

8 A (PW) I'm not sure I understand what you mean by
9 "facing Canada."

10 Q Well, for IP addresses that are based in Canada,
11 those IP addresses can access Bitfinex's
12 websites and services, can't they?

13 MS. CHEWKA: Mr. Commissioner, I'm loath to object to
14 my friend here on his cross-examination, I'm not
15 sure if it's my role, but the witness has
16 objected to answering questions about his
17 business and he's here in a personal capacity.
18 I don't think that you were able to give an
19 opportunity to rule on that. I am just raising
20 that concern as this line of questioning
21 persists.

22 THE COMMISSIONER: That's true. I thought that
23 Mr. Gratl had moved off that question into
24 another question. But it seems to me,
25 Mr. Gratl, you're getting into an area that

1 falls outside the scope of what this witness was
2 called to testify about. I -- and he's
3 expressed some reservations about talking in his
4 capacity as a contractor with the firm Bitfinex
5 as opposed to as an expert witness who has been
6 describing his knowledge and understanding of
7 the regulation of the virtual currency process
8 in Canada. What do you say to that?

9 MR. GRATL: Well, I would say, Mr. Commissioner, that
10 the area in which the witness has been
11 testifying is in respect of the regulatory
12 compliance and specifically with the PCMLTFA and
13 about the capacity of FINTRAC to monitor and
14 enforce compliance with that act, and the
15 witness has personal knowledge of compliance
16 with that act as a result of his, I would say,
17 employment with Bitfinex, and so it would appear
18 to be within the area that he's been called to
19 testify. To my knowledge, if the witness is
20 taking the fifth that is a doctrine of US law.

21 THE COMMISSIONER: I don't think it's a question of
22 him taking the fifth. I think he's expressed
23 some concern about saying things in an official
24 capacity for an organization which he's not
25 really authorized to bind with his testimony.

1 But I'll ask Ms. Patel what her position is
2 on this.

3 MS. PATEL: I agree with what you just said,
4 Mr. Commissioner. Mr. Warrack came here to give
5 evidence in his capacity as an individual who
6 has knowledge -- extensive knowledge of the
7 regulatory space, really. And he expressly is
8 not here as a representative of Bitfinex.

9 Correct, Mr. Gratl, Mr. Warrack's been very
10 clear that he's not an employee of Bitfinex.
11 He -- that it's a contract. Just to correct
12 something you've said there. And he should not
13 be expected to be here giving evidence on behalf
14 of any one of his clients.

15 MR. GRATL: Well, I'm not asking for him to give
16 evidence on behalf of his client; I'm just
17 asking for him to give evidence in his
18 knowledge. Not on behalf.

19 MS. PATEL: If I might, Mr. Commissioner, I think
20 that Mr. Gratl has asked Mr. Warrack what his
21 knowledge is of FINTRAC's ability in terms of
22 its capacity and resources to ensure that
23 entities are registering where they ought to be,
24 and Mr. Warrack has given his answer. So I'd
25 say that he's responded to the question that can

1 be asked.

2 THE COMMISSIONER: Okay. Yeah, I think it's time to
3 move on.

4 MR. GRATL: Thank you, Mr. Commissioner.

5 **EXAMINATION BY MR. GRATL (continuing):**

6 Q Mr. Warrack, you're -- you have an ongoing
7 working relationship with the RCMP?

8 A (PW) That's correct.

9 Q All right. And is that in your capacity as
10 somebody who's working as an employee or a
11 consultant of Bitfinex or is that in your
12 personal capacity?

13 A (PW) That is in my personal capacity.

14 Q All right. And does that use information
15 derived from your employment or association with
16 Bitfinex?

17 A (PW) No, there's no company information or
18 personal information shared with the RCMP. It's
19 more around -- not just with the RCMP, but with
20 the OPP, for instance, in terms of best practice
21 in the space of understanding cryptocurrencies,
22 how they work, et cetera.

23 Q All right. And is there similarly a
24 relationship with FINTRAC?

25 A (PW) No. I do engage occasionally with FINTRAC.

1 Actually since I left the Bank of Montreal in
2 2018 I'm no longer a member of any of the
3 working groups or anything like that. I do try
4 and support FINTRAC where I can in terms of best
5 practice. Shared best practice.

6 Q There's a 20 percent holdings threshold that
7 operates as a barrier to registering with
8 FINTRAC. Are you familiar with that,
9 Mr. Warrack?

10 A (PW) In relation to what? You mean as a VASP or
11 as a cryptocurrency exchange?

12 Q As a money service business.

13 A (PW) Yes. Correct.

14 Q Does that have any effect on
15 cryptocurrency-related businesses, to your
16 knowledge?

17 A (PW) Not to my knowledge. I don't know. I
18 don't know the answer to that question.

19 MR. GRATL: Those are my questions. Thank you,
20 Mr. Commissioner.

21 THE COMMISSIONER: All right. Thank you, Mr. Gratl.
22 Anything arising from that, Ms. Magonet?

23 MS. MAGONET: No, Mr. Commissioner.

24 THE COMMISSIONER: Thank you. Ms. Shelley?

25 MS. SHELLEY: No, Mr. Commissioner.

1 THE COMMISSIONER: Ms. Chewka?

2 MS. CHEWKA: No, Mr. Commissioner.

3 THE COMMISSIONER: And, Ms. Patel?

4 MS. PATEL: Thank you. No, Mr. Commissioner.

5 THE COMMISSIONER: All right. Thank you. All right.

6 I would like to thank the members of the panel
7 for their participation, and they are now all
8 excused from further testimony.

9 And I take it, Mr. Martland, that we have no
10 witnesses for tomorrow; is that correct?

11 MR. MARTLAND: Yes, Mr. Commissioner. It hasn't
12 happened today but we actually have a day where
13 we're not leading evidence. We're resuming our
14 hearings on Friday morning, 9:30.

15 THE COMMISSIONER: All right. Thank you. We will
16 adjourn until Friday at 9:30.

17 **(WITNESSES EXCUSED)**

18 THE REGISTRAR: The hearing is stood down until
19 November 27, 2020, at 9:30 a.m. Thank you.

20 **(PROCEEDINGS ADJOURNED AT 1:37 P.M. TO NOVEMBER 27, 2020)**

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