



HOUSE OF COMMONS  
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CANADA

# **TERRORIST FINANCING IN CANADA AND ABROAD: NEEDED FEDERAL ACTIONS**

## **Report of the Standing Committee on Finance**

**James Rajotte  
Chair**

**JUNE 2015**

**41st PARLIAMENT, SECOND SESSION**

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# **THE STANDING COMMITTEE ON FINANCE**

has the honour to present its

## **THIRTEENTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the Committee has studied Terrorist Financing in Canada and Abroad and has agreed to report the following:





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# **TERRORIST FINANCING IN CANADA AND ABROAD: NEEDED FEDERAL ACTIONS**

## **CHAPTER 1: INTRODUCTION**

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On 24 February 2015, the House of Commons Standing Committee on Finance adopted the following motion:

That the Committee, at the request of the Minister of Finance, undertake a study of the costs, economic impact, frequency and best practices to address the issue of terrorist financing both here in Canada and abroad.

From 24 March–5 May 2015, the Committee held six hearings in relation to this study; 30 groups or individuals made presentations, and an additional 10 written submissions were received. This report summarizes the presentations and written submissions, and contains the Committee’s recommendations for federal actions to combat terrorist financing domestically and internationally.

In relation to terrorism and terrorist organizations, Chapter Two discusses costs, sources of revenue and methods used to transfer funds, while Chapter Three highlights aspects of Canada’s anti–money laundering and anti–terrorist financing regime. Chapter Four comments on the detection of terrorist financing in Canada and abroad, while Chapter Five addresses the investigation and prosecution of terrorist financing offences and the listing of terrorist entities. Finally, Chapter Six provides the Committee’s concluding thoughts and recommendations.



## CHAPTER 2: TERRORISM AND TERRORIST FINANCING COSTS, SOURCES OF REVENUE AND METHODS TO TRANSFER FUNDS

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In their presentations and submissions to the Committee, witnesses discussed the costs associated with acts of terrorism and with the operations of terrorist organizations. As well, they commented on the various sources of revenue for terrorists and terrorist organizations, and the methods they use to transfer funds.

### A. Costs

According to the Committee's witnesses, the amounts required to finance terrorist attacks are highly variable. Matthew Levitt, who made a [submission](#) to the Committee as an individual, highlighted that the 11 September 2001 attacks on the World Trade Center in New York cost an estimated US\$400,000 to US\$500,000, and involved years of planning and dozens of people. In his [submission](#) to the Committee as an individual, Yee-Kuang Heng stated that the 2004 Madrid bombings cost an estimated US\$60,000, and that more recent terrorist incidents – such as the *Charlie Hebdo* attacks in France and the October 2014 shooting in Ottawa – required relatively smaller amounts. According to Matthew Levitt's [submission](#), one of the perpetrators of the *Charlie Hebdo* attacks funded the attack by obtaining a €6,000 loan.

Matthew Levitt's [submission](#) to the Committee also noted that individuals who travel to join, or fight for, a terrorist organization require small amounts for travel, sometimes just the cost of airfare. In his [submission](#), he also stated that individuals sometimes use petty crime and drug trafficking to pay for this airfare.

In speaking about the costs of financing a terrorist organization's operations, [MNP LLP](#) and the [Foundation for Defense of Democracies](#) indicated that, although single acts of terrorism are inexpensive, maintaining a terrorist organization includes the financing of such activities as radicalizing individuals, operating quasi-governments, bribing individuals, and paying for salaries, transportation and safe houses.

### B. Sources of Revenue and Methods to Transfer Funds

According to the Committee's witnesses and submissions, sources of revenue for terrorists and terrorist organizations range from income legitimately obtained to complex funding models involving businesses, charities and supportive sovereign states. Various methods of transferring such revenue were also identified, such as through charities, shell companies, underground money transfer operations and electronic currencies.

## 1. Legitimate and Illegitimate Sources of Revenue

The Committee was told that terrorism can be funded through legitimate and illegitimate means. The [Financial Transactions and Reports Analysis Centre of Canada](#) (FINTRAC) highlighted that funding for terrorism can be obtained globally, and can involve both legitimate and illegitimate sources; as well, Canada can be both a source of terrorist financing and a conduit for the transfer of funds. Furthermore, the [Royal Canadian Mounted Police](#) (RCMP) said that terrorist financing can involve extortion, fraud, theft and the use of illegitimate charities, and that individuals may finance terrorist activities by legitimately raising money on their own behalf to travel abroad or to purchase materials for terrorist attacks. For example, according to Matthew Levitt's [submission](#) to the Committee, the October 2014 attacker in Ottawa worked in Alberta's oil sector to raise money for his attempted travel to Syria.

In speaking about partnerships between terrorists and individuals involved with organized crime, [Haras Rafiq](#) – who appeared as an individual – noted that terrorists have to work in partnership with these individuals in order to sell oil and antiquities on the black market, and engage in drug trafficking, racketeering and kidnapping. [He](#) highlighted that terrorist groups are significantly involved in the drug trade, and use smuggling routes in South America. Similarly, the [Clement Advisory Group](#) stated that evidence suggests that organized crime groups and terrorist groups are collaborating in the raising of revenue.

Regarding the link between money laundering and terrorist financing, the Clement Advisory Group's [submission](#) to the Committee indicated that, although money laundering and terrorist financing are distinct financial crimes, those who finance terrorism engage in money laundering to generate revenue.

## 2. Funding Models of the Islamic State of Iraq and the Levant and other Terrorist Organizations

According to the Committee's witnesses, terrorist organizations have developed complex financing models to fund their operations. The [Canadian Security Intelligence Service](#) (CSIS) stated that terrorist groups obtain and transfer funds using global financial systems, including those that are online. [It](#) also said that the Islamic State of Iraq and the Levant (ISIL) raises funds through activities in Syria and Iraq; these activities include selling oil on the black market, taking over banks, extorting individuals, kidnapping people, taxing economic activity in areas it controls, smuggling and receiving funds from individual donors. In [CSIS](#)'s view, these diverse fundraising methods and complex financing networks make it difficult to investigate terrorist financing and to enforce related laws.

[Loretta Napoleoni](#), who appeared as an individual, mentioned that ISIL's funding is internal and its funding model includes: controlling regions that have strategic resources and are experiencing war and political anarchy; participating with the local population in joint ventures, such as the smuggling of oil; and taxing the use of critical infrastructure, such as electricity, water and the judiciary system. [She](#) noted that this funding model is used to raise most of ISIL's revenue.

The [Foundation for Defense of Democracies](#) noted that ISIL makes between \$1 million and \$2 million daily by selling oil from refineries it controls in Syria and Iraq to buyers in Turkey, taxing the sale of goods and antiquities, and requiring businesses to pay fees for electricity.

According to the [RAND Corporation](#), disrupting ISIL is a challenge for western countries because the organization raises most of its funding from the territories that it controls. [It](#) indicated that ISIL has modest operating costs; most of its costs are associated with operating its police state and paying wages, which are about \$500 monthly per person.

Regarding the importance of oil to ISIL's revenue, the [RAND Corporation](#) highlighted that the biggest success of the international coalition to counter ISIL in disrupting ISIL's financing occurred when air strikes on the organization's oil infrastructure significantly reduced oil extraction; in fall 2014, oil extraction was as little as 5% of the extraction rate in summer 2014, which was a peak. [It](#) found that, with declining oil prices and reduced oil extraction, ISIL's oil revenue had fallen to about \$2 million per week in May 2015.

[Martin Rudner](#), who appeared as an individual, mentioned that one reason why the Organization of the Petroleum Exporting Countries did not reduce oil production was to maintain the price of crude oil and thereby reduce ISIL's revenue.

According to [Bill Tupman](#), who appeared as an individual, governments should identify where ISIL's oil is being sold, track the oil when it is in transit and prevent the proceeds of its sale from being used by ISIL. [He](#) commented on ISIL's oil being transported through Turkey and by tankers in the Black Sea to Romania and refineries owned by organized crime organizations in Eastern Europe.

The [Royal United Services Institute](#) said that it believes that smuggling routes for oil have existed in the Middle East since the 1990s, when sanctions were imposed on the Saddam Hussein regime; it now believes that the Assad regime in Syria is purchasing oil from ISIL.

In highlighting terrorist organizations' trade in goods other than oil, the [Foundation for Defense of Democracies](#) pointed out that Boko Haram controls the importation of goods into Nigeria and parts of neighbouring countries, and taxes the trade in fish. [It](#) also said that, before charcoal exports from Somalia were banned by the United Nations (UN) Security Council, al-Shabab was earning \$75 million to \$100 million yearly through charcoal sales. [It](#) stated that local businesses are negatively affected when violent extremists control territories, as these businesses are subjected to excessive taxation and intimidation; these local business people may be potential allies in fighting terrorist organizations. The [Royal United Services Institute](#) emphasized that it is difficult to stop trade with bordering regions of a territory that is controlled by a terrorist organization, and referenced the ineffectiveness of UN Security Council resolutions in preventing trade in charcoal by al-Shabab.

According to [Loretta Napoleoni](#), war or military intervention is not the solution to preventing terrorist organizations from raising revenue. In [her](#) view, residents in areas that border territories occupied by ISIL and who trade with the Islamic State should be provided with an alternative to trading with ISIL, such as through improving economic conditions in these areas.

The [RAND Corporation](#) advocated new and ongoing efforts to disrupt terrorist organizations' internal revenue-generating capacity, including through the creation of local and regional security forces. [It](#) also proposed that operations against ISIL should include targeting the organization's administrators and the financial facilitators who collect and distribute ISIL's revenue. [Bill Tupman](#) highlighted that the accountancy profession is auditing businesses with a view to facilitating the collection of a revenue tax to finance terrorist organizations, such as Al-Qaida.

### **3. Charities**

The Committee was informed that charities are used to raise and transfer funds for terrorist financing purposes. [Haras Rafiq](#) commented that a number of British charities belong to the Muslim Brotherhood network. In [his](#) opinion, non-governmental entities, charities and other organizations fund "strategic terrorism" through shell companies, some of which are involved in illegal activities. [He](#) suggested that examining the ideological values of the directors and trustees of organizations assists in identifying those who are involved in terrorist financing. The [Foundation for Defense of Democracies](#) proposed that a discussion is needed about greater transparency in public registers, as transparency would help to identify owners of shell companies and the beneficiaries of charities.

In the view of [Edwin Black](#), who appeared as an individual and has studied international charitable organizations that he believed are working directly or indirectly with terrorist organizations, it is difficult to trace the funds that such organizations receive. [He](#) provided the example of the Union of Good charity, which is affiliated with Hamas. Similarly, Matthew Levitt's [submission](#) to the Committee contained examples of charities in other countries with links to terrorism, including the Muslim Charities Forum in the United Kingdom and Pearl of Hope in France.

According to [MNP LLP](#), charities are commonly used to fund terrorism because it is difficult to determine the types of transactions that are normal for a charity. [It](#) also stated that, as the amount donated to charities is variable over time, it is difficult for charities regulators and financial institutions to determine suspicious transactions.

### **4. Kidnapping and Smuggling**

According to the Committee's witnesses, kidnapping and smuggling are two criminal methods commonly used by terrorist organizations to raise funds. The [Foundation for Defense of Democracies](#) said that, since 2008, Al-Qaida in the Islamic Maghreb has received more than \$90 million from governments in exchange for the release of hostages. [It](#) mentioned that other terrorist groups are involved in selling antiquities, robbing banks, stealing military equipment, threatening farmers in order to obtain livestock and food, and



trading illegally in wildlife. As well, the [Foundation for Defense of Democracies](#) observed that terrorist groups choose their kidnapping targets based on nationality, as some governments are willing to pay a ransom; Canada and the United States have policies against paying for the release of hostages. [It](#) also said that the global concern about endangered species may facilitate the application of stronger economic sanctions against those who traffic in endangered wildlife.

Regarding extortion and the smuggling of cigarettes, Christian Leuprecht – who made a [submission](#) to the Committee as an individual – suggested that Mokhtar Belmokhtar is thought to have smuggled cigarettes to fund the 2013 hostage-taking incident at the Tiganourine gas facility in Algeria, and the kidnapping of Canadian diplomats Robert Fowler and Louis Guay in 2008.

## **5. State Sponsorship**

The Committee's witnesses indicated that terrorist organizations may obtain revenue from sovereign states. According to the [Foundation for Defense of Democracies](#), state-sponsored terrorism has unique challenges, as states have significant resources with which to support the operations of large and sophisticated terrorist organizations through the provision of training, weapons and equipment within sovereign borders. [It](#) mentioned that ISIL receives funds from sovereign states and that, in its opinion, Iran is the state that most actively sponsors terrorism; it sends hundreds of millions of dollars annually to terrorist groups, such as Hezbollah, Hamas and Al-Qaida.

[Bill Tupman](#) and [Edwin Black](#) remarked that terrorist organizations and their activities are state-funded. [Edwin Black](#) also claimed that the Palestinian Authority has financed terrorism in Israel and other countries through payments to the families of martyrs of suicide attacks and prisoners captured in relation to terrorist activities; the United States, the European Union and Qatar are the sources of those funds.

## **6. Wealthy Supporters**

According to the Committee's witnesses, wealthy donors in certain regions have historically been a source of funds for terrorist organizations. The [Foundation for Defense of Democracies](#) noted that wealthy donors to terrorists and terrorist organizations are prevalent in the Persian Gulf states, particularly Qatar and Kuwait. [It](#) suggested that Canada can use the Persian Gulf states' reliance on North American military support to pressure these states to arrest individuals who finance terrorism. In [its](#) view, Canada and the United States should track key facilitators of terrorist financing, and should educate decision makers at social media fora about instances in which their platforms are being used for illegal activities.

[Martin Rudner](#) commented that wealthy donors to terrorists and terrorist organizations reside in Saudi Arabia, Kuwait, Qatar and the United Arab Emirates. [He](#) also mentioned that radical mosques were originally funded by Saudi Arabian sources but that, in the past five years, the Saudi Arabian government has focused on halting this funding.

[Haras Rafiq](#) explained that, in the past, terrorists used to collect funds from wealthy donors in certain Middle Eastern countries; some donors in these countries have stopped donating due to threats to their reputation in their own countries.

## **7. Other Sources of Funding and Methods to Transfer Funds**

In addition to the revenue sources mentioned earlier, witnesses told the Committee that terrorist organizations may use shell companies and new technologies to raise funds; as well, they may be supported by diaspora communities. [Martin Rudner](#) stated that shell companies can raise funds in Canada and transfer them to terrorist organizations in other countries. [He](#) also noted that Hezbollah is known to use shell companies to raise funds and transfer them to terrorist organizations and to the families of Hezbollah supporters killed in terrorist attacks. The Clement Advisory Group's [submission](#) to the Committee highlighted that, as a result of sanctions, terrorists and terrorist organizations have used shell companies to hide beneficial ownership, and have used correspondent banking and wire transfers to move funds.

[Martin Rudner](#) commented on the influx of funds into Canada from abroad to fund terrorist activities, and pointed out that prepaid travel payment cards have been used to fund foreign fighters and other terrorist operatives, and that funding from outside Canada has been provided for extremist clergy, terrorist network sleeper cells, and activities targeting Canada's oil and gas sector. In its [submission](#) to the Committee, the Clement Advisory Group mentioned that ISIL raises funds by selling international prepaid phone cards to supporters.

The Clement Advisory Group's [submission](#) to the Committee indicated that economic sanctions against Iran resulted in Canadian banks closing money services businesses that had Iranian clients, and funds from Iran then began to flow through underground money transfer operations. [It](#) suggested that these funds may be related to terrorist financing, and proposed that money services businesses should be allowed to accept funds from sanctioned countries; in this way, the funds can be monitored in a way that cannot occur when they are transferred through underground money transfer operations.

The [Royal United Services Institute](#) indicated that terrorist organizations can receive funds from members of diaspora communities, and [Loretta Napoleoni](#) supported more research about the funds sent by diaspora communities to their country of origin; this research could help to identify the legal framework that is needed to ensure that such funds are not used for terrorist purposes.

[Loretta Napoleoni](#) also highlighted that, in the past, Hamas used electronic currencies to transfer small amounts. In [her](#) view, individuals who regularly send money to families and friends should be profiled so that transfers for terrorist purposes may be identified.

## CHAPTER 3: CANADA'S ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING REGIME

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Through witness presentations and submissions, the Committee heard about a variety of topics in relation to Canada's anti-money laundering and anti-terrorist financing regime: its objectives and operations; its international basis; domestic reviews and proposals to improve effectiveness; and privacy considerations.

### A. Objectives and Operations

One of the Committee's witnesses – the Department of Finance – focused on the objectives and operations of Canada's anti-money laundering and anti-terrorist financing regime. According to the [Department of Finance](#), the overall objective of the regime – the framework for which is provided by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) – is to protect the integrity of Canada's financial system and the security of Canadians. [It](#) noted that the regime, which consists of 11 federal departments and agencies, complements the work of law enforcement and intelligence agencies.

The [Department of Finance](#) stated that \$70 million annually is allocated to the Department of Finance, FINTRAC, the Department of Justice, the Public Prosecution Service of Canada, the RCMP, the Canada Border Services Agency (CBSA), CSIS and the Canada Revenue Agency (CRA) to support their activities in relation to Canada's anti-money laundering and anti-terrorist financing regime. [It](#) also identified federal agencies and departments that are part of the regime but that do not receive specific funding for regime-related activities; these entities include the Office of the Superintendent of Financial Institutions (OSFI), Public Safety Canada, and the Department of Foreign Affairs, Trade and Development (DFATD).

According to the [Department of Finance](#), Canada's anti-money laundering and anti-terrorist financing regime is based on three interdependent pillars: coordinating policy; preventing money laundering and terrorist financing; and disrupting money laundering and terrorist financing. Regarding the first pillar, [it](#) said that the PCMLTFA requires reporting entities, which include financial institutions and intermediaries, to identify their clients, keep records, send reports to FINTRAC on suspicious financial transactions, large cross-border currency transfers and certain other prescribed transactions, and have an internal compliance program to ensure that these reports are sent.

As well, the [Department of Finance](#) noted that the second pillar is the responsibility of the reporting entities, FINTRAC and OSFI. [It](#) stated that FINTRAC collects and analyzes financial transactions reports received from reporting entities, and discloses relevant financial intelligence contained in these reports to selected law enforcement and intelligence agencies.

As described by the [Department of Finance](#), the final pillar involves investigations by CSIS, the CBSA, the RCMP and the CRA, with these investigations supported by FINTRAC intelligence; prosecutions are conducted by Public Prosecution Services of Canada. [It](#) also mentioned that Canada's anti-money laundering and anti-terrorist financing regime has a terrorist listing process led by Public Safety Canada and DFATD that permits the freezing of terrorist assets pursuant to section 83.01 of the *Criminal Code* and the *United Nations Act*.

## **B. International Basis**

A number of the Committee's witnesses commented on international organizations involved in anti-terrorist financing. The [Royal United Services Institute](#) explained that, at the multi-lateral level, counterterrorism financing policy is set by the Financial Action Task Force (FATF), of which Canada is a member, and UN Security Council resolutions. In his [submission](#) to the Committee, Yee-Kuang Heng stated that the FATF uses a risk-based approach in developing its recommendations, as a rules-based approach would be limited by countries' differing resources for implementation and enforcement of anti-terrorist financing rules.

The [Department of Finance](#) and the [CRA](#) emphasized that Canada's anti-money laundering and anti-terrorist financing regime is consistent with FATF standards. The [Department of Finance](#) also remarked that, like other countries, Canada uses a risk-based approach when assessing and combating terrorist financing threats. The [Department of Finance](#) indicated that, when compared to countries with weaker anti-terrorist financing regimes, the terrorist financing threat in Canada is not as great. [It](#) also commented that the FATF will begin to evaluate Canada's regime in autumn 2015.

The [Egmont Group of Financial Intelligence Units](#) noted that seizures of assets and convictions for terrorist financing are rare in many jurisdictions, and that anti-terrorist financing reporting requirements are not effective in all jurisdictions. In [its](#) view, the detection and deterrence of terrorist financing would be improved through a number of actions: having a better understanding of the types of financial intelligence; working with the private sector to identify terrorist financing risks; assisting reporting entities in filing reports with FINTRAC; and working with the RCMP to trace funds that are suspected of being used for terrorism.

In suggesting that the FATF is not as effective as it should be, [Christine Duhaime](#) made two proposals: that it be led by the same person for a longer period of time, rather than having a new leader each year; and that a separate organization be created for the FATF's counterterrorist financing functions.

The [Royal United Services Institute](#) suggested that the dynamic nature of geopolitical developments requires constant reappraisal of counterterrorism financing laws.

### C. Domestic Reviews and Proposals to Improve Effectiveness

The Committee's witnesses spoke about selected reviews of the PCMLTFA and FINTRAC. For example, the [Department of Finance](#) commented that the PCMLTFA was recently reviewed by the Standing Senate Committee on Banking, Trade and Commerce, and that the Committee's March 2013 report contained recommendations designed to increase the performance of FINTRAC, enhance information sharing, and ensure an appropriate scope for Canada's anti-money laundering and anti-terrorist financing regime. [It](#) noted that the PCMLTFA was amended in response to these recommendations. The [Canadian Bankers Association](#) requested a third-party review of the regime.

The [Privacy Commissioner of Canada](#) stated that FINTRAC does not have a review body that is responsible for examining the Centre's activities to ensure that they are lawful, reasonable and effective. [He](#) indicated that a biennial review of FINTRAC in relation to privacy issues found that certain information provided to FINTRAC was not related to money laundering or terrorist financing, and that the Centre was retaining data that were not related to its mandate. For example, [he](#) told the Committee that financial institutions were applying discretionary criteria based on the ethnic origin or the age of the individual to determine whether a transaction was suspicious, which may have resulted in FINTRAC applying discriminatory criteria in its analysis of the resulting suspicious transactions reports.

The [British Columbia Civil Liberties Association](#) suggested that – as requested by the Commission of Inquiry in relation to Maher Arar – a consolidated review mechanism for national security agencies, including FINTRAC, should be developed. In [its](#) opinion, a review of FINTRAC's mandate, efficiency and role in relation to national security agencies should be conducted. [It](#) noted that there is little information available to assess the extent to which Canada's anti-terrorist financing regime is meeting its objectives; that said, the information that is available suggests that either there is less terrorist financing than expected or the regime is not particularly effective in addressing terrorist financing.

As well, the [British Columbia Civil Liberties Association](#) commented that the Standing Senate Committee on Banking, Trade and Commerce's 2013 report and the Office of the Privacy of Commissioner of Canada reached similar conclusions about FINTRAC's efficacy. [It](#) identified its support of evidence-based policy-making when considering government oversight of FINTRAC. Both [MNP LLP](#) and the [Clement Advisory Group](#) said that FINTRAC should be subject to greater oversight.

[Christine Duhaime](#), who appeared as an individual, proposed that Canada should take a leadership role in counterterrorist financing, perhaps by creating a centre of excellence or financial crime centre to facilitate information sharing and a dialogue between the public and private sectors, and to study such issues as digital terrorism. The [Royal United Services Institute](#) supported a greater public-private partnership and financial intelligence sharing between the authorities and the banks regarding terrorist financing.

[Anthony Amicelle](#), who appeared as an individual, suggested that the risk-based approach to Canada's anti-money laundering and anti-terrorist financing regime conflicts with the concept of risk for financial institutions, as those institutions prioritize reputational risk over terrorist financing risks. [He](#) said that the concept of risk in relation to terrorist financing is defined differently by each member of the regime, which may lead to more information being reported by financial institutions and difficulties for financial intelligence units (FIUs) in analyzing financial information. In [his](#) view, the risk management practices of each member of the regime should be examined.

#### **D. Privacy Considerations**

The Committee was informed about certain privacy considerations in relation to Canada's anti-money laundering and anti-terrorist financing regime. The [Department of Finance](#) stressed that Canada's regime respects the constitutional division of powers, the *Canadian Charter of Rights and Freedoms* and the privacy rights of Canadians. [It](#) also noted that privacy concerns are examined during the five-year statutory review of the PCMLTFA.

The [Privacy Commissioner of Canada](#) said that the PCMLTFA should prescribe clear and reasonable standards for collecting, sharing, using and retaining personal information, and that independent and effective review mechanisms should exist to ensure compliance with these standards; these mechanisms should include the courts.

Regarding access to – and disclosure of – personal information, [FINTRAC](#) stated that it cannot access the bank accounts of Canadians, and nor does it give law enforcement agencies or CSIS access to the database that contains the information that it collects. [It](#) indicated that it discloses information to local law enforcement agencies, the RCMP or CSIS only if there is a probability that the information would be useful in investigating and prosecuting money laundering, terrorism financing or national security offences.

The [British Columbia Civil Liberties Association](#) noted that the over-reporting of suspicious transactions results in FINTRAC receiving excess information, and suggested that it is more cost-effective to leave this information in FINTRAC's database than to remove it. In [its](#) view, important and specific information about suspicious transactions should be collected. [It](#) commented that governments have to be scrupulous about the manner in which people are screened and identified as being a risk in relation to money laundering or terrorism, and with whom personal information is shared, as sharing information could be problematic from a security perspective.

[John Hunter](#), who appeared as an individual, suggested that any proposed legislation to prevent terrorist financing should respect solicitor-client privilege as determined by the Supreme Court of Canada in respect of lawyers' duties to clients and their duties under the PCMLTFA, and indicated that the legal profession's regulatory bodies can play a collaborative role in preventing terrorist financing.

## CHAPTER 4: DETECTING TERRORIST FINANCING IN CANADA AND ABROAD

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The Committee's witnesses and submissions commented on a variety of topics related to detecting terrorist financing in Canada and abroad. In particular, they discussed the collection of financial information by FINTRAC, the role of FIUs and the usefulness of financial intelligence, and the responsibilities of the CRA in combating the use of charities and not-for-profit organizations by terrorists and terrorist organizations.

### A. Collection of Financial Information

In mentioning Canada's anti-money laundering and anti-terrorist financing regime, witnesses and submissions to the Committee focused on the reporting requirements for reporting entities, the specific reporting requirements for financial institutions and proposals for sharing information, the reporting of cross-border transfers, and expanding the regime to include additional reporting entities.

#### 1. Reporting Requirements for Reporting Entities

The Committee's witnesses commented on the reports that reporting entities in Canada's anti-money laundering and anti-terrorist financing regime are obliged to submit to FINTRAC and assistance with filing those reports. [FINTRAC](#) noted that it receives approximately 20 million financial transactions reports annually from reporting entities. [MNP LLP](#) explained that the reporting entities in the regime have three responsibilities with respect to combating terrorist financing: identify accounts held by terrorists and terrorist organizations; assess and manage terrorist financing risks; and report and freeze terrorist assets.

As well, [MNP LLP](#) suggested that reporting entities lack guidance about the frequency of, and methodology for, screening transactions for terrorist financing risks. [It](#) stated that reporting entities do not assess or manage terrorist financing risks in a meaningful way, and that the FATF asks governments to provide reporting entities with a threat assessment so that they can design proper methods to address these risks. [MNP LLP](#) also emphasized that reporting entities need to have information about terrorist threats, receive guidance to assist them in identifying risks, and be able to receive intelligence from other entities in Canada's anti-money laundering and anti-terrorist financing regime in order to make meaningful contributions to detecting terrorist financing risks.

[Christine Duhaime](#) suggested that FINTRAC should establish typologies for terrorist financing activities, and provide them to reporting entities; with this approach, the reporting entities most at risk, such as money services businesses, would be better able to comply with the PCMLTFA.

According to [Fasken Martineau DuMoulin LLP](#), small businesses have fewer resources than large financial institutions and could find it more difficult to comply with the PCMLTFA. [It](#) suggested that any review of Canada's anti-money laundering and anti-terrorist financing regime should consider the extent to which legislative and regulatory requirements are appropriate for the size and business practices of the various categories of reporting entities; as well, the cost of any new requirements should be proportionate to the benefits that would be received by FINTRAC and other entities in the regime.

[Fasken Martineau DuMoulin LLP](#) also said that consideration should be given to the types of businesses that should be considered as money services businesses, and to the extent to which these businesses' obligations under Canada's anti-money laundering and anti-terrorist financing regime stifle innovation in the payments sector.

According to the [Egmont Group of Financial Intelligence Units](#), it is difficult to identify a money launderer or a person who finances terrorist activities; however, despite any difficulties in this regard, some reporting entities want to be able to simply check a box to identify such individuals on a suspicious transactions report.

The [Clement Advisory Group](#) proposed that reporting entities should be allowed to use biometric and facial recognition software, as well as such telecommunications technologies as Skype, in meeting the PCMLTFA's identification requirements; as well, this software and these technologies should be available to border authorities to assist them in apprehending foreign fighters who are returning to Canada. [It](#) also highlighted the use of financial transaction-related metadata to investigate crimes.

## **2. Financial Institutions' Reporting Requirements and Proposals for Sharing Information**

The Committee was informed about the reports that financial institutions submit to FINTRAC and difficulties these institutions face in determining the types of transactions to report. The [Anti-Money Laundering Association](#) suggested that financial institutions are sending reports to FINTRAC without proper scrutiny of financial transactions, and that they need additional guidance from FINTRAC about identifying suspicious transactions. Similarly, the [British Columbia Civil Liberties Association](#) said that financial institutions over-report suspicious transactions to FINTRAC because the PCMLTFA imposes an onerous burden on these institutions, and FINTRAC provides limited guidance to them about how to identify these transactions and submit related reports.

According to [Bill Tupman](#), compliance officers in financial institutions should be trained to do a better job in identifying suspicious transactions, so that genuinely suspicious transactions reports are sent to financial intelligence agencies, such as FINTRAC. [Christine Duhaime](#) also stated that compliance officers at financial institutions are not well trained.

Regarding the cost of complying with the PCMLTFA's reporting requirements, [Christine Duhaime](#) suggested that financial institutions' compliance costs are high when compared to the number of prosecutions of terrorist financing offences, which is low.



[TD Bank Financial Group](#) indicated that the compliance requirements are not burdensome, and that it provides the Department of Finance, FINTRAC and OSFI with feedback about reporting requirements.

The [Canadian Bankers Association](#) and [TD Bank Financial Group](#) noted that Canada's anti-money laundering and anti-terrorist financing regime does not permit financial intelligence to be shared among banks and other reporting entities, or between FINTRAC and reporting entities. Both the [Canadian Bankers Association](#) and [TD Bank Financial Group](#) advocated more two-way communication and information sharing among reporting entities, and between reporting entities and FINTRAC. [TD Bank Financial Group](#) said that FINTRAC does not provide feedback about the reports that it submits, and the [Canadian Bankers Association](#) suggested that such feedback could assist reporting entities in both implementing a risk-based approach to identifying their higher-risk clients and preventing these clients from obtaining financial services.

As well, the [Canadian Bankers Association](#) supported the sharing of information among financial institutions, FINTRAC and law enforcement agencies about persons of interest; in this respect, real-time information about terrorist financing activities would be useful. In [its](#) view, an ability to share information would help banks to improve their detection of complex money laundering and terrorist financing schemes.

Similarly, the Clement Advisory Group's [submission](#) to the Committee suggested that FINTRAC should take two actions in relation to financial institutions: make greater efforts to provide them with typologies of terrorist financing and organized crime activities; and consider developing real-time feedback mechanisms about terrorists' and terrorist organizations' use of financial institutions.

The [Clement Advisory Group](#) also proposed greater collaboration between law enforcement agencies and financial institutions, including through the use of specialists in cybercrime and terrorist financing in the financial services sector. In its [submission](#) to the Committee, it mentioned such organizations as the Association of Certified Anti-Money Laundering Specialists, the Association of Certified Financial Crime Specialists and the Association of Certified Fraud Examiners as possible sources of information for regulators, compliance officers and law enforcement agencies that are focused on detecting terrorist financing. [It](#) also suggested that financial institutions' chief anti-money laundering officers should have a security clearance, which would enable them to interact with law enforcement agencies.

### **3. Reporting of Cross-Border Transfers**

The Committee's witnesses discussed the threshold for reporting international electronic funds transfers, other methods of transferring funds across borders, and detecting cross-border transfers. In speaking about the \$10,000 threshold for reporting international electronic funds transfers, [FINTRAC](#) noted that it is aware that terrorist financing occurs at amounts below the threshold, and that – in case the reporting threshold is reduced to \$0 – it is working on acquiring the capacity to analyze reports on all such transfers. [Christian Leuprecht](#) proposed that this reporting threshold should be reduced,

and that the amount should be set by ministerial discretion or by FINTRAC. The [Canadian Bankers Association](#) supported removing the threshold, as financial institutions face a burden in identifying instances where multiple transactions total \$10,000 or more and must be reported. According to the [Privacy Commissioner of Canada](#), reducing the threshold to \$0 would result in FINTRAC storing information on law-abiding citizens, and reporting entities may discriminate among clients in determining the information to be reported.

[FINTRAC](#) indicated that, when funds are transferred from Canada to a foreign financial institution, it is able to determine the institution's country of residence but cannot track subsequent transfers. [It](#) also said that, in recent years, reported transfers of funds to Syria have been of very small amounts and have fallen to \$0; transfers to Turkey and Iraq have increased, but these transfers include those to humanitarian organizations.

In highlighting the ability of reporting entities to identify suspicious transactions involving low-value amounts, [MNP LLP](#) noted that one half of all suspicious transactions reports sent to FINTRAC are from Western Union, and that the average dollar amount of those transactions is \$300.

[Christian Leuprecht](#) mentioned the physical transfer of funds and property for terrorist financing purposes, and proposed that Canada should learn from other countries, such as the United Kingdom, that have a system to search passengers on a plane; the CBSA lacks this power in relation to outbound flights. [He](#) also noted that the RCMP searches only cargo that is transferred through land-based modes.

In commenting on digital technologies and terrorist financing, [FINTRAC](#) said that its data do not suggest that transfers of virtual currencies, such as bitcoin, are occurring. The [TD Bank Financial Group](#) noted that it is challenging for financial institutions to monitor mobile financial transactions. [Christine Duhaime](#) mentioned that counterterrorism financing laws have not kept pace with fundraising using digital technologies, such as social media. [She](#) highlighted that the Islamic State uses Twitter, JustPaste.it, Asf.fm and PayPal to request and transfer funds, and advocated the development of a digital counterterrorism strategy.

#### **4. Expanding Canada's Anti-money Laundering and Anti-terrorist Financing Regime**

Witnesses spoke to the Committee about other groups that could be added as reporting entities under Canada's anti-money laundering and anti-terrorist financing regime. For example, the [Canadian Bankers Association](#) emphasized that the regime should apply to all entities that are vulnerable to money laundering and terrorist financing, and should include all payment services providers and new technologies that are unregulated.

According to the [Canadian Bankers Association](#), there is a risk that Canada's anti-money laundering and anti-terrorist financing regime will reduce the extent to which terrorists and terrorist organizations use the traditional banking sector for storing cash and moving funds across borders; instead, these activities will occur in the shadow banking

and other unregulated sectors. [It](#) suggested that these activities could be monitored by requiring financial institutions to identify where foreign money services businesses are registered in Canada.

As well, the [Clement Advisory Group](#) said that operators of white-label automated teller machines (ATMs) should be subject to the obligations of Canada's anti-money laundering and anti-terrorist financing regime. In [its](#) view, it is difficult to determine the sources of the cash that is loaded into white-label ATMs. [It](#) also suggested that ATMs in establishments that are owned by Hells Angels are typically used by that organization to launder money.

## **B. The Role of Financial Intelligence Units and the Usefulness of Financial Intelligence**

According to the Committee's witnesses, the responsibilities of FIUs – including FINTRAC – are based on international standards for combating terrorist financing and on the role of financial intelligence in detecting terrorism. In the view of the [Egmont Group of Financial Intelligence Units](#), jurisdictions should meet international standards for combating terrorist financing, share information in a timely manner, and have effective – and not just technically compliant – anti-money laundering and anti-terrorist financing regimes. [It](#) proposed that FIUs should receive additional resources to combat terrorist financing, as there is a growing recognition that financial intelligence is a vital tool in tracking terrorist financing. [It](#) also mentioned that the “Egmont Secure Web” allow its members to share financial intelligence in a secure manner. As well, [it](#) believed that FINTRAC and other FIUs are working together to identify the manner in which ISIL and foreign terrorist fighters are being financed.

The [Egmont Group of Financial Intelligence Units](#) highlighted two types of FIUs, noting that some are overseen by a department of finance or a central bank, while others are supervised by law enforcement agencies or the judiciary. [It](#) said that, as these two types can have different philosophies and types of employees, they may have difficulties in communicating with each other.

[FINTRAC](#) noted that it works with FIUs in other countries to share intelligence and expertise, and mentioned its proactive research on identifying potential targets that it initiated following the hostage-taking incident in Sydney, Australia and the *Charlie Hebdo* attacks in France. [It](#) also stated that it is a member of the Egmont Group of Financial Intelligence Units and has memoranda of understanding with 90 of the Group's members for the sharing of information.

In the opinion of [MNP LLP](#), it is difficult to detect a terrorist financing transaction, as these transactions cannot be identified until the funds are used to finance terrorism. [Anthony Amicelle](#) indicated that financial intelligence is more effective when investigating suspects in a particular terrorist attack than it is in preventing terrorist attacks. [He](#) proposed that sociological or criminological research on terrorist financing should be undertaken to improve the identification of such financing.

### C. The Canada Revenue Agency, Charities and Not-for-profit Organizations

The Committee's witnesses mentioned the CRA's role in combating terrorist financing, and the responsibilities of charities and not-for-profit organizations in reporting certain financial information to the CRA. The [CRA](#) commented that the risk of terrorists and terrorist organizations using the charitable sector and not-for-profit organizations to raise and transfer funds has been recognized internationally since the late 1990s. [It](#) noted that one of its three main responsibilities in relation to terrorist financing is protecting the charity registration system from abuse by terrorists; the others are sharing information with other federal departments and agencies to support the detection and suppression of domestic terrorist financing activities, and assisting Canada in meeting its international obligations related to combating terrorist financing.

The [CRA](#) explained that its Charities Directorate is responsible for ensuring that Canada's 86,000 registered charities meet the requirements for obtaining and maintaining charitable status. According to [it](#), the Charities Directorate has four main activities: review charitable applications; receive and analyze intelligence related to national security; audit registered charities to assess their potential risk for terrorist financing; and share relevant information related to charities with the RCMP, CSIS and FINTRAC. Regarding charitable registrations, [it](#) noted that 1% of applications are deemed to be of high risk for terrorist financing; these applications are subject to a detailed review and possible denial of registration. [It](#) also stated that the intelligence it receives and analyzes in relation to national security comes from various sources, including the media, classified intelligence, the public and annual reports submitted by charities.

[Vivian Krause](#), who appeared as an individual, highlighted that Canada requires charities to report less information than is the case in some other countries; for example, the U.S. Internal Revenue Service requires charities to list the names of their five highest-paid employees and contractors, indicate the purpose for which funds are granted to recipients, and provide information on investments and donors. In [her](#) view, there are several ways in which charities can receive, and not disclose, funds on their income tax returns, including through accepting funds from intermediary and shell organizations. [She](#) advocated greater transparency in the charitable sector to ensure that charities are not being used to launder money in Canada.

[Carters Professional Corporation](#) indicated that federal guidance is lacking about the manner in which charities can best comply with the PCMLTFA and the *Criminal Code*. [It](#) requested made-in-Canada guidelines for charities regarding terrorist financing; these guidelines should include practical recommendations regarding donations and additional support given to other entities, and should be developed in collaboration with the charitable sector. The [Royal United Services Institute](#) felt that charities should be supported, given guidance and regulated to avoid being used by terrorist organizations.

Regarding the compliance burden imposed on charities and not-for-profit organizations for purposes of detecting terrorist financing, the [Canadian Bar Association](#) requested increased support from the CRA regarding compliance and direct federal funds to help defray compliance costs.

[FINTRAC](#) highlighted that it discloses information to the CRA if it is related to money laundering, terrorist financing or tax evasion; as the CRA focuses on not-for-profit organizations rather than on the entities that must send reports to FINTRAC, the CRA does not disclose information to FINTRAC.

The [CRA](#) mentioned that it has participated in a number of UN and FATF projects, and has contributed to reports that discuss terrorists' and terrorist organizations' use of the charitable sector and not-for-profit organizations.

In [MNP LLP](#)'s view, the CRA has made significant contributions to combating terrorist financing, but it should not have an FIU that is separate from FINTRAC.



## CHAPTER 5: INVESTIGATING AND PROSECUTING TERRORIST FINANCING OFFENCES AND THE LISTING OF TERRORIST ENTITIES

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The Committee was informed, by witnesses and through submissions, about the analysis and disclosure of financial information received by FINTRAC, investigations of terrorist financing activities, the prosecution of individuals suspected of terrorist financing, the listing of terrorists and terrorist organizations, and other measures to prevent terrorist financing.

### A. Analysis and Disclosure of Financial Information

The Committee's witnesses focused on FINTRAC's analysis and disclosure of financial intelligence that is garnered from reports submitted to it by reporting entities. [FINTRAC](#) said that it cannot determine whether the funds to which the reports are related are from legitimate or illegitimate sources, but indicated that law enforcement agencies can request information from it in an effort to determine if a particular transaction is related to a criminal offence. [It](#) noted that, in isolation, a reported transaction may not seem to be related to a crime; however, it may be useful when it is combined with intelligence known by a law enforcement agency or CSIS.

As well, [FINTRAC](#) stated that the financial intelligence it garners from suspicious transactions reports is used to establish links between and among individuals and organizations in Canada and abroad that support terrorist activities, and to identify the funds used to finance those activities. According to [it](#), in 2014, this type of financial intelligence resulted in 234 disclosures to law enforcement and national security agencies that were related to terrorist financing and threats to national security. [Christine Duhaime](#) commented that the law enforcement activities resulting from these disclosures were not reviewed by the government to assess the effectiveness of those disclosures.

[FINTRAC](#) emphasized that it is not an investigative body; rather, it discloses selected information it receives to the RCMP and local law enforcement agencies for investigation if doing so would be useful in an investigation of terrorist activities. [It](#) also remarked that individuals should report suspicious activities to law enforcement agencies; they may also do so through FINTRAC's tip line.

In giving an example of the manner in which the information it receives is used, [FINTRAC](#) stated that the RCMP's integrated national security enforcement teams in Ontario and Quebec used intelligence provided by FINTRAC during their investigation of the International Relief Fund for the Afflicted and Needy-Canada (IRFAN Canada) that was allegedly linked to Hamas. The [RCMP](#) said that, in 2014, IRFAN Canada – which was a registered charity until 2011 – was listed as a terrorist organization under the *Criminal Code*. [It](#) explained that IRFAN Canada had transferred about \$14.6 million to various organizations with links to Hamas, and that being listed as a terrorist organization both

stopped IRFAN Canada's financing activities and allowed the RCMP to seize and retain the organization's property.

[FINTRAC](#) also highlighted that the RCMP used financial intelligence provided by it in Project Smooth, which led to the arrest of two individuals who conspired to carry out a terrorist attack against a VIA passenger train travelling from New York to Toronto.

Regarding the October 2014 terrorist attacks in Ottawa, Ontario and in Saint Jean-sur-Richelieu, Quebec, [FINTRAC](#) stated that it disclosed information to law enforcement agencies related to a series of transactions and to suspicious transactions reports submitted by financial institutions. [It](#) also indicated that, after the names were made public, it sent an email to reporting entities identifying the perpetrators, which led to an increase in the number of suspicious transactions reports submitted.

[FINTRAC](#) noted that it creates classified strategic financial intelligence reports on suspected terrorist financing activities and trends; [it](#) provided the example of analyzing electronic funds transfer reports to identify Syria-related high-risk flows of funds. [FINTRAC](#) also indicated that it does not analyze CBSA reports based on country of destination or origin; these reports, which focus on individuals who are travelling with funds exceeding \$10,000, do not indicate a traveller's final destination.

The [Anti-Money Laundering Association](#) suggested that increased communication between FINTRAC and law enforcement agencies would improve FINTRAC's effectiveness and the quality of its financial intelligence. According to the [Clement Advisory Group](#), FINTRAC's effectiveness should be assessed on the basis of the number of prosecutions of individuals suspected of terrorist financing, and not necessarily on the number of information disclosures to law enforcement agencies. [MNP LLP](#) said that the false-positive rate of reports sent to FINTRAC should be assessed.

[Christian Leuprecht](#) noted that financial institutions submit a large number of suspicious transactions reports to FINTRAC, and requested that the format of these reports be standardized in order to improve data analysis. [Bill Tupman](#) stated that suspicious transactions reports are being stored and are not being analyzed adequately.

As well, [Christian Leuprecht](#) suggested that cooperation between FINTRAC and the Bank of Canada should be improved, as central banks have good intelligence-sharing networks, and that FINTRAC could share information with arm's-length parties – such as academics – for further analysis.

## **B. Investigating Terrorist Financing Activities**

The Committee's witnesses commented on investigations of terrorist financing activities by law enforcement agencies, which are assisted by other entities in Canada's anti-money laundering and anti-terrorist financing regime. According to the [RCMP](#), disrupting terrorist financing affects an individual's ability to conduct acts of terrorism. [It](#) noted that investigating and disrupting terrorist financing activities in Canada is a key component of its response to the threat of terrorism, and that it works with FINTRAC, CSIS



and the CRA when investigating these threats. [It](#) also observed that terrorist financing is not isolated from other types of illegal international financial activities.

[Paul Kennedy](#), who appeared as an individual, pointed out that while the *Security Offences Act* gives the RCMP primary responsibility for investigating terrorist activities, it has multiple demands on its resources because it provides municipal, provincial and federal police services as well; two thirds of RCMP officers perform non-federal policing functions. [He](#) also said that, through contracts with provinces that lack provincial police forces, the federal government subsidizes 30% of the cost of RCMP policing in certain municipalities and 10% of such costs at the provincial level. [Bill Tupman](#) suggested that the law enforcement funding models in Germany, the Netherlands and the European Police College should be examined.

As well, [Paul Kennedy](#) emphasized that the RCMP has taken few actions with respect to terrorist financing, partially because of two reasons: the lack of trained personnel; and the current recruiting and development model for officers involved in investigating and prosecuting terrorist financing offences and related criminal activities. [Christian Leuprecht](#) also said that the RCMP lacks the skills needed to undertake complex financial investigations. In the view of [Martin Rudner](#), the RCMP tends to promote generalists, rather than specialists, and terrorist financing investigations require RCMP officers who are highly specialized.

[Paul Kennedy](#) proposed that the federal government should reallocate its funding of RCMP policing at the non-federal level to recruiting and training federal officers for the investigation of complex crimes, such as terrorist financing; as well, the RCMP should be a national police force that deals only with complex crimes. According to the [Clement Advisory Group](#), the RCMP's role should be changed so that its focus is federal issues, rather than provincial or municipal concerns.

The [Clement Advisory Group](#) also said that the RCMP needs to recognize that combating terrorist financing requires a high level of expertise, and that – like the U.S. Federal Bureau of Investigation – it needs to build and retain expertise in relation to such financing. [It](#) indicated that the prosecution of criminal financial offences is inadequate in Canada, and stated that experienced prosecutors are needed for the investigation and litigation of financial crimes, which can be complex. In [its](#) view, judicial consideration of the PCMLTFA's provisions would lead to the identification of gaps in the law, which may indicate whether the RCMP needs more resources to conduct terrorist financing investigations. [Bill Tupman](#) said that existing laws are adequate for prosecuting terrorist financing, but that investigators must be better trained.

As well, the [Clement Advisory Group](#) suggested that public-private partnerships for investigations of financial crimes should be considered, such as with accountants and lawyers in order to access their expertise. [It](#) also noted the model for the integrated proceeds of crime initiative, which brings together the federal government and law enforcement agencies. In the opinion of the [Egmont Group of Financial Intelligence Units](#), FINTRAC, the RCMP and CSIS should consider working together on task forces as a means to bring people from different agencies together.

[Christian Leuprecht](#) said that there are challenges in recruiting and training personnel to prosecute terrorist financing activities. Regarding the career training provided in other federal departments, [he](#) commented that the Department of National Defence has a comprehensive professional development program for employees, and supported a similar program for entities in Canada's anti-money laundering and anti-terrorist financing regime.

As well, [Christian Leuprecht](#) noted that FINTRAC is effective in collecting financial information, but that the RCMP is ineffective in using this information to investigate and prosecute terrorist financing offences; amending the PCMLTFA to enhance the detection of terrorist financing will not enhance the RCMP's effectiveness unless it receives more resources.

[Martin Rudner](#) suggested that FINTRAC, the RCMP and other Canadian intelligence agencies should have expanded investigative capacities that are focused on terrorist financing methodologies in Canada and abroad; these capacities should assist in preventing and prosecuting terrorist financing.

According to the [RAND Corporation](#), efforts should be directed to finding and seizing ISIL's financial reserves. The [Foundation for Defense of Democracies](#) highlighted that, in 2014, a Canadian court ordered that \$7.1 million in Iranian assets that were located in Canada be seized.

[Bill Tupman](#) urged law enforcement agencies to focus on investigating certain private websites, such as "Tor and the deep web."

### **C. Prosecuting *Criminal Code* Offences**

According to the Committee's witnesses and submissions, prosecuting terrorist financing offences specified in the *Criminal Code* is difficult and the Code lacks clarity. [Martin Rudner](#) said that, because information sources and investigative methods are secret, and – consequently – investigators and prosecutors may not want to reveal them in an open court, there are few terrorist financing prosecutions in Canada; investigators prefer to focus on disrupting terrorist financing. In this respect, [he](#) provided the example of the litigation involving the Lebanese Canadian Bank, in which it was argued that the bank was used to transfer money to Hamas and Hezbollah.

In its [submission](#) to the Committee, Carters Professional Corporation noted that [section 83.19](#) of the *Criminal Code* makes it an offence to facilitate a terrorist activity "knowingly." Its [submission](#) suggested that subsection 83.19(2) eliminates the criminal intent or *mens rea* of "knowingly" facilitating a terrorist activity, which may make humanitarian aid that is sent by charities subject to criminal sanctions if the funds are later found to be used for terrorist purposes. [It](#) suggested that Canada's legislation goes beyond FATF standards regarding terrorist financing, and is the most broadly worded in the world.

As well, Carters Professional Corporation's [submission](#) to the Committee requested two amendments to subsection 83.19(2): the addition of a requirement for criminal intent before a person is found guilty of an offence in that subsection; and an exception for

humanitarian aid where this aid may indirectly support or benefit a terrorist or terrorist organization. The [Canadian Bar Association](#) advocated clarification of the *Criminal Code* so that charities have a better understanding of the actions that constitute criminal activities.

Carters Professional Corporation's [submission](#) to the Committee also highlighted that the *Charities Registration (Security Information) Act's* certificate procedure that is used to refuse the registration of – or to deregister – a charity, lacks an appeal process, and that charities are not provided with reasons for the certificate of refusal or deregistration. [It](#) made three proposals: the establishment of a clear criminal intent before a certificate is issued; the creation of a due diligence defence for charities; and the hearing of appeals of a certification by the Federal Court of Appeal.

#### **D. Listing Terrorists and Terrorist Organizations**

The Committee's witnesses described the process by which terrorists and terrorist organizations are listed pursuant to the *Criminal Code* and the *United Nations Act*, listing prevents these individuals and organizations from obtaining financial services and funds. The [Department of Finance](#) noted that 90 individuals and organizations have been listed as terrorists or terrorist organizations pursuant to the *Criminal Code* and the *United Nations Act*, and that DFATD is in the process of streamlining the private sector's ability to implement such sanctions as denial of financial services. As well, the [Department of Finance](#) said that while it does not know the amount of terrorist assets that has been frozen in Canada as a consequence of sanctions, this information is reported to the RCMP and CSIS.

The [Department of Finance](#) also highlighted recent changes to the PCMLTFA that give the Minister of Finance the power to issue a directive requiring a reporting entity to implement countermeasures in relation to transactions to and from any foreign state or foreign entity in a jurisdiction that has ineffective anti-money laundering and anti-terrorist financing controls.

The [Canadian Bankers Association](#) noted that its member financial institutions compare the names of their existing and potential clients to the names on lists of terrorists and terrorist organizations, and that they monitor transactions to detect terrorist financing typologies, such as credit card fraud. [Anthony Amicelle](#) suggested that information about the individuals or organizations that appear on these lists is limited, which makes it difficult for financial institutions to identify the accounts of listed terrorists or terrorist organizations.

[MNP LLP](#) remarked that the *United Nations Act* and the *Criminal Code* require certain reporting entities, but not money services businesses, to compare the names of existing and potential clients to the names on lists of terrorists and terrorist organizations on an ongoing basis. In [its](#) view, although such a comparison is the most significant counterterrorist financing tool that is used by reporting entities, it has not been effective, as these lists lack sufficient details about the identity of the individual or the organization, or are outdated.

According to [Christine Duhaime](#), Canada's procedure for listing terrorists and terrorist organizations is an effective tool. However, [she](#) also stated that – when compared to the United States – Canada rarely reviews the extent to which individuals and organizations listed as terrorists and terrorist organizations are denied financial services and funds, or the extent to which individuals or organizations are prosecuted for violations of the *Criminal Code* and the *United Nations Act* regarding the provision of financial services or funds to listed terrorists and terrorist organizations. [Christian Leuprecht](#) observed that the lists of terrorists and terrorist organizations are ineffective, as these organizations regularly change their name and split into different entities; consequently, individuals belonging to these organizations could be listed instead. The [Anti-Money Laundering Association](#) noted that terrorist organizations have many affiliates, and it is difficult to sanction every related entity.

## **E. Other Measures to Prevent Terrorist Financing**

In speaking about Canada's efforts to assist other countries in preventing terrorist financing, the [Department of Finance](#) noted that it provides assistance through DFATD's capacity-building program in certain countries in the Americas, the Middle East and South Asia.

According to [Christine Duhaime](#), there would not be an Islamic State today or the current extent of terrorist activities if counterterrorist financing laws and sanction laws were respected throughout the world. The [Royal United Services Institute](#) proposed that Canada should restrict the flow of funds to ISIL by ensuring that the countries that surround Syria and Iraq comply with international obligations and sanctions in relation to the prevention of terrorist financing and that they are able to monitor financial flows.

The [Anti-Money Laundering Association](#) called on the government to request information from the UN Al-Qaida Sanctions Committee Monitoring Team and the Counter-Terrorism Committee Executive Directorate on the effectiveness and impacts of UN Security Council Resolutions 1267 and 1373; these resolutions imposed sanctions against Al-Qaida and the Taliban and implemented anti-terrorism measures respectively.

## CHAPTER 6: CONCLUDING THOUGHTS AND RECOMMENDATIONS

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During the study, witnesses spoke to the Committee about the low level of terrorist financing that has been detected in Canada. They also commented on the limited number of prosecutions under Canada's anti-money laundering and anti-terrorist financing regime. However, witnesses suggested that this outcome was a result of many cases of money laundering and terrorist financing going undetected, so more could be done to detect terrorist financing and increase investigative capacity, which could lead to more prosecutions with these expanded capabilities. Some witnesses stated that the risk of terrorist financing in Canada is lower than in other countries, while others highlighted that limited detection and prosecution of terrorist financing in Canada do not mean that there is a low risk of terrorist financing in Canada or that Canadian entities are not being used to raise or transfer terrorism-related funds abroad. The majority of witnesses suggested that terrorist financing is an increasingly problematic issue globally, and that there must be united international efforts to stop the flow of funds to terrorists.

In this context, the Committee believes that implementation of the following recommendations would increase the effectiveness of Canada's anti-money laundering and anti-terrorist financing regime, and would contribute to global efforts to combat terrorist financing. Consequently, the Committee recommends that:

- 1. The federal government continue to recognize the cost and prevalence of terrorist financing both globally and in Canada. Efforts should be directed to educating legislators, law enforcement agencies and the public about the connection between terrorist financing and terrorist activity. Moreover, any federal actions to fight terrorism should consider the financing angle.**
- 2. The federal government, in its fight against the Islamic State of Iraq and the Levant (ISIL), explore new ways to disrupt ISIL's financing sources. In particular, in addition to building and training local and regional security forces, the government should target ISIL's administrators, financial collectors and distributors.**
- 3. The federal government, in light of the numerous global cases of charities being used to raise and transfer funds for terrorist financing purposes, continue its efforts to bring increased transparency to the charitable sector in Canada. As part of these efforts, the Canada Revenue Agency should be encouraged to work more closely with charities to ensure their compliance with anti-terrorist financing laws. Increased transparency in the charities sector should not unnecessarily burden legitimate charities.**

- 4. The federal government, with its international allies, track key facilitators of terrorist financing and work with social media networks to recognize, and take action, when their platforms are being used for illegal activities.**
- 5. The federal government work with all relevant stakeholders to create the expertise and operational capabilities that would enable Canada to take a leadership role in counterterrorist financing. Actions in this regard could include supporting a private sector-led financial crime centre to act as a centre of excellence and to facilitate dialogue between the public and private sectors.**
- 6. The federal government, recognizing increased instances of terrorist financing, develop a review mechanism for the Financial Transactions and Reports Analysis Centre of Canada that would enable an examination of its efficiency, objectives and capabilities.**
- 7. That the federal government urge financial institutions in Canada to improve the training provided to their compliance officers, ensuring that they are able to properly identify suspicious transactions so that genuine suspicious transactions reports are sent to the Financial Transactions and Reports Analysis Centre of Canada.**
- 8. The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and entities required to report under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* work to improve communication between them. The federal government should ensure that FINTRAC is providing proper guidelines and guidance to reporting entities on how to identify suspicious transactions and submit reports that are useful. As well, FINTRAC should make greater efforts to provide Canada's financial institutions with typologies of terrorist financing activities as a means of improving the information that is provided to it. Finally, FINTRAC and reporting entities should provide adequate feedback to each other in order to improve Canada's counterterrorist financing regime.**
- 9. The federal government, in recognizing that many transfers occur below the current \$10,000 threshold, consider lowering the threshold for reporting international electronic funds transfers.**
- 10. The federal government work with the appropriate stakeholders to develop a digital counterterrorism strategy with a view to keeping pace with illicit fundraising using digital technologies.**
- 11. The federal government encourage the Royal Canadian Mounted Police (RCMP) to build and retain the prevention and investigative capacity that is needed to deal with complex financial investigations.**

**As well, the RCMP should create a specialized and dedicated terrorist financing unit within its force.**

**12. The federal government initiate a study to clarify the role of charitable organizations in order to protect legitimate entities in Canada's charitable sector and to prevent charities from being used as vehicles for terrorist financing.**

**13. The federal government consider expanding the investigative capacities of the Royal Canadian Mounted Police and other Canadian intelligence agencies in order to ensure that they can address terrorist financing.**

**14. The federal government encourage the Canada Revenue Agency to disclose information to the Financial Transactions and Reports Analysis Centre of Canada when that information is relevant to cases of terrorist financing.**

**15. The federal government, in seeking to ensure that all entities that are vulnerable to money laundering and terrorist financing are covered, consider expanding the list of entities that are required to report under Canada's anti-money laundering and anti-terrorist financing regime.**





## APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p><b>Department of Finance</b>            Josée Nadeau, Senior Chief, Financial Crimes – International            Rob Stewart, Assistant Deputy Minister,            Financial Sector Policy Branch</p>	2015/03/24	73
<p><b>Financial Transactions and Reports Analysis Centre of Canada</b>            Luc Beaudry, Manager, Terrorism Financing Intelligence Group            Gérald Cossette, Director</p>		
<p><b>Canada Revenue Agency</b>            Cathy Hawara, Director General,            Charities Directorate, Legislative Policy and Regulatory Affairs            Branch            Rick Stewart, Assistant Commissioner,            Legislative Policy and Regulatory Affairs Branch</p>	2015/03/26	74
<p><b>Canadian Security Intelligence Service</b>            Michael Peirce, Assistant Director Intelligence</p>		
<p><b>Royal Canadian Mounted Police</b>            Stéphane Bonin, Director, Financial Crime</p>		
<p><b>As individuals</b>            Christine Duhaime, Lawyer, Duhaime Law            Paul Kennedy            Christian Leuprecht, Associate Dean and Associate Professor,            Faculty of Arts, Royal Military College of Canada            Bill Tupman, Professor, BPP University / University of Exeter</p>	2015/03/31	75
<p><b>Anti-Money Laundering Association</b>            Amit Kumar, Senior Fellow</p>		
<p><b>Office of the Privacy Commissioner of Canada</b>            Daniel Therrien, Privacy Commissioner of Canada</p>		
<p><b>As an individual</b>            Haras Rafiq, Quilliam Foundation</p>	2015/04/23	76
<p><b>British Columbia Civil Liberties Association</b>            Micheal Vonn, Policy Director</p>		
<p><b>Clement Advisory Group</b>            Garry W.G. Clement, President and Chief Executive Officer</p>		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Fasken Martineau DuMoulin LLP</b> Koker Christensen, Partner	2015/04/23	76
<b>MNP LLP</b> Matthew McGuire, National Leader, AML Practice Investigative and Forensic Services		
<b>As individuals</b> Anthony Amicelle, Criminology Professor, Department of Criminology, Université de Montréal Edwin Black, Author and Historian John Hunter, Hunter Litigation Chambers Loretta Napoleoni, Author and Economist	2015/04/30	78
<b>Canadian Bankers Association</b> Ron King, Senior Vice-President, Head, Corporate and Canadian Banking Compliance		
<b>Canadian Bar Association</b> Samuel Schwisberg, Executive Member, Charities and Not-for-Profit Law		
<b>Carters Professional Corporation</b> Terrance Carter, Managing Partner		
<b>Royal United Services Institute</b> Tom Keatinge, Director, Centre for Financial Crime and Security Studies		
<b>TD Bank Financial Group</b> Michael Donovan, Vice-President, Deputy Global Anti-Money Laundering Officer		
<b>As individuals</b> Vivian Krause Martin Rudner, Distinguished Research Professor Emeritus, Carleton University	2015/05/05	79
<b>Egmont Group of Financial Intelligence Units</b> Kevin Stephenson, Executive Secretary		
<b>Foundation for Defense of Democracies</b> Yaya Fanusie, Director of Analysis, Center on Sanctions and Illicit Finance		
<b>RAND Corporation</b> Patrick Johnston, Political Scientist		

## **APPENDIX B LIST OF BRIEFS**

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### **Organizations and Individuals**

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**Anti-Money Laundering Association**

**Canadian Bar Association**

**Carters Professional Corporation**

**Clement Advisory Group**

**Foundation for Defense of Democracies**

**Heng, Yee-Kuang**

**Hunter, John**

**Leuprecht, Christian**

**Levitt, Matthew**



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 73-76, 78-79, 88 and 89](#)) is tabled.

Respectfully submitted,

James Rajotte

Chair



**SUPPLEMENTARY OPINION**  
**FROM THE NEW DEMOCRATIC PARTY (NDP)**

The Official Opposition members of the Standing Committee on Finance thank all witnesses who took the time to present their views and policy recommendations during the Committee's study on terrorism financing. We are pleased to support the majority report; however, we believe there are a number of important issues which are not addressed in the majority report.

New Democrats believe the government should do all it can to combat terrorism and protect Canadian lives, including stemming the flow of money to support terrorist activities. However, New Democrats believe that we need a broad and balanced approach to combatting terrorism.

The NDP members of the committee believe that many of the shortcomings in Canada's fight against the financing of terrorism stem from the government's misplaced priorities and misplaced resources.

We note that the Canada Revenue Agency's budget for the pursuit of terrorism financing remained stagnant for years. Meanwhile, in 2012, the government chose to devote \$13.4 million towards the CRA's political pursuit of environmental charities in Canada. This ideological move has, unsurprisingly, generated few results.

Charities in Canada serve a crucial role in public debates, and advocate and provide direct support for the most vulnerable in our society. There are more than 85,000 charitable organizations in Canada yet, during testimony, the Committee heard that only one prosecution has been carried out against a Canadian charity for terrorism financing. If the government truly believes that charities are actively involved in the financing of terrorism in Canada, their approach has clearly fallen short. In fact, it appears that efforts to date have only harmed the capacity and reputation of the charitable sector in Canada.

We also note that the RCMP continues to face serious challenges with building necessary capacity to track and prosecute those engaged in terrorist financing. Dr. Christian Leuprecht underlined the dearth of RCMP officers who are trained to track and investigate terrorist financing. Mr. Garry Clement, a former RCMP officer, noted that training and retaining officers in this area is a significant challenge for the RCMP. We believe the government must make it a priority to address these internal challenges.

Finally, we note that, at the time the Finance Minister requested that the Committee undertake this study, two years had passed since the completion of a nearly identical study by a Senate committee. The 2013 Senate study issued 18 recommendations, only six of which have been acted upon by the government. Many of the issues and prescriptions that the Committee heard over the course of this study would have been addressed had the government enacted the recommendations it already had in hand.



## Supplementary Report of the Liberal Party of Canada

Terrorist financing is an important issue of national security. The government's response to the threat of terrorism involves methods that merit both secrecy and responsible oversight. Unfortunately, this study into terrorist financing was constrained by the complete inability of the House of Commons Standing Committee on Finance to access classified information, as well as insufficient subject matter expertise among Committee members in the area of national security. As a result, this study only scratches the surface.

### Insufficient information and oversight

Canadians want their government to take a balanced approach that protects both public security and civil liberties. They understand that without collective security, the individual freedoms we cherish as Canadians cannot exist. At the same time, Canadians expect that the government will put in place safeguards to ensure that new powers to protect us are not abused.

Recent legislation pertaining to terrorist financing has expanded the government's ability to share personal information across departments and agencies. The Committee heard concerns about the government's treatment of this information as well as the need for greater oversight to protect the privacy rights of Canadians.

The Committee also heard about a lack of available information on Canada's anti-terrorist financing regime, and a resulting inability to determine whether the regime is even meeting its objectives or not. For example, insufficient material was available on how FINTRAC analyzes financial intelligence and interacts with our national security agencies. More broadly, the Committee heard about the need for greater oversight of these security agencies.

It was clear throughout this study that the Parliament of Canada requires a national security committee comprised of members who have sufficient security clearance to access classified materials. Only then can Parliament provide the requisite oversight of our national security agencies. Such a committee could also conduct a proper study into terrorist financing.

### **Recommendations:**

- 1. That a national security oversight committee comprised of parliamentarians be established, similar to the oversight committees of our allies in the Five Eyes alliance, to provide regular, ongoing oversight of our national security agencies.**
- 2. That the Privacy Commissioner of Canada be asked to provide an annual public report on information sharing between departments and agencies.**

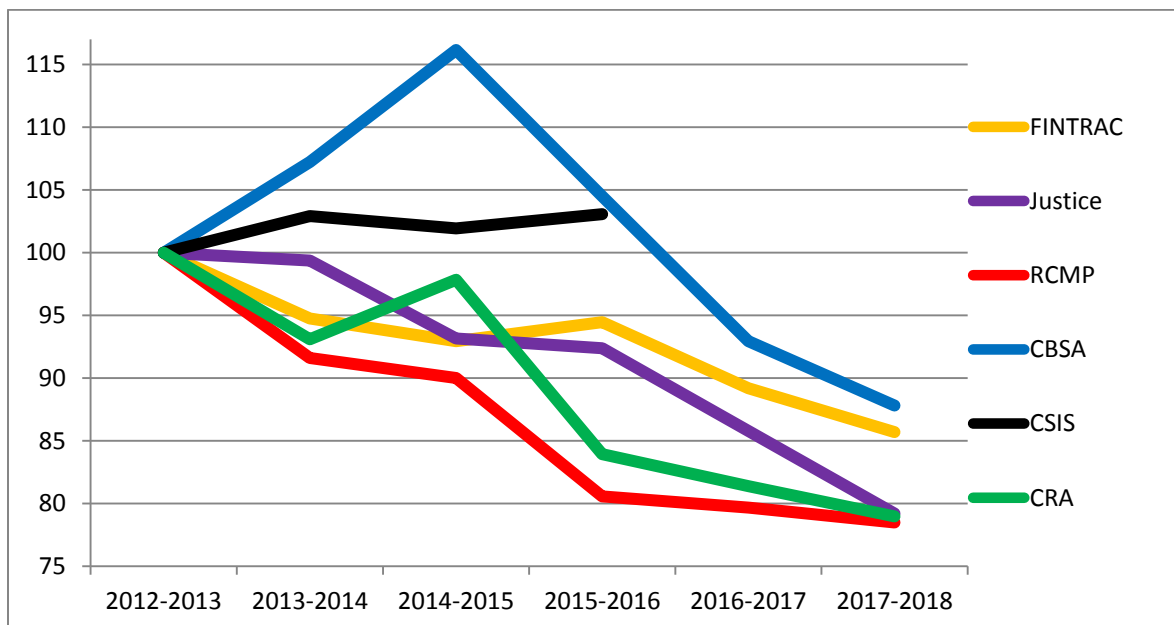
## Insufficient resources

The Committee heard that the investigation and disruption of terrorist financing activities is a key component of Canada's response to the threat of terrorism. CSIS, the CBSA, the RCMP and the CRA – with the support of FINTRAC intelligence – all play an important role in this regard. However, the Committee also heard that the government's ability to conduct such investigations and prosecute terrorist financing offences is being compromised by a lack of resources.

Of particular concern is the issue of insufficient resources and training at the RCMP. In June 2011, the Auditor General was already warning Canadians that the RCMP was "[straining to deliver national police services](#)" with its existing resources. Since then, the RCMP's budget has been cut by 11.5 percent, adjusting for inflation, and is projected to be cut by a further 14.3 percent over the next four years. CRA faces similar cuts. In fact, most of the departments and agencies responsible for investigating and disrupting terrorist financing activities are being cut.

### **Departmental funding, adjusted for inflation**

(100 = departmental funding in 2012-13)



Source: calculations using the [Public Accounts](#), [Departmental Performance Reports](#), [Reports on Plans and Priorities](#), [Supplementary Estimates](#), and [CANSIM](#) Table 326-0020

### **Recommendation:**

- 3. That the federal government reverse recent budgetary cuts that diminish the government's ability to investigate and prosecute terrorist financing offences.**