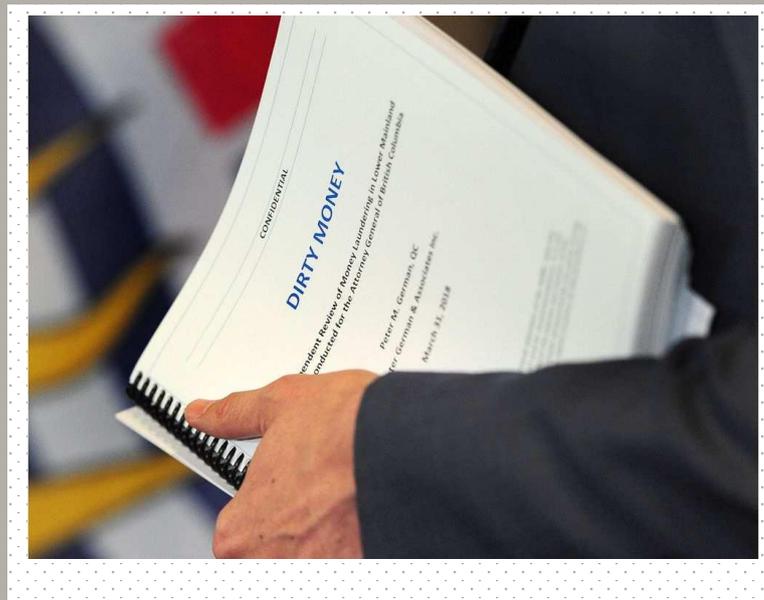


MONEY LAUNDERING LAUNDROMATS: B.C., CANADA CASINOS #AML #Casinos #Canada



On June 28, 2018, the British Columbia (“B.C.” or “Lower Mainland”) government in Canada pledged widespread oversight reforms of the casino industry after, Peter German, QC (“P. German”), a former Deputy Commissioner of the Royal Canadian Mounted Police (“RCMP”), released an independent report titled, *Dirty Money*, condemning the casino industry on its collective system failure in Money Laundering (“ML”) prevention.

Overview of the Dirty Money Report on Money Laundering in Casinos

How Money Laundering Flourished

Between 2010 and 2016, approximately \$650 million in suspicious transactions (two-thirds in \$20 bills) flowed through B.C. casinos.

According to Peter P. German, the Principal of a company providing investigative and strategic advice to public and private entities, for many years, B.C. casinos unintentionally served as “laundromats” for the proceeds of organized crime. P. German noted that organized crime syndicates (primarily groups from Asia involved in illegal drug procurement, drug importing, and distribution and trafficking) laundered money through B.C. casinos, then invested it in Vancouver-area real estate in a scheme dubbed, the “Vancouver Model.”

The Vancouver Model flourished because of provincial laws and existing processes and structures that were unable to keep up and effectively counter ML activity. This was exacerbated by years of denial from various government/political officials, alternate hypotheses, evolving sophistication in criminal tactics, ineffective strategies to try to reduce large cash buy-ins, and an outmatched AML regulatory unit.

P. German issued 48 recommendations (https://news.gov.bc.ca/files/P_German_Gaming_Final_Report.pdf), including the creation of an independent regulator funded by gaming revenue, and a designated gaming police force, that the Canadian casino industry should implement to reduce ML. P. German said the B.C. government should implement all 48 recommendations to effectively combat ML

activities in B.C. casinos. In many cases, these recommendations should be considered by Casinos across Canada in order to enhance their controls. As of September 2018, the B.C. government implemented nine of P. German’s recommendations. The timeline for implementing the remaining 39 recommendations is still pending.

Casino Money Laundering Risk

How the Scheme Works

As generally understood, ML is the process of converting ill-gotten profits, from criminal activity, into funds that appear to have originated from legitimate means.

Often, money launderers attempt and/or achieve this by using banks to place the illegal funds into the financial system, and then immediately make a series of rapid banking transactions. Some of the strategies money launderers deploy to use casinos as a vehicle for ML activities include:

- Using accounts at casinos to make large-scale transfers;
- Using “front people, mules, and cleanskins,” through whom gaming transactions are channeled, to avoid direct involvement in the money laundering process;
- Using illicit cash to purchase casino chips or gaming tokens, then cashing in the “wined” chips or tokens for prize money, which is given to the money launderer from a legitimate source;
- Taking advantage of the significant volume of transactions, and the need for quick processing of payments at casinos;
- Partaking in high-stakes gambling and other activities in casino VIP rooms where large private cash transactions may not be

recorded and are out of view from the main gambling areas¹; and

- Laundering smaller amounts of cash using electronic gaming machines.

For these reasons, casinos may be an easier ML target than banks for placing ill-gotten funds into the financial system.

Canadian Casino Regulatory Landscape

Provincial Authorities

Gambling in Canada differs from many other jurisdictions, including the United States. The Canadian government regulates authorized gambling.

Generally, there are four types of regulated gambling in Canada:

- Land-based gambling, including casinos, bingo halls, fairs or charity events;
- Lotteries, such as B.C.'s Lotto 6/49;
- Online gambling through websites operated by the provincial lottery corporations; and
- Betting on horse races at federally regulated tracks, or online through approved horseracing systems.

In Canada, the provincial authorities have the exclusive right to determine which type of gambling activities are allowed in their provinces. In addition, all provincial authorities (including British Columbia Lottery Corporation ("BCLC") for B.C.; Loto-Québec for Québec; Alberta Gaming and Liquor Commission for Alberta; the Alcohol and Gaming Commission of Ontario ("AGCO") and the Ontario Lottery and Gaming Corporation ("OLG") for Ontario) must ensure compliance with the Proceeds of Crime and Terrorist Financing Act ("PCMLTFA") federal AML legislation. Furthermore, provincial authorities

must comply with the supervision of the Financial Intelligence Unit, Financial Transactions, and Reports Analysis Centre ("FINTRAC"). In addition to providing guidance to provincial units, FINTRAC's responsibilities include analyzing information contained in financial reports provided to it by certain institutions, and auditing the casinos and other gambling institutions. Moreover, in addition to reporting to FINTRAC, Ontario casinos must immediately notify the AGCO and the Investigation and Enforcement Bureau (comprised of Ontario Provincial Police members) of any suspicious activity.

AML Requirements for Canadian Casinos

FINTRAC's guidance is applicable to all Canadian casinos, regardless of the Province in which they are domiciled. FINTRAC issued the following guidance, for how casinos comply with the PCMLTFA legislation and combat ML and TF activities:

¹ Large, private cash transactions that are not always recorded and are out of view from the main gambling areas.

Compliance Program

A comprehensive and effective compliance program is the basis for meeting the obligations under the PCMLTFA. A senior officer is required to approve the compliance program and the compliance officer must have the necessary authority to carry out the execution of the program.

Know Your Client

Casinos must follow 'Know Your Client' ("KYC") and verify the identity of their clients for certain activities and transactions. To adhere to the KYC requirement, casinos are to follow the prescribed client identification methods, and conduct and implement additional checks and controls necessary for effective KYC compliance.

Reporting

Casinos are required to submit reports to FINTRAC that cover activity related to certain transactions and property. Financial transaction reports are critical to FINTRAC's ability to analyze transactions in order to develop financial intelligence for possible disclosure to law enforcement and partner agencies. Therefore, in examinations, FINTRAC will review the quality of casino reporting. Casinos with internet capability, must submit reports to FINTRAC electronically, except for Terrorist Property Reports, which must be hard copy. Casino reporting requirements are outlined as follows:

- **Suspicious Transactions:** Casinos must report to FINTRAC within three days after the day on which it took measures to establish that there are reasonable grounds to suspect, that a transaction or attempted transaction relates to ML or TF.
- **Large Cash Transactions:** If, within a 24-hour period, a casino receives CAD \$10,000 or more in cash in a single transaction or in multiple transactions, it must submit a report within 15 calendar days.
- **Electronic Funds Transfers:** If, within a 24-hour period, a casino

sends or receives client-initiated instructions to transfer CAD \$10,000 or more internationally, either in a single transaction or in multiple transactions, it must submit a report within five business days.

- **Casino Disbursements:** If, within a 24-hour period, a casino disburses CAD \$10,000 or more, either in a single transaction or in multiple transactions, it must submit a report within 15 calendar days.
- **Terrorist Property:** If a casino knows that a terrorist or terrorist group owns or controls property in the casino's possession or under its control, it must submit a report to the RCMP and the Canadian Security Intelligence Service ("CSIS").

Recordkeeping

Casinos are responsible for keeping certain account, transaction, and client identification records. These records are to be retained in such a way that they can be provided to FINTRAC within 30 days. Casinos may retain a record in different formats as long as they can produce paper copies. In addition to the record-keeping requirements outlined in the KYC guidance, casinos must retain records of the required information, for at least five years from the date of the transaction.

FINTRAC Amendments

On June 9, 2018, FINTRAC announced the amendments to the regulations to the PCMLTFA's AML legislation.

FINTRAC designed to improve recordkeeping, reporting, and overall compliance with regulatory requirements, to further combat ML and TF in Canada. Casinos should pay particular attention to the revisions for the following:

- **Suspicious Transaction Reports:** Threshold revised from the from 30 days to three days;

- **Record Keeping:** Expanded the definition of deposit slips, which now includes all known details that identifies the deposit;
- **Pre-Paid Payment Products:** Enhanced record-keeping requirements in respect of pre-paid payment product accounts;
- **Electronic Funds Transfers:** Revised from only reporting EFTs that are requested by clients, to reporting EFTs requested by a person or entity regardless if they are a client, and reporting any virtual currency funds transfer transaction of CAD \$10,000 or more received by a casino;
- **Identity Verification:** A document used for verification of identity no longer has to be original, but must be authentic, valid and current;
- **Virtual Currency:** Casinos must report to FINTRAC the receipt of CAD \$10,000 or more in virtual currency; and

Authorized Persons: For all persons authorized to give instructions on an account, casinos must keep records on the person's name, address, telephone number, date of birth, and the nature of their principal business/occupation.

- Follow FINTRAC's AML guidance for casinos, including proper implementation of a Compliance Program, KYC, Recordkeeping, and reporting;
- Ensure all applicable business-operation registrations are up-to-date;
- Assess existing policies and procedures for coverage of the 48 recommendations in the Lower Mainland report and revise as deemed necessary;
- Implementation plan for Regulatory Remediation and Corrective Action Plans, including gaps identified in a review of the Lower Mainland recommendations;
- Conduct model testing and data validation on AML/ CFT systems;
- Ensure AML consistency across affiliate and or subsidiary casinos; and
- Train employees on revised AML policies and procedures.

Best Practices to Combat Money Laundering

Actions Casinos Should Take

Though P. German's recommendations targeted Lower Mainland casinos, ML occurs throughout Canada and siphons approximately \$5 - \$15 billion annually from the Canadian economy.

P. German report modeled a number of recommendations (namely the policing unit) off the Ontario Provincial Police's Casino Bureau. Similarly, casinos in Canada may consider leveraging some of the Lower Mainland recommendations to strengthen their compliance with FINTRAC and other applicable regulatory body requirements.

To strengthen compliance with FINTRAC and applicable Provincial AML regulations, casinos should consider taking the following actions:

- Review all applicable AML regulatory requirements;

Conclusion

Asses, Strengthen, Revise

Though B.C. and other Canadian gambling jurisdictions have implemented AML Programs and measures, due to the cash-intensive nature of the industry, reduced identification requirements, sophistication of criminals, and outdated laws, casinos continue to be high-risk for ML and TF.

The P. German Report exposed these risks, which described B.C. casino vulnerability and potential liability for ML violations. P. German made 48 recommendations to help combat ML and TF in B.C.; however, these recommendations should also be considered as best practices to be followed in casinos across Canada.

As noted above, the Lower Mainland casinos need to address the report's recommendations, as well as casinos across Canada for enhancing and improving their controls. Casinos should not wait until FINTRAC issues an enforcement action before

enhancing their AML controls. The time is, now, for casinos to assess, strengthen, revise, implement, and be prepared for FINTRAC.

Key Takeaways

- A large amount of dirty money has flowed through B.C. casinos and into the real estate industry.
- Casinos must implement a written Compliance Program and appoint a compliance officer.
- P. German issued 48 recommendations for Canadian casinos to implement, to reduce ML/TF risks. So far, B.C. officials have implemented nine recommendations.
- The recommendations include the creation of an independent regulator funded by gaming revenue, and a designated gaming police force.
- Some or all of P. German's recommendations can apply to casinos in other Provinces.
- There are five reporting scenarios (four transaction reports and one terrorist property) casinos must report to FINTRAC. Reporting requirements vary depending on the type of report filed.
- Casinos should revise their policies, procedures and controls to account for FINTRAC's revised recommendations to combat ML and TF.
- There is pressure to put more responsibility on casinos to know their gamblers.
- PCMLTFA requires casinos to implement a Compliance Program, and KYC, Reporting, and Recordkeeping controls.

Sources

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