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Background

The survey was open from mid-June to early September 2018, and allowed participants the opportunity to submit comments without identifying information. All questions were optional (respondents could choose whether or not to answer any question).

There were a total of 26 respondents. The results are presented in their raw form, without additional editing or formatting.

Survey Intro Text

On June 9th, 2018, draft amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and its enacted regulations (there are five separate regulations, that we're going to collectively call regulations here for simplicity's sake). While not all of the proposed amendments are related to virtual currency, many are (the term virtual currency comes up 304 times in about 200 pages). This article is intended to give a high-level summary of the proposed amendments as they relate to virtual currency for businesses in that industry (exchanges, brokerages, etc.).

This survey is intended to collect feedback from people and businesses that serve Canadians. We will be using the feedback provided to craft a submission to the Department of Finance. You are not required to provide company or personal information in order to participate.

The comment period for the draft itself (the time during which the Department of Finance is accepting comments) is 90 days. In order to give us time to read and synthesize responses, this survey will be closed prior to the final submission date.

Thanks!

The Outlier Canada Team

Question 1: Defining "Virtual Currency"

The proposed amendments define "virtual currency" as: (a) a digital currency that is not a fiat currency and that can be readily exchanged for funds or for another virtual currency that can be readily exchanged for funds; or (b) information that enables a person or entity to have access to a digital currency referred to in paragraph. Is this an accurate definition in your view? If not, what would you change?

Statistical Data

This was an open-ended question. Of 26 total respondents, 13 answered this question.

Response Data

1. Yes
2. No. I would add in elements that use all properties of money: medium of exchange, store of value, unit of account. So, "a digital currency that is not a fiat currency, though still maintains the properties of money and can be used as a medium of exchange, unit of account, or store of value." So for example, mPesa in Kenya does not fall within the above definition, but it is form of virtual currency.

3. The proposed definition of "virtual currency" is overly broad. I feel that such a far-reaching definition would have unintended consequences, especially for virtual currencies that are transferable to another virtual currency, or that are intended to be transferable once certain conditions are met. A more fulsome definition would articulate parameters under which such an exchange is clearly an exchange of monetary value, and when the exchange of virtual currencies can be seen as having functional utility in a particular circumstance. This nuanced delineation allows for a more comprehensive understanding of what virtual currencies are, and what they are not.
4. N/A
5. Yes
6. (b) is extremely broad. It's hard to understand what it means. And, even for information that does create relationship with virtual "currency", it's hard to assimilate that into being currency on its own.
7. section (b) sounds too vague. This could apply to digital wallet passwords for example.
8. Virtual currency is a misnomer. It should be called Digital Currency based upon Bitcoin market value. It is tokenized assets exchanged over the internet using blockchain technology, could be fiat digital currency which we have already with online bank accounts and credit card.
9. I think b is very vague. "Information" may mean private key but it might also mean user/pass of a hosted wallet. Not seeing how that's far off from considering loyalty points as being a virtual currency.
10. Yes
11. yes, that seems quite fair.
12. No. a) isn't effective or clear. What is "paragraph"? "Information" could be clearer (i.e. digital unit, etc.)
13. I feel the term 'virtual currency' in itself is confusing when used in the context of cryptocurrencies like Bitcoin. Every cryptocurrency is a virtual currency but vice versa is not true. To start with, there should be clear distinction between the 2. Even Sodexo cards, mobile coupons are virtual currencies.

Question 2: Definition of Virtual Currency Exchange Transactions

The proposed amendments would create certain recordkeeping and reporting requirements related to virtual currency exchange transactions, defined as: an exchange, at the request of another person or entity, of virtual currency for funds, funds for virtual currency or one virtual currency for another.

Do you anticipate any issues based on this definition?

What types of businesses do you think would be captured/regulated according to this definition?

Statistical Data

This was an open-ended question. Of 26 total respondents, 11 answered this question.

Response Data

1. No
2. This is problematic. Buying a starbucks points card would then require AML checks to occur at the point of sale or recharging of the card, or when those starbucks points are redeemed for a purchased good (or back into cash).
3. I think that the record keeping requirements are necessary, even though they may impose a burden on some players. It may just be a necessary growing pain in the maturation of the industry. However, I foresee an enforcement gap, which will create an uneven playing field for Canadian companies. Moreover, collecting large amounts of pii data creates the potential of large data breached, which I think industry and regulators are not fully alive to. Also, the proposed amendments will create very onerous requirements for certain businesses, this may require some players to change their business models or exit the space completely.
4. Yes - Trading can be done peer to peer via a decentralized exchange. This would be impossible to enforce and would simply stifle innovation in Canada as teams developing applications would have no choice but to relocate.
5. Not sure. This would capture crypto currency exchanges as well as informal services that exchange crypto currencies and fiat currencies.
6. recordkeeping would be a significant regulation that will cost businesses dearly. There is already a mechanism for reporting virtual currency earnings, and that is the T1 General the the T5
7. I expected this and am not shocked in any way.
8. This seems fairly comprehensive, covering physical/online versions of traditional exchanges and P2P platforms.
9. This definition may not cover transactions that take place on decentralized, peer-to-peer platforms. Do the regs. clarify when an "exchange" is done on a personal vs. professional basis (i.e. will each P2P actor have a record keeping obligation)?
10. I believe currency exchanges should be captured in this, however only exchanges.
11. Brokers , fund managers etc who act on behalf on others in the context of cryptocurrency specifically

Question 3: Virtual Currency Exchange Transactions

The proposed amendments would create a requirement to identify customers (using specific prescribed methods) and collect information for virtual currency exchange transactions valued at CAD 1,000 or more (sending, receiving, or exchanging).

Specifically:

(a) the date of the transaction;

(b) the name, address and telephone number of the person or entity that requests the exchange, the nature of their principal business or their occupation and, in the case of a person, their date of birth;

(c) the type and amount of each of the funds and virtual currencies involved in the payment made and received by the person or entity that requests the exchange;

(d) the method by which the payment is made and received;

(e) the exchange rate used and the source of the exchange rate;

(f) the number of every account that is affected by the transaction, the type of account and the name of each account holder;

(g) every reference number that is connected to the transaction; and

(h) every other known detail that identifies the transaction.

Does this collection of identification and information make sense to you? If not, why not? What issues do you foresee?

Statistical Data

This was an open-ended question. Of 26 total respondents, 11 answered this question.

Response Data

1. Yes
2. This is far reaching control and requires too much information. Perhaps a key contained by an individual that contains a lot of the information could be attached to the transaction that holds this information, but it is only disclosed via a court order.
3. Yes, the collection of identification and information makes sense. However, it does impose a very onerous burden on Canadian companies operating in the space.
4. No - decentralized trading will allow individuals to request and receive trade offers without the need for identification. It will become impossible to enforce this on the individual level and will only be preventing Canadian startups from developing decentralized trading applications.
5. This will create a lot of reporting overhead for exchanges and financial institutions. Also, it seems that too much personal information is required for a relatively small transaction.
6. Establishment banks are interested in a level playing field in the crypto markets regarding the KYC requirement. However, there will be difficulty in enforceability due to the nature of some crypto currencies called secure coins. The top 5 crypto currencies are not anonymous contrary to what you have heard. They are pseudo-anonymous. The blockchain is public and has the transactions reported to and from wallet addresses. There are many tools available for Tax, Government, and law enforcement authorities to utilize to search source and identities of transactions.
7. Should bump it up to 3k, as defined in the FX exchanges, but otherwise reasonable

8. This does make sense for on ramps and offramps, but is very impractical for exchanging. It will likely create a competitive disadvantage to the exchanges that provide this level of transparency and those that do not. Perhaps that is good, however, as it can concentrate legitimate purchasers on certain platforms while others who wish to remain anon will gravitate to those that better protect their privacy.
9. Missing is the nationality of the person / controlling person of a legal entity for PEP & sanction screening.
10. This is wide open to all businesses, not just exchanges. This is a ridiculous requirement set to be introduced to small merchants who want to accept cryptocurrencies as a form of payment. The limit also seems too low.
11. First of all the limit of 1000 CAD itself is something I don't agree with. It should be something like 10,000 CAD. Assuming the transaction is on a blockchain then I feel you just need identity documents regarding to the sender/receiver addresses. Remaining data should be fetched from the blockchain and public trusted APIs

Question 4: Sending & Receiving Virtual Currency

The proposed amendments include rules related to sending or receiving virtual currency on someone else's behalf.

Specifically:

(g) if they transfer an amount of \$1,000 or more in virtual currency at the request of a person or entity, a record of

(i) the date of the transfer,

(ii) the type and amount of each virtual currency that is involved in the transfer,

(iii) the person's or entity's name, address and telephone number, the nature of their principal business or their occupation and, in the case of a person, their date of birth,

(iv) the name, address and telephone number of each beneficiary, the nature of their principal business or their occupation and, in the case of a person, their date of birth,

(v) the number of every account that is affected by the transfer, the type of account and the name of each account holder,

(vi) every reference number that is connected to the transfer,

(vii) the exchange rate used and the source of the exchange rate, (viii) every other known detail that identifies the transfer,

(ix) the following information, if known:

(A) the type and amount of each virtual currency that is involved in the receipt,

(B) if the remittance is in virtual currency, the type and amount of each virtual currency involved,

(C) if the remittance is not in virtual currency, the type of remittance, and its value if different from the amount of virtual currency received,

(D) the number of every account that is affected by the receipt or the remittance, the type of account and the name of each account holder,

(E) every reference number that is connected to the receipt or the remittance, and

(F) every other detail that identifies the receipt or the remittance, and

(x) the purpose of the transfer;

(h) if they receive an amount of \$1,000 or more in virtual currency for remittance to a beneficiary, a record of

(i) the date of the receipt,

(ii) the type and amount of each virtual currency that is received,

(iii) the name, address and telephone number of each beneficiary, the nature of their principal business or their occupation and, in the case of a person, their date of birth,

(iv) the date of the remittance,

(v) the exchange rate used for the remittance and the source of the exchange rate,

(vi) if the remittance is in virtual currency, the type and amount of each virtual currency involved,

(vii) if the remittance is not in virtual currency, the type of remittance, and its value if different from the amount of virtual currency received,

(viii) the number of every account that is affected by the receipt or the remittance, the type of account and the name of each account holder,

(ix) every reference number that is connected to the receipt or the remittance,

(x) every other known detail that identifies the receipt or the remittance, and

(xi) the following information, if known:

- (A) the date on which the virtual currency was transferred,
 - (B) the type and amount of each virtual currency that is involved in the transfer,
 - (C) the name, address and telephone number of the person or entity that requested the transfer, the nature of their principal business or their occupation and, in the case of a person, their date of birth,
 - (D) the exchange rate used for the transfer and the source of the exchange rate,
 - (E) the number of every account that is affected by the transfer, the type of account and the name of each account holder,
 - (F) every reference number that is connected to the transfer,
 - (G) every other detail that identifies the transfer, and
 - (H) the purpose of the transfer;
- (i) a foreign currency exchange transaction ticket in respect of every foreign currency exchange transaction; and
 - (j) a virtual currency exchange transaction ticket in respect of every virtual currency exchange transaction.

Does this collection of identification and information make sense to you?

If not, why not? What issues do you foresee?

Statistical Data

This was an open-ended question. Of 26 total respondents, 9 answered this question.

Response Data

1. Yes
2. Once again, a dramatic over reach in information collection, centralizing information under a presumption of guilt. If I wanted to transfer to my son \$1,000 to go buy a new laptop for school (and he is at a different location) the burden on documentation is outrageous. Furthermore, imagine a time where bots and agents are doing work on behalf of their owners. A transfer of a virtual currency by one machine to another... this needs to be permitted. So for example, I belong to a future investment group that buys a fleet of self driving, long-haul trucks. The trucks are programmed to "go earn money by hauling freight". Periodically, the virtual funds earned by a fleet of vehicles would be transferred without owner or intervention. One fleet vehicle may pay for fuel, another vehicle may be compensated for a delivery, and finally there may be a collection of vehicles that has earned enough to programmatically be authorized to buy another fleet

- vehicle, or buy a mutual fund, or any other sort of action. In this instance, this would be a violation but it has to be accounted for.
3. No, the regulations relating to the sending of virtual currencies on someone else's behalf will not achieve the objectives of the legislation. Moreover, it is very difficult to automate beneficial ownership data collection, thus having accurate and up to date customer profiles for remittances to beneficiaries is operationally challenging. A potential salve would be to provide more clarification on the risk indicators.
 4. No - impossible to enforce. These regulations put Canada in a massive disadvantage and will push away innovative startups.
 5. This greatly increases the reporting overhead for exchanges and financial institutions.
 6. ID of clients should be verifiable, bone fide. Exchanges should be required to restrict to proper nationalities the use of their network. They will already have mechanisms to keep track of all client transactions as they take a percentage of every trade. Therefore should be easy for them to submit data. Any collection of data by government on transactions are meant for tax and law enforcement goals. I recognize this right of government. However it should not be at the expense of the industries growth opportunities. I understand the nature of governments and their requirement for income tax remittance by citizens and to combat Terrorist funding channels and money laundering. Regulation is burdensome on a burgeoning industry in Canada. I would recommend Canada look at Wyoming and their crypto currency regulations enacted recently and draw all the blockchain businesses to Canada with lighter regulations and legalize utility tokens as a commodity and not a security.
 7. Yup, as before
 8. Identifying the source of funds via questions relating to the "nature of their principal business or their occupation" could be set a higher threshold than 1k. Also missing is nationality for sanction / PEP screening.
 9. Individual, small businesses, MSBs etc cannot afford/ have time to maintain so many details

Question 5: Large Virtual Currency Transaction Reports

The proposed amendments include large virtual currency transaction records (including multiple transactions aggregated over a 24-hour period). In these cases, identification and information must be obtained, including:

- (a) the date of the receipt;
- (b) if the amount is received for deposit into an account, the name of each account holder;
- (c) the name, address and telephone number of every other person or entity that is involved in the transaction, the nature of their principal business or their occupation and, in the case of a person, their date of birth;

- (d) the type and amount of each virtual currency involved in the receipt;
- (e) the exchange rate used and the source of the exchange rate;
- (f) the number of every other account that is affected by the transaction, the type of account and the name of each account holder;
- (g) every reference number that is connected to the transaction;
- (h) every other known detail that identifies the receipt; and
 - (i) if the amount is received by a dealer in precious metals and precious stones for the sale of precious metals, precious stones or jewellery,
 - (ii) the type of precious metals, precious stones or jewellery,
 - (iii) the value of the precious metals, precious stones or jewellery, if different from the amount of virtual currency received, and
 - (iv) the wholesale value of the precious metals, precious stones or jewellery. (relevé d'opération importante en monnaie virtuelle)

In addition, MSBs would need to determine whether or not the customer is acting on someone else's behalf (and if so, collect additional information).

Such reports would need to be submitted within five business days after the transaction date.

Does this collection of identification and information make sense to you?

Does the timeline for submission make sense to you?

If not, why not? What issues do you foresee?

Statistical Data

This was an open-ended question. Of 26 total respondents, 7 answered this question.

Response Data

1. Yes
2. No. This assumes old way of business and transactions.
3. The timeline for reporting should be reasonable given the particular circumstance.
4. This will be burdensome to the exchanges and new blockchain businesses in general offering new services. Nature of business is too intrusive. Occupation of the persons is not applicable at all. I foresee more crypto based businesses not wanting to operate in Canada if this section is adopted.
5. Not surprised here either

6. I think this is highly impractical to determine if it's for a 3rd party, but it does make sense. 24 hours is probably too short of a window and is too easy to game and spread out transactions.
7. No comment

Question 6: Other Measures (Not In Draft)

Are there other measures that you believe might be more effective in combatting money laundering or terrorist financing than those that are being proposed here?

If so, what are they?

Statistical Data

This was an open-ended question. Of 26 total respondents, 9 answered this question.

Response Data

1. No
2. To circumvent these rules, it would be easy to ensure that all payments are under the threshold and then script bots that make multiple payments through various wallets in micro increments. Looking at on and off ramps for virtual currencies are a good start, but in that instance, people will simply stay in a virtual currency and see no need to go back to fiat.
3. Greater clarification on what are reasonable grounds to report. Succinct timelines regarding when suspicious transactions are discovered, when do you report, and how long is it reasonable to investigate. Compendious FINTRAC guidelines and indicators regarding criminal code offences and interpretations.
4. Focus on Canadian Dollar transfers only (what can actually be enforced). Identifying two parties trading 2 virtual currencies on a decentralized exchange is not feasible.
5. Collection of SIN number rather than taking so much information for each transaction. If a transaction needs to be investigated then SIN number can provide a lot of information.
6. Watching social media profiles and regular law enforcement efforts to circumvent money laundering activities. I do believe the laws on the books already cover crypto currency assets. If someone uses crypto assets in crime, law enforcement can investigate and charge. Lastly, businesses should be required to use client IDs at the very minimum, and a national identity card should be introduced to cover all jurisdictions in Canada that would be acceptable in any province. A national ID with fingerprint would be the best way to know who is using cryptocurrency assets legally.
7. logging things like IP addresses, better fraud control measures, personal liability for CAMLOs for their compliance programs.
8. No comment.
9. We need strong and better blockchain analysis tools. More education to regulators and authorities on how to use them.

Question 7: Other Comments or Concerns

Are there any other concerns or comments that you would like to address?

If so, please speak up!

Statistical Data

This was an open-ended question. Of 26 total respondents, 6 answered this question.

Response Data

1. no
2. Yes. Virtual currencies are an entirely new thing. Old rules should not be adapted, but new rules need to be created from scratch. Rethink a transaction as being between 1:N computers rather than people.
3. There seems to be little thought given to privacy concerns and potential data breaches. A wholistic approach to drafting AML legislation would turn their mind to these issues as well.
4. My company **redacted** would like to be involved in the process of submitting comments to the proposed regulations. Please let us know how we can help: **redacted**
5. If the reporting requirements are too onerous it could stifle the cryptocurrency industry in Canada. Some exchanges could close operations or move abroad.
6. Please please please, Canadian Government, enact laws that allow blockchain and Fintech businesses to operate here legally and transparently without fear of regulation. Legalize the use of cryptocurrency in any transaction. With these two measures, Canada will be the new silicon valley. Lastly, make it easier for ICO to legally register and offer themselves to the public. Do not allow the old boys in OSC to cripple opportunity. Allow for a Public Offering that is open and fair and allow the general public to invest not just accredited investors. Change happens quickly in the technological age, and digital currencies is even faster. Do not enact anything that will stifle legal and legitimate business growth in this new and emerging industry that I believe will reshape the world economy.