



CANADIAN GAMING ASSOCIATION

Addressing Anti-Money Laundering Gaps in Canada's Gaming Industry

Who We Are

The Canadian Gaming Association (CGA) is the national trade association that represents leading operators and suppliers in Canada's gaming, sports betting, eSports, and lottery industries - a full spectrum of companies from land-based and online casino operators to providers of global premium sports, eSports, and game content and technology. Its mandate is to advance the evolution of a regulated, responsible, and sustainable Canadian gaming industry through collaboration, education, and advocacy.

As the gaming industry's national association, the CGA has a long history of active participation in Canada's anti-money laundering and anti-terrorist financing regulations (collectively, "AML").

Specific to AML compliance, the CGA established a Regulatory Innovation Committee in 2019 to assist the gaming industry in Canada identify and develop innovations for the sector in Canada.

The Committee identified the use of "cashless wagering systems" as a potential innovation for use which will enhance the customer's experiences in land-based facilities and released "Standards for Cashless Wagering Systems" for implementation in jurisdictions across Canada after consultation with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). The provision for single digital wallets that many operators/jurisdictions wish to deploy allowing customers to access funds for land-based or online gaming from the same wallet.

Moving on to its next project, the Regulatory Innovation Committee created the AML sub-committee to identify changes to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) regulation that will ultimately help Canada's gaming industry navigate the implementation of products, services, and different conduct & manage models from an AML perspective over the next five years.

Participants on the AML sub-committee represent leading regulators, operators, and suppliers in Canada's gaming industry, and have extensive experience in AML monitoring and prevention of money laundering around the world. They have also provided the observations and recommendations that we now share with you in this document.

Our Goal

Our goal is to raise awareness of emerging trends and of what is possible so that the standards set for the operators are effective, achievable, and implementable, and to demonstrate that there is a wide range of applications for new and emerging technologies to help combat money laundering.



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We support the need for continued improvement in the operational effectiveness in Canada's AML regime, greater ability to share information and performance measures that focus on outcomes in combatting money laundering.

The Main Issues

1. The current definition of "casino" creates gaps and compliance challenges in the anti-money laundering (AML) regime for Canada's gaming industry. The Act does not speak to sports betting, excludes horse racing, and does not adequately address emerging technologies.
2. Several provinces have moved to a private-sector delivery model or have a mixed model for gaming and as a result, the entity that "conducts & manages" gaming is not involved in the day-to-day operation of casinos and has little-to-no interaction with customers. Given this evolution, it is imperative that private-to-private information sharing be permitted between all reporting entities.

Our Recommendations

1. New definition of "casino" that focuses on the activity of wagering.
2. Reporting entity changed to the actual operator of the lottery scheme (casino) instead of the "conduct and manage" crown corporation in provinces where crown corporations do not run the day-to-day operations of casinos.
3. Making customer identification requirements under the PCMLTFA more seamless and technology agnostic.
4. Removing the exemption for horse racing and including it in the updated definition of "casino".
5. Removing the threshold of 50 slot machines or similar electronic gaming devices. This requires further investigation on what the appropriate threshold should be as 50 seems both arbitrary and too high. With the increased access to gaming in Canada and the new technologies being deployed, we suggest the threshold needs to be lower.

Challenges Created by The Current Definition

With few exceptions, most provinces have moved to a private-sector delivery model for gaming. **In most cases, the entity that "conducts and manages" gaming is not involved in the day-to-day**



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operation of casinos and has little to no interaction with customers. This is unusual in Canada's AML regime, where most reporting entities typically have direct interaction with customers.

The term "conduct and manage" in the *Criminal Code* specifically applies to the oversight of "lottery schemes", meaning games of chance. This is an important consideration, as "conduct and manage" does not equate to the same concepts in the PCMLTFA as agents, mandataries, or correspondent banking relationships.

A strong argument could be made that, in the private-sector delivery model, the "conduct and manage" entity has no business relationship with the customer and is not involved in the processing of financial transactions. This calls into question the applicability of the current PCMLTFA regulations regarding business relationships to the casinos sector.

There are several private-sector companies that operate casinos in multiple provinces. The current PCMLTFA definition of "casino" prevents them from implementing effective enterprise compliance policies, as they must adapt their operating model to each reporting entity's AML program.

Legal Single-Event Sports Betting

The Government of Canada has now legalized single-event sports betting. Depending on the operating model each province implements for sports betting, the current PCMLTFA definition of "casino" will create significant gaps in the regime. For example, stand-alone sportsbooks or sportsbooks at racetracks would not be covered, while online sportsbooks and sportsbooks at casinos would be covered. In many cases, the sportsbook would be operated by the same company.

This lack of a clear definition in the PCMLTFA that includes sports wagering has created uncertainty as to what products are subject to AML requirements and will likely expose Canada to adverse findings during a Financial Action Task Force (FATF) mutual evaluation. The 2016 mutual evaluation report found the definition of "casino" to be problematic:

"Nevertheless, taking into account the possible operational models of casinos operating in Canada, the current definition of casino and the resulting AML requirements lack clarity in addressing the respective AML responsibilities of the different persons or entities that could be simultaneously involved in the business of the same casino."

Although the definition was amended in 2017 to address the FATF findings, the new definition still creates significant disparities in the AML regime for casinos, does not promote an effective



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compliance model, and does not sufficiently address new and emerging forms of legalized gaming.

It is neither likely nor desirable that individual gaming systems, payments providers, or other third parties can safely and securely deliver all the technologies and services that land based and online gaming will need in the coming years to meet demands from compliance and customer journey perspectives. **Allowing for “approved service providers” to work together to deliver end solutions will be critical, as will be setting standards for these providers to operate.**

Information Sharing

Enhanced ability for information sharing is critical to the go-forward success of Canada’s AML regime. The current private-to-public information-sharing model with entities reporting to FINTRAC with rarely any follow-up or feedback is not an effective model. New technologies allow for reporting entities to provide additional information on items such as ID fraud, and geolocating. **Embracing a quality over quantity approach to AML reporting may prove to be more effective.**

Private-to-Private Information Sharing

Public-to-private information sharing has been a part of the Canadian system for quite some time, with partnerships to combat human trafficking, drug trafficking, underground banking and other illicit activity having been formed between multiple Federal, Provincial, and private sector groups.

Private-to-private information sharing, however, has not been well supported by the current framework for information sharing for AML purposes. We believe private-to-private sharing can be an effective tool for reporting entities.

- The US has programs like 314(b) information sharing that allows for institutions to share with each other:

<https://www.fincen.gov/sites/default/files/shared/314bparticipationinfo.pdf>

As of 2019, there are over 7,000 institutions that participate in this voluntary information-sharing program. However, there is little technology or streamlined processes applied to this program and this consultation provides a great opportunity for multinational organizations to provide feedback from their jurisdictions (like the US) on how they could see this improved.



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Public-to-Private Information Sharing

FINTRAC's ability to receive new or enhanced data types is as important as its ability to have increased communication between reporting entities. Examining the types of reports and thresholds for reporting should be done on a more regular basis to ensure relevance, measure risk, and overall effectiveness. **Having the technological capability and resources to keep pace with the rapid pace of change in payment and financial technology is critically important.** We wish to emphasize quality over quantity in measuring effectiveness, as an example.

Geolocation technology is specifically developed to equip gaming operators with the necessary tools to track and identify suspicious activities. **We advocate for a model where operators can directly report this information, enabling the streamlined escalation of risks in real-time.** This approach can provide greater enhanced intelligence for law enforcement and FINTRAC, allowing them to follow through on the reported cases more effectively.

- US gaming operators actively utilize geolocation technology to fulfill their FINCEN reporting obligations, further demonstrating its effectiveness and practical application in this context.

New Tools for Enforcement and Prosecution

Another noted deficiency in Canada's AML regime is that ML/TF investigations are increasingly not resulting in charges, with fewer cases being carried through to the prosecution stage.

A bigger role for operators in delivering information that is of use to RCMP (and OPP and QC police) in real-time might help improve the efficiencies of the regime overall. Effective ML/TF investigations also require early coordination and cooperation with partners, involvement of the private sector in identifying suspicious activity, consistent case management, the ability to obtain information in a timely manner, and experienced personnel at all stages of an investigation. **Coordination with partners helps to leverage expertise and maximize enforcement outcomes.**

Support for the Financial Crime Coordination Centre

We also want to voice our support for the Financial Crime Coordination Centre, as we understand the need for rapid response to complex and fast-moving financial crimes in the gaming industry through stronger coordination across all levels of government.



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A New Definition of “Casino”

The PCMLTFA definition should cover the activity of legal gaming, versus attempting to narrowly define what a “casino” may or may not be. A definition that focuses on the activity of wagering would address the current compliance gaps and allow for more flexibility within the AML regime, as Canada’s gaming industry continues to evolve.

Current Definition	Proposed Definition
<p>5. (k) the government of a province that, in accordance with paragraph 207(1)(a) of the <i>Criminal Code</i>,</p> <p>(i) in a permanent establishment that is held out to be a casino, conducts and manages a lottery scheme that includes games of roulette or card games, or</p> <p>(ii) in any other permanent establishment, conducts and manages games that are operated on or through a <i>slot machine</i>, as defined in subsection 207(4.01) of the <i>Criminal Code</i>, or any other similar electronic gaming device, if there are more than 50 of those machines or other devices in the establishment;</p> <p>(k.1) the government of a province that, in accordance with paragraph 207(1)(a) of the <i>Criminal Code</i>, conducts and manages a lottery scheme, other than bingo or the sale of lottery tickets, that is accessible to the public through the Internet or other digital network, except if the network is an internal network within an establishment described in subparagraph (k)(ii);</p> <p>(k.2) an organization that, in accordance with paragraph 207(1)(b) of the <i>Criminal Code</i>, in a permanent establishment that is held out to be a casino, conducts and manages a lottery scheme that includes games of roulette or card games, unless the organization is a registered charity, as defined in subsection 248(1) of the <i>Income Tax Act</i>, and the lottery scheme is conducted or managed for a period of not more than two consecutive days at a time;</p> <p>(k.3) the board of a fair or of an exhibition, or the operator of a concession leased by such a board, that, in accordance with paragraph 207(1)(c) of the <i>Criminal Code</i>, in a permanent establishment that is held out to be a casino, conducts and manages a lottery scheme that includes games of roulette or card games;</p>	<p>5. (k) a person or entity that is authorized by the government of a province to operate lottery schemes or betting systems as defined in subsections 204 and 207(4) of the <i>Criminal Code</i> (“casino”).</p> <p>(k.1) for greater certainty, the definition in subparagraph (k) does not include,</p> <p>(i) persons or entities that are authorized by the government of a province to operate a casino for a period of not more than two consecutive days at a time, or</p> <p>(ii) persons or entities that are authorized by the government of a province to solely offer bingo games or the sale of lottery or raffle tickets, or</p> <p>(iii) private bets between individuals not engaged in any way in the business of betting.</p>



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A key advantage is that the proposed definition is “neutral”, in that it recognizes the different operating models implemented by each province and covers both land-based and digital wagering. **Importantly, the proposed definition puts the obligation squarely on the entity that operates the casino and/or online gaming activity, interacts directly with customers and processes financial transactions.**

Some historical context on the original PCMLTFA definition of “casino”: *“For the purposes of the Act and in these Regulations, casino means a person or entity that is licensed, registered, permitted or otherwise authorized to do business under any of paragraphs 207(1)(a) to (g) of the Criminal Code and that conducts its business activities in a permanent establishment...”*

This definition led to confusion amongst the provinces as to who was accountable for compliance. In some provinces, FINTRAC considered the private-sector gaming operators as the reporting entity. That changed in 2017 following a Financial Action Task Force review that said the definition was unclear and the federal government decided to put the onus on the provincial lottery corporations.

We felt it necessary to share this context as **there is already precedent for the federal government treating gaming operators as reporting entities.**

Specific to horse racing or pari-mutuel wagering, this activity is international. People can place bets online or through tele-theatres – sometimes large amounts of money (including cash at the cashier) - without any meaningful oversight. Furthermore, this activity can be totally anonymous if done in person and with little customer due diligence if done online, for a race that is over in a couple of minutes. Lastly, bets can be placed on multiple races at the same time on races throughout North America. We strongly recommend that horse racing be included in the updated definitions of “casino”.

To provide some context on the volume of wagering in horse racing, statistics released by the Ontario Lottery and Gaming Corporation for the 2023 fiscal year show that gross betting on horse races in the provinces exceeded **\$1 billion.**

Finally, several exemptions remain in place to be consistent with the federal government’s policy objectives. For example, temporary charitable casinos, bingos, and lotteries would be exempt (as they are in the current definition).



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For further information, please contact:

Paul Burns, President & CEO
Canadian Gaming Association
pburns@canadiangaming.ca