



CANADIANS FOR TAX FAIRNESS
CANADIENS POUR UNE FISCALITÉ ÉQUITABLE



Presentation to House of Commons Finance Committee on the Statutory Review of the Proceeds of Crime and Terrorist Financing Act

By Dennis Howlett, Executive Director of Canadians for Tax Fairness

April 18, 2018

1. Introduction

Thank you for the opportunity to present to the committee on the Statutory Review of the Proceeds of Crime and Terrorist Financing Act.

It's a good thing that the act has built-in periodic review of how it is working because much more needs to be done if the government is serious about ending snow washing.

When criminals and tax evaders use legitimate Canadian investments like real estate to 'clean' dirty money, it is called *snow washing*. Canada has become an international destination for setting up secret companies to "snow wash" illicit funds from all over the world. It is easier to set up a secret company than it is to get a library card! This is because in Canada, the true owners of companies and properties can remain entirely anonymous – their identities can be concealed even from the government agencies entrusted with enforcing laws. This makes it easy for criminals, tax evaders and those financing terrorism to hide and launder money in Canada and makes it hard for law enforcement, tax authorities, and financial institutions to enforce Canada's existing anti-money laundering and anti-terrorist financing laws.

Canada needs to create a publicly accessible, centralized, registry of true (e.g., beneficial) owners of companies in an open, searchable format. This would serve as a deterrent to criminals and would facilitate access to information for law enforcement, tax authorities, financial institutions, civil society, and journalists.

2. Money laundering, tax evasion and terrorist financing is still a big problem in Canada.

Estimates of the money involved range from \$15 to \$60 billion a year. Canada has a reputation of being the "snow washing" destination of the world because of the ease with which you can set up an anonymous company. The Panama Papers revealed that the Mossack Fonseca law firm was advising their clients to set up shell companies in Canada. When Canada's Finance Minister attends G20 Finance Ministers meetings he has been embarrassed by the fact Canada is so far behind other countries in beneficial ownership transparency.

Canada is among the few G7 countries without a law requiring disclosure of beneficial owners, let alone a registry.

Transparency International is releasing a report tomorrow titled, **G20 Leaders or Laggards?** comparing progress on ending anonymous companies and it will be no surprise that Canada is the worst in terms of beneficial ownership transparency of all the 23 countries surveyed.

UK has a publicly accessible registry. In December 2017, the EU committed all of its 28 member states to a public registry of beneficial owners of companies. Canada is behind and needs to catch up to its international partners to stop snow washing.

3. **Law enforcement and tax authorities do not have the tools or resources they need** to go after money laundering and tax evasion. Lack of transparency on beneficial owners is a huge problem. The steps they have to take to get this information slows down investigations and ultimately means they are able to investigate only a relatively small number of cases.
4. **There are gaping holes in our Anti-money laundering regime.** While banks and financial institutions are required to determine beneficial owners and track financial transactions over \$10,000, real estate agents, lawyers and other high risk sectors are not required to do this. Money laundering in Vancouver and Toronto real estate markets are a huge problem that is not being properly addressed in large part due to this gap. The BC government has taken a big step forward by requiring beneficial ownership information to be collected by their land registry. Other jurisdictions need to introduce similar measures if money laundering through real estate sector is to be addressed.
5. **We need a public registry of beneficial owners of corporations and trusts.** This would make it much easier for tax authorities and law enforcement to go after criminals. And it would make it much easier for financial institutions to fulfill their duty to check on beneficial owners. A public registry would be necessary if the AML/ATF regime were extended to real estate agents, lawyers and other high risk sectors, as it should.
6. We need much stiffer penalties and more transparency so that there is **an effective deterrence** built in to the system. It is much easier to prevent than to enforce. Currently there is very little transparency on beneficial owners and because it is so difficult to investigate and prosecute financial crimes or tax evasion, the chances of getting caught are very low and even if you are caught the penalties are not very severe.
7. **The agreement reached with provincial and territorial governments last December to require corporations to know who their beneficial owners are is not much of a step forward.** While we appreciate that the federal government has engaged other levels of government in addressing the beneficial ownership issue, unless further steps are taken to set up a public registry of beneficial owners, it does not get us much further ahead.

When you stop and think about it you will realize that what has been agreed to is really a bit of a joke. Law enforcement would have to ask the company they are investigating for

information on beneficial ownership, thus tipping them off that they are under investigation and giving them opportunities to cover their tracks. If they do not voluntarily provide that info then law enforcement authorities have to go through the process of getting a search warrant, further delaying and complicating investigation efforts. The fact that they are not required to report their beneficial ownership information to provincial, territorial or federal corporate registries, means that it is almost impossible to know if companies are identifying their beneficial owners and the information is not easily accessed by law enforcement and there are no penalties for not reporting or reporting false information.

It is critical that federal, provincial and territorial governments move as quickly as possible on their phase two process of determining what kind of registry is required and how to ensure that all jurisdictions require the same set of data to be able to consolidate the information on a single searchable database.

8. The federal government has a responsibility to **provide more ambitious leadership on this**. As signatory to international agreements, it has a duty to ensure that other levels of government bring their corporate registries up to international standards.

If Canada is to become a leader, rather than a laggard on beneficial ownership transparency and fighting money laundering, we need to match the UK and EU standard of a public registry of beneficial ownership of corporations and trusts.