



# LESSONS LEARNED

**An Evolving Anti-Money  
Laundering and Counter Terrorist  
Financing Landscape for the  
Credit Union System.**


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**Stabilization Central**  
— CREDIT UNION —



## Table of Contents

Background .....	3
Cullen Commission Report – A Synopsis.....	3
A. Overview .....	3
B. Key Takeaways .....	4
C. Why Does It Matter Now?.....	7
D. Recommendations Impacting CUs .....	8
E. Anticipated Outcome of the Report .....	11
Current and Evolving Regulatory Expectations .....	11
A. Corporate Governance .....	12
B. Customer Due Diligence.....	13
C. Policies and Procedures.....	15
D. Reporting and Assessment.....	16
Closing Remarks .....	18



*“Money laundering has potentially devastating economic, security, and social consequences. Taking firm and intentional steps to prevent money laundering is critically important.”*

## Background

As part of Stabilization Central's Lessons Learned series, this paper is intended to inform and build initial awareness about the Cullen Commission Report ("Report") as it applies to credit unions ("CUs"), and to provide a lens into future impending changes. It gives CUs some key report takeaways, indicates why action is needed sooner rather than later, and suggests how, based on recent reviews, some vulnerable areas in CUs' anti-money laundering and counter-terrorist financing (AML/CTF) programs can be addressed. In this regard, the paper looks at current and evolving regulatory expectations in four specific areas where the regulator has identified gaps in CUs' AML/CFT programs.

The regulatory landscape continues to evolve, with ever-increasing and more complex regulatory requirements as new threats emerge. With CUs facing competitive pressures to offer more innovative products and services to their members, as well as diversifying and expanding their businesses, regulatory change management becomes more challenging. Although CUs have been holding steady to ensure there are no major gaps in their efforts to combat money laundering, they will need to remain current and at the forefront to do their part in the broader financial system.

## Cullen Commission Report – A Synopsis

### A. Overview

In May 2019, the Honourable Austin Cullen led the Province of British Columbia (BC) in its

launch of the Commission of Inquiry into Money Laundering in British Columbia (the "Commission"). This followed four government-issued reports on the adverse impact of money laundering within BC between 2008 and 2018. These reports were in response to growing public concern about money laundering. The mandate of the Commission was primarily to:

1. determine the leading causes, extent, and methods of money laundering in the province;
2. ascertain the effectiveness of anti-money laundering and counter-terrorist financing (AML/CTF) efforts by various regulatory agencies and public institutions;
3. report on the acts or omissions of the various regulatory agencies and public institutions that may contribute to money laundering and terrorist financing;
4. identify barriers to law enforcement in the war against money laundering; and
5. recommend measures to counter money laundering.

On June 15, 2022, the final 1,800-page [Cullen Commission Report](#) was released. The Report is likely the most extensive examination of money laundering in Canada, analyzing money laundering with respect to banks and CUs, gaming, luxury goods, real estate, virtual assets, as well as the accountancy, corporate, and legal sectors. It reveals significant findings regarding the weaknesses of both provincial and federal anti-money laundering regimes vis-à-vis money laundering in BC. The Report identifies vulnerabilities leading to extensive money laundering in BC and contains 101

recommendations for the province across this wide variety of sectors.

## **B. Key Takeaways**

The message from the Report is clear: money laundering is a significant problem in BC, and to date, the federal and provincial governments have been largely ineffective at addressing it. The Commission concluded that billions of dollars are being laundered annually in BC alone.<sup>1</sup> Based on its analyses and findings, which included testimony from 200 witnesses during 133 days of hearings, the Commission came to numerous conclusions, suggesting that significant changes by government, law enforcement, and regulators are needed. Some of those conclusions included the following:

- Money laundering erodes confidence in systems of governance, distorts markets, and requires strong and decisive action.
- Money laundering is rarely afforded the priority it requires.
- Government, regulators, and industry have paid insufficient attention to money laundering.
- Money laundering is a significant problem in BC, although progress has been made.
- Banks and credit unions dedicate great energy and resources to combatting money laundering, but serious risks persist.<sup>2</sup>

The table below summarizes 21 key conclusions and their corresponding recommendations.

These were selected because they stood out in the Report as most relevant to CUs. Refer to the Report's Executive Summary for details and further context.

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<sup>1</sup> Report, p. 2.

<sup>2</sup> Report, pp. 2, 3, 4, 18, 19.

	SECTOR/AREA	CONCLUSIONS	RECOMMENDATION # (if applicable)	PAGES and PART in the REPORT
(1)	<b>Bank and Credit Unions</b>	The BC Financial Services Authority (BCFSA) should (a) develop its own AML guidance for credit unions operating in BC, (b) be provided with a clear AML mandate, and (c) have sufficient resources to create an AML group.	<b>45–47</b>	<b>18–19</b> <b>Part V</b>
(2)	<b>Casinos (Gaming)</b>	For the better part of a decade, an unprecedented volume of illicit cash was laundered through BC casinos.	<b>4–7</b>	<b>10–16</b> <b>Part III</b>
(3)	<b>Corporate Beneficial Ownership Registry</b>	A corporate beneficial ownership registry is essential to address money laundering risks in the corporate sector.	<b>52</b>	<b>20–21</b> <b>Part VI</b>
(4)	<b>Cryptocurrency and Virtual Assets</b>	Cryptocurrency is an emerging money laundering vulnerability and should be addressed through provincial regulation.	<b>86–87</b>	<b>29–30</b> <b>Part IX</b>
(5)	<b>Enforcement</b>	The Government of BC should establish an independent AML Commissioner to provide strategic oversight of the provincial response to money laundering.	<b>1</b>	<b>4–5</b> <b>Part XI</b>
(6)		A dedicated provincial money laundering intelligence and investigation unit is needed to mount a sustained and effective response to money laundering.	<b>3</b>	<b>6–7</b> <b>Part II</b> <b>Part XI</b>
(7)		Law enforcement bodies must make better efforts to follow the money and pursue money laundering and proceeds of crime charges.	<b>89–101</b>	<b>7–8</b> <b>Part XI</b>
(8)		Asset forfeiture must be pursued more vigorously.		<b>8–9</b> <b>Part XI</b>
(9)		Unexplained wealth orders (UWOs) <sup>3</sup> will be a valuable additional tool in the fight against money laundering, and a UWO regime should be developed in the province.		<b>9–10</b> <b>Part XI</b>
(10)		The federal AML regime in Canada is not effective.		<b>2–3</b>

<sup>3</sup> Unexplained wealth orders (UWOs) have yet to be introduced anywhere in Canada. They are used in the United Kingdom. The UWO is an investigative tool used by an enforcement authority to compel a person suspected of having a connection with organized crime to provide information concerning the nature and extent of such person's ownership interest in a certain property and how they obtained that property.

(11)	<b>Legal and Accounting</b>	Lawyers are exposed to significant money laundering risks but are subject to extensive regulation by the Law Society of BC.	<b>53–81</b>	<b>21–23</b> <b>Part VII</b>
(12)		A reporting regime for lawyers poses significant constitutional challenges and should not be pursued.		<b>23–24</b> <b>Parts VII</b>
(13)		The Chartered Professional Accountants of BC must regulate its members for AML purposes.		<b>24–26</b> <b>Part VIII</b>
(14)	<b>Luxury Goods</b>	To address risks in the luxury goods sector, the Government of BC should implement a reporting regime in which all cash transactions over \$10,000 must be reported to a central authority.	<b>82–85</b>	<b>26–27</b> <b>Part IX</b>
(15)	<b>Money Services Businesses (MSBs)</b>	MSBs present a significant money laundering risk and should be regulated by the Government of BC.	<b>51</b>	<b>19–20</b> <b>Part V</b>
(16)		MSBs should be regulated by the BCFSA.		
(17)	<b>Real Estate  (Including Mortgage Lending)</b>	The BC real estate sector is highly vulnerable to money laundering.	<b>8–44</b>	<b>16</b> <b>Part IV</b> <b>17</b> <b>Part IV</b>
(18)		Realtors have a poor record of AML reporting and compliance.		
(19)		Effective regulation of the mortgage lending industry is essential, given that mortgage brokers obtain significant information regarding their clients' financial position and have a first-hand view of clients' behaviours that may be suspicious.		<b>17–18</b> <b>Part IV</b>
(20)		Money laundering is not the cause of housing unaffordability.		<b>18</b> <b>Part IV</b>
(21)	<b>Trade-Based Money Laundering</b>	Trade-based money laundering, informal value transfer, and bulk cash smuggling are money laundering typologies that demand attention from law enforcement and regulators.	<b>88</b>	<b>27–29</b> <b>Part X</b>

The Report indicates that provincial CUs and *caisses populaires*<sup>4</sup> handled \$320 billion in assets as of 2014. Given that CUs are also gatekeepers to the financial system, they are prime targets for criminals who attempt to introduce their illegal gains into the legitimate economy. Financial services most at risk of being targeted for money laundering include deposit services, wealth management, investment banking, and correspondent banking.<sup>5</sup>

It is worth noting that both CUs and *caisses populaires* were granted a high vulnerability rating in Canada's 2015 National Risk Assessment.<sup>6</sup> This rating was based on:

- transaction volumes;
- asset holdings;
- products and services;
- method of service provision (face-to-face and remotely);
- opportunities to use third parties to undertake transactions; and
- institution location.

The Commission found that banks and CUs have good knowledge of money laundering risks and as a result have invested and continue to invest resources in their AML/CTF programs. However, with money laundering being a frequently shifting target, the Commission

declared it critical that banks and CUs not become complacent but stay focused on AML/CTF efforts so they can continue to be responsive and resilient to emerging and new threats.

### C. Why Does It Matter Now?

Using a principle- and risk-based supervisory framework, financial services regulators supervise provincially and federally regulated financial institutions to ensure they are in sound financial condition and complying with applicable laws and supervisory expectations. The Report will likely shift regulator objectives.<sup>7</sup>

Regulators assess AML/CTF programs within the context of regulatory compliance and operational risk and whether an institution has an effective risk management program that is commensurate with its size, complexity, and risk profile. Most provincial regulators have not issued their own anti-money laundering guidance.<sup>8</sup> Instead, when conducting AML/CTF assessments, they may refer to the now repealed OSFI *Guideline B-8: Deterring and Detecting Money Laundering and Terrorist Financing*,<sup>9</sup> assuming that Guideline B-8 still maintains its relevance. CUs are also encouraged to leverage FINTRAC guidance, along with information from industry associations and other financial institutions, to stay current on

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<sup>4</sup> *Caisses populaires* operate predominantly in Québec.

<sup>5</sup> Report, p. 19.

<sup>6</sup> Report, p. 985.

<sup>7</sup> For example, the BCFSa's 2021/22 to 2023/24 service plan indicates one of its objectives is to work collaboratively with the Government of British Columbia to

improve the effectiveness of BC's AML regime (BCFSa 2021/22 to 2023/24 Services Plan, objective 6.1).

<sup>8</sup> This includes the BCFSa.

<sup>9</sup> Report, p. 980; see below and [https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/CAR22\\_index.aspx](https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/CAR22_index.aspx)

key changes.<sup>10</sup> It is not certain whether provincial regulators will pursue a separate and distinct AML/CTF guideline in the future. Weaknesses in a CU's AML/CTF program can lead to fraud, potential losses, and reputation risk, which could result in supervisory intervention. Thus, it is imperative for CUs to continue strengthening their governance, oversight, and controls over their AML/CTF programs and not wait until the Commission's recommendations become reality.

#### **D. Recommendations Impacting CUs**

At present, there is no centralized or coordinated provincial AML regime in BC in the same way as there is at the federal level with FINTRAC and the PCMLTFA frameworks. There will likely be more efforts to reorganize, including clarification of roles, in the future, based on the Cullen recommendations. The Cullen Commission found that given the historic lack of attention money laundering has received in BC, the complexity and evolving nature of money laundering, as well as the challenges in combatting it, provincial AML efforts would benefit from the creation of an independent office of the Legislature, headed by an AML Commissioner, to provide strategic oversight.<sup>11</sup>

The purpose of the AML Commissioner is to create a new office with an exclusive focus on AML to counteract what has been considered a low priority. An AML Commissioner is expected to give AML the attention it deserves in a public

and accountable way. It is submitted that this office will likely be independent from provincial regulators, with non-duplicative roles and as an equivalent to FINTRAC.

It is also recommended that the AML Deputy Ministers' Committee and the AML Secretariat be continued and that these bodies be given responsibility for the continued development and implementation of the provincial anti-money laundering strategy.<sup>12</sup>

Finally, the Report includes a recommendation that all government agencies, regulators, and law enforcement bodies designate an AML liaison officer to serve as the primary point of contact for improved interagency collaboration and information sharing.<sup>13</sup>

The following recommendations regarding the AML Commissioner and related matters will impact CUs and other provincially regulated financial institutions, particularly in BC.

**Recommendation 1: That the Province establish an independent office of the Legislature focused on anti-money laundering, referred to throughout this Report as the Anti-Money Laundering (AML) Commissioner. The AML Commissioner should be responsible for:**

- ***producing a publicly available annual report on money laundering risks, activity, and responses, as well as special reports on specific issues;***

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<sup>10</sup> Ibid., p. 989.

<sup>11</sup> Ibid., p. 211.

<sup>12</sup> Ibid., p. 230.

<sup>13</sup> Ibid., p. 232.



- ***undertaking, directing, and supporting research on money laundering issues in order to develop expertise on money laundering issues, including emerging trends and responses, informed by an understanding of the measures taken internationally;***
- ***issuing policy advice and recommendations to government, law enforcement, and regulatory bodies concerning money laundering issues;***
- ***monitoring, reviewing, auditing, and reporting on the performance of provincial agencies with an anti-money laundering mandate; and***
- ***leading working groups and co-operative efforts to address money laundering issues.***

**Recommendation 2:** *That the Province maintain the Deputy Ministers' Committee and Anti-Money Laundering Secretariat and that they be given responsibility for the continued development and implementation of the provincial anti-money laundering strategy, including the implementation of measures identified in this Report.*

**Recommendation 3:** *That the Province introduce a statutory requirement that all government agencies, regulators, and law enforcement bodies with an anti-money laundering mandate designate an anti-money*

***laundering liaison officer to be the primary point of contact for improved inter-agency collaboration and information sharing.***

The Report sets out three high-level recommendations (45–47) that will also impact CUs as well as expand the role of the BC provincial regulator.

The Report found that by the BCFSA developing its own guidance, CUs would be more aware of the BCFSA's specific expectations of them.<sup>14</sup> In fact, it is submitted that when BCFSA develops its own anti-money laundering guidance, OSFI Guideline B-8 will be a good starting point as to what a possible guideline from provincial regulators may look like. However, it's very likely that provincial regulatory guidance will be based on the latest FINTRAC guidance and reference materials. Thus, such guidance likely will adopt a risk-based approach and be tailored to smaller institutions by addressing proportionality. The implementation of new anti-money laundering guidance will put another layer of AML regulation on CUs operating in BC.

Because of the importance of the BCFSA engaging in AML regulation, the Commission found that an explicit mandate would be useful.<sup>15</sup>

One of the recommendations of the Report was that the BCFSA regulate money services businesses in BC.<sup>16</sup> Recommendation 47 was

<sup>14</sup> Ibid., p. 981.

<sup>15</sup> Ibid., p. 982.

<sup>16</sup> Recommendation 51, pp. 38 and 983. As of the preparation of this document, the BC Government announced that BCFSA will regulate MSBs. See below link: [Safe money services protect people from money laundering | BC Gov News](#)

intended to take this added responsibility into account.

**Recommendation 45:** *That the BCFSa develop anti-money laundering guidance for credit unions.*

**Recommendation 46:** *That the Province provide the BCFSa with a clear, enduring anti-money laundering mandate.*

**Recommendation 47:** *That the Province provide sufficient resources to the BCFSa to create or staff an anti-money laundering group. This group should serve as a contact point for the BCFSa with law enforcement, public–private partnerships, and other government stakeholders.*

The Report also notes that “private–private information sharing,” or collaboration between financial institutions themselves, has been inadequate in the detection of money laundering in Canada. Presently, very limited sharing of information or intelligence is required by law. Thus, in recent years, there has been a push to implement a “safe harbour” provision for money laundering.<sup>17</sup> For a safe harbour provision to be most effective, it would need to apply to both federally and provincially regulated financial institutions, which raises constitutional issues. The Report discusses this concept at length, as well as the implementation of a “keep open” regime<sup>18</sup> for financial institutions, whereby they can keep accounts that may be suspected of

involvement in money laundering open to further law enforcement investigations.

The following three recommendations address these concepts. In particular, Recommendation 49, if implemented, would permit information sharing amongst provincially regulated financial institutions such as CUs.

**Recommendation 48:** *I recommend that the Attorney General of British Columbia urge the appropriate federal minister to introduce amendments to the federal Personal Information Protection and Electronic Documents Act, providing for a “safe harbour provision” allowing financial institutions to share information related to potential money laundering activity.*

**Recommendation 49:** *I recommend that the Province introduce, in consultation with the Office of the Information and Privacy Commissioner, a safe harbour provision allowing provincially regulated financial institutions to share information related to potential money laundering activity.*

**Recommendation 50:** *I recommend that the Attorney General of British Columbia engage with his federal counterpart and other stakeholders to implement a formal “keep open” regime for financial institutions in which they can, at the request of law enforcement, keep an account suspected of involvement in money laundering open in*

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<sup>17</sup> Report, p. 1003–1004. A safe harbour provision is a provision in a statute, regulation, or rule that specifies that certain conduct will not create liability if certain conditions are met. Such a provision would exempt the entity that has

shared the information from liability or censure by a regulator if it acted in good faith in doing so.

<sup>18</sup> Report, p. 1008–1009.

***order to further a law enforcement investigation.***

### **E. Anticipated Outcome of the Report**

Although still speculative, a safe prediction is that the findings and recommendations in the Report will lead to comprehensive changes in how money laundering is tackled in BC, other provinces, and federally. This means that other jurisdictions, both provincial and federal, may implement policy developments and reforms based on the BC example. If so, this will require increased resources for both regulatory and enforcement measures in the battle against money laundering. This matters for CUs because regulators will increase resources, which is likely to lead to more emphasis and regulatory attention. Based on the total number of recommendations that the Report allocates to various sectors, the sectors most likely impacted by the proposed changes include financial services (banks, credit unions, money services businesses, and white-labelled automated teller machines), real estate and mortgage lending services, law enforcement bodies, and legal and accounting services.

Implementation of the recommendations will also likely cause an increase in corporate transparency and reporting requirements. Another expectation flowing from the recommendations, if implemented, is improved enforcement of and prosecutorial emphasis on proceeds of crime offences, money laundering

generally, and both criminal and civil asset forfeiture.

### **Current and Evolving Regulatory Expectations**

The Commission found that smaller CUs may be challenged in implementing components of AML/CTF programs, for the following reasons:

- a lack of people and technological resources dedicated solely to AML activities;
- difficulty in hiring staff who have the breadth of knowledge and experience to handle AML activities alongside other responsibilities; and
- challenges in outsourcing and accessing AML services.<sup>19</sup>

As stated already, provincial regulators are expected to implement their AML supervisory program in a manner appropriate to the circumstances of the CU. Each CU is expected to have appropriate risk management controls that are proportionate to its size, complexity, and risk profile.

Here, we drill down and look at what we know about CUs' AML/CTF practices. Vulnerabilities in the AML/CTF programs for CUs that have undergone supervisory reviews/staging processes in 2021–2022 can be categorized as follows:

- corporate governance
- customer due diligence

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<sup>19</sup> Ibid., p. 989.



- policies and procedures
- reporting and assessment

Each of these will be reviewed in more detail below.

## A. Corporate Governance

### i. Issues

Two key issues can be characterized under corporate governance.

First, the Board and senior management may not understand the AML/CTF risks that pertain to the CU, or how they relate to the CU's Risk Appetite Framework and Statement. The Board and senior management provide oversight and are responsible for setting objectives and a risk appetite for the CU, as well as establishing governance structures and processes to manage the risks in accomplishing those objectives. Regulators assess a CU's governance through the lens of both characteristics and performance/effectiveness. Without full appreciation of the AML/CTF risks, the Board cannot effectively oversee and challenge senior management's actions and decisions. And without a comprehensive Risk Appetite Framework and Statement that contains related quantifiable metrics and thresholds, it is difficult for the Board to effectively challenge senior management and validate the assessment of AML/CTF risk appetites.

Second, Supervisory Frameworks and the assessment criteria<sup>20</sup> used by regulators set out the three lines of defence model ("three lines model"). A three lines model serves to segregate the key practices of risk management and provide adequate, objective overview and challenge. How this is implemented or operationalized for a particular CU will depend on its business model and risk profile. Without a proper three lines approach, the institution lacks a standardized and effective risk management framework that delineates and clarifies roles and responsibilities.

### ii. Observations by Stabilization Central and CUs

Examples of vulnerabilities in CUs' AML programs concerning corporate governance are as follows:

- There is no comprehensive risk appetite statement that addresses money laundering and counter-terrorist financing risks and sets out limits and tolerances for breaches of or non-compliance with AML/CTF policies and procedures.
- The Board-approved Risk Appetite Statement lacks quantifiable metrics and risk tolerance ranges; thus, the CU doesn't know when something is close to the risk tolerance and when to take action.
- There are no clearly defined parameters to reflect the segregation of duties

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<sup>20</sup> BCFSa Supervisory Framework, published in September 2021: *Supervisory Framework for Provincially Regulated Financial Institutions*, <https://www.osfi-bsif.gc.ca/Eng/fi-if/rai-eri/sp-ps/Pages/sff.aspx>.

between first, second, and third lines of defence.

### iii. How can this be addressed?

The CUs' Risk Appetite Framework and Statement should clearly set out risk tolerance boundaries, internal controls, and monitoring and reporting requirements so that the CU operates within the Board's defined risk appetite. The Board should be asking senior management about the money laundering and terrorist financing exposure of the CU, how these risks are identified, and the preventative and detective controls developed and implemented to manage those risks.<sup>21</sup>

The CU could implement a comprehensive set of risk-based performance metrics, including defined management actions in response to a breach of trigger and action points, that would be used to measure progress towards achieving the CU's adherence to its Risk Appetite Statement. Appropriate risk management controls should be proportionate to the CU's size, complexity, and risk profile. Senior management should also communicate and report to the Board any breaches or risk indicators that are approaching the defined trigger points.

Within the three lines model, there should be clearly defined parameters in both

documentation and implementation to reflect the segregation of duties and responsibilities between the first, second, and third lines of defence. For example, AML/CTF programs are more efficient and effective when the first line is actively engaged in understanding and assessing the AML/CTF risk exposure within its respective business segments. The second line can then provide the right guidance and challenge to the first line.<sup>22</sup>

## B. Customer Due Diligence

### i. Issue

Removing anonymity from financial transactions is one of the most important ways to protect against money laundering and terrorist financing activities. The Customer Due Diligence ("CDD") components of an AML program must comply with regulatory requirements and be enhanced for higher risk situations. (We reference customer due diligence, but this specifically applies to members in the CU context and is synonymous in this context with Know Your Member/Know Your Client.) Insufficient CDD may lead to inadequate ongoing member monitoring and management reporting, as senior management and the Board cannot get an accurate picture of the risks.<sup>23</sup> The extent of CDD performed should correspond to the relative level of assessed money laundering and terrorist financing risks in the circumstances.

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<sup>21</sup> Amanda Wood, *What Boards Should Ask About AML*, LinkedIn, September 28, 2020, <https://www.linkedin.com/pulse/questions-boards-should-ask-aml-amanda-wood/>.

<sup>22</sup> Ibid.

<sup>23</sup> CDD is comprised of client identification, information gathering, ascertaining identity, verification of income, source of funds, repayment and accumulated wealth, and ongoing monitoring. It is applicable to the parent CU level, subsidiaries, joint ventures, and third-party suppliers such as mortgage brokers.

Also, without adequate third-party oversight, a CU is at risk from fraud and potential financial losses, which may result in reputational risk and, possibly, supervisory intervention.

The CU should assess its money laundering and terrorist financing risks proportionate to its size, complexity, and risk profile.<sup>24</sup>

## **ii. Observations by Stabilization Central and CUs**

Examples of vulnerabilities in CUs' AML/CTF programs concerning CDD are as follows:

- lack of consideration of AML/CTF high-risk indicators for a particular member;
- inadequate inherent risk assessment;
- lack of identification and verification regarding sources of down payment/funds, repayment measures, and accumulated wealth;
- insufficient CDD on an ongoing basis;
- insufficient identification and verification of beneficial ownerships; and
- lack of oversight for CDD processes by not performing checks and balances on third-party suppliers such as mortgage brokers.

## **iii. How can this be addressed?**

An inherent risk assessment should consider (a) products, services, and delivery channels, (b) geographic locations, (c) clients and business relationships, (d) new developments and technologies, and v) other foreign and domestic

affiliates. Many CUs should have an up-to-date inherent risk assessment in place. It is important to remember that assessing and mitigating the risk of ML/TF is an ongoing activity, not a static exercise. An up-to-date inherent risk assessment is required to ensure control measures are sufficiently mitigating the risks, as the risks can change or evolve over time.

A CU, regardless of size, can strengthen AML CDD and "know your client" processes by (a) including a proper independent assessment of the member's inherent risk levels, (b) establishing documented procedures for identifying and verifying the sources of down payment/funds, repayments, accumulated wealth, and beneficial ownerships, and (c) conducting oversight of its third-party suppliers as though they were an extension of the CU. Regardless of whether they are outsourced or not, third-party suppliers such as mortgage brokers are held to the same standard of performance and expectations as if the services or products were provided in-house. We do not think the CUs have to perform the CDD independently, as long as they can hold the suppliers to the same standard as if the services were provided in-house. This only applies to third-party suppliers who have formal outsourcing arrangements with the CU (i.e., with established monitoring process and metrics to measure performance, etc.). This should NOT

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<sup>24</sup> See FINTRAC's new video series on the prescribed methods that can be used to verify the identity of a person or an entity: [Verifying the identity of a client: Government-issued photo ID method \(canada.ca\)](https://www.fintjac.ca/en/verify-the-identity-of-a-client).

See also <https://lnkd.in/eir5dJR9>.



be applied to syndicated partners. Syndicated partners are NOT third-party suppliers.

The Board should be made aware of any backlogs in AML/CTF operational processes, and senior management should be able to explain to the Board how any backlogs are being addressed, as well as the action plans for remediating such backlogs.<sup>25</sup>

## **C. Policies and Procedures**

### **i. Issue**

Without adequate policies and procedures that are implemented consistently and enterprise-wide:

- inconsistent practices may occur as a result of how components of AML/CTF compliance management are being applied;
- controls are not developed to mitigate AML/CTF risks;
- senior management and the Board may not understand the CU's AML/CTF risk profile compared to other risks it faces; and
- senior management and the Board may not be appropriately allocating resources to address higher risks.

An AML/CTF program should include policies, procedures, and controls that are designed to prevent, detect, and deter money laundering and terrorist financing. AML/CTF policies, approved by the Board in alignment with the CU's strategy and risk appetite, should set risk management

standards to govern the CU's approach to prevent, detect, and deter money laundering and terrorist financing, and should comply with statutory and regulatory rules and guidance.

Policies are clear and simple high-level statements that are consistent across the CU and set the tone from the top. Procedures translate the AML/CTF policies into an acceptable and workable practice and provide instructions on how the CU wants something done. They explain what actions are to be taken, by whom, where, and when.

### **ii. Observations by Stabilization Central and CUs**

Examples of pitfalls in CU AML/CTF policies and procedures are as follows:

- Lack of consistent application and execution of the AML/CTF policies and procedures throughout the CU.
- Lack of comprehensive procedures:
  - regarding the frequency of and trigger events for updates to customers' profiles;
  - for filing suspicious transaction reports;
  - to understand customers' inherent risk levels and flag high-risk clients;
  - regarding monitoring and testing across the three lines model;
  - for identifying and verifying sources of funds, repayments, and accumulated wealth;

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<sup>25</sup> Ibid., footnote 20.

- regarding identifying and confirming the accuracy of beneficial ownerships; and
- for keeping paper and electronic records of pertinent information about customers and transactions.

CUs should conduct their own independent AML due diligence of syndicated loans to ensure they conform to the CU's ML risk appetite, tolerance, and policies. Reliance on CDD performed by lead lenders is a common issue noted in the system.

### **iii. How can this be addressed?**

The AML/CTF program is not just a policy document — it is the cornerstone of AML/CTF compliance.<sup>26</sup> Given its importance, senior management should be able to advise the Board on how they have determined that the AML/CTF program is designed to do what it is intended to do. A CU can strengthen its AML/CTF processes by making sure that its AML/CTF policy and procedure framework is comprehensive and complies with applicable legislation. Policies and procedures should be embedded in business areas commensurate with the risks they are intended to mitigate and be adapted to the operational environment. Of course, policies and procedures are of little use if they are not read, understood, or implemented. Thus, it is critical to have appropriate training on the policies and procedures and a mechanism to ensure they are understood and consistently executed

throughout the CU. As the landscape continues to shift in Canada, it will be important to remain vigilant and ensure policies and procedures are updated and revisited frequently.

## **D. Reporting and Assessment**

### **i. Issue**

The Board and senior management need to receive sufficient pertinent information to sign off on the overall adherence to, adequacy of, and effectiveness of the AML/CTF program. Without an appreciation of the applicable AML/CTF regulatory requirements, penalties for non-compliance, AML/CTF risks, and the CU's risk appetite, senior management and the Board cannot adequately provide for AML/CTF oversight, approve AML/CTF policies, or ensure sufficient resources. Without comprehensive AML/CTF reporting, the Board and senior management have a poor line of sight to the risks and therefore cannot assess control adequacy and effectiveness across the entire CU.

### **ii. Observations by Stabilization Central and CUs**

Regular reports that are presented to senior management and the Board don't contain or refer to sufficient supporting information that lends itself to conclusions or opinions describing the adherence to, adequacy of, and effectiveness of the AML/CTF program. For example, an effectiveness assessment of the AML/CTF program is not always supported by

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<sup>26</sup> Ibid., footnote 20.

information and metrics indicating how the conclusion was reached.

Further, senior management and the Board do not always receive adequate training on the assessment of AML/CTF risks and the components of the CU's AML/CTF program.

Insufficient record keeping on CDD performed on the members is a common observation within the CU system.

### **iii. How can this be addressed?**

Reports should include the enterprise-wide assessment of AML/CTF inherent risks, including significant patterns or trends, performance metrics, the three lines approach to monitor and test results, management actions to respond to trigger points and breaches, self-assessment of controls and material changes, and remedial action plans or recommendations, with milestones and target dates for completion. An effectiveness assessment should be supported by appropriate metrics and adequate assurances that AML controls are functioning in an effective and sustainable manner. Senior management should be able to tell the Board what assurance processes are in place across all three lines of defence to check the ongoing effectiveness of AML controls.

In order to assess information and exercise effective oversight for the AML/CTF program, senior management and the Board should receive adequate training on the CU's AML/CTF risks and controls.

The CU should ensure that written AML/CTF training programs are developed, delivered, and maintained.

CUs should keep records of the measures taken and of the information obtained from the ongoing monitoring of the members.



## Closing Remarks

The regulatory landscape continues to evolve, with ever-increasing and more complex regulatory requirements as new threats emerge. Money laundering has potentially devastating economic, security, and social consequences. Taking firm and intentional steps to prevent money laundering is critically important. Actions by CUs to prevent money laundering don't just satisfy regulatory requirements; they protect the CUs' interests.

Looking at past assessments, the components of CU AML/CTF programs that appear to be the most vulnerable are corporate governance, the three lines model, risk appetite statements, customer due diligence, policies and procedures, oversight of third parties, reporting and assessment, and Board education.

It is likely that the BC government may take future steps to further implement the Cullen Commission Report recommendations; as such, CUs should continue to improve their AML/CTF programs to address these vulnerabilities and improve their readiness for new changes.

Stabilization Central will continue to monitor AML/CTF developments as they evolve. In the future, Stabilization Central plans to develop some tools for CUs, which will be shared in this space. For more information on how Stabilization Central can assist your credit union in improving its AML/CTF program, please contact [info@stabilizationcentral.com](mailto:info@stabilizationcentral.com).

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## APPENDIX I

### QUESTIONS BOARDS CAN ASK ABOUT AML

**“Ask about the AML/CTF Program.** The AML/CTF Program is more than a policy document. It is the cornerstone of AML/CTF compliance. An entity commits an offence every time it provides a service without having a compliant program in place. It also commits an offence every time it fails to comply with its Program. Given its importance, management should be able to advise the Board on how they have determined that the AML/CTF Program is fit-for-purpose.

**Ask about the entity’s risk-based controls for managing money-laundering and terrorism financing risk.** The primary purpose of an AML/CTF Program is to set out an entity’s processes for identifying and mitigating its ML/TF risk. An entity must first determine its ML/TF risks through completing detailed and comprehensive risk assessment. It must then establish controls to manage the risks identified. Ask management about the ML/TF exposure of the organisation, how ML/TF risks are identified, and the controls (both detective and preventative) established to manage those risks.

**Ask about AML/CTF assurance processes.** There is no point building controls if they don’t work. Controls can be embedded in systems or be manual. Ask management what assurance processes are in place to check the ongoing effectiveness of those controls. Beyond audit, assurance should extend to line 1 and line 2 controls testing.

**Ask about known areas of non-compliance and remediation activities.** If there are no known areas of non-compliance, your financial crime team is not looking hard enough. The nature of AML means that there are always things to fix, even if that is simply moving to higher standards required to meet more recent regulatory restatements of requirements.

**Ask questions about the capability and capacity of the financial crime compliance function.** Financial crime professionals are in short supply. Ask management about the capability and mix of skills in your financial crime team and whether supplementary external resources are required. Be particularly attuned to reports of backlogs in AML operational processes. Ask management how these backlogs are being addressed and the timeframes for bringing processes back to within agreed SLAs.”

From *What Boards Should Ask About AML*, Amanda Wood on LinkedIn, September 28, 2020. Amanda Wood is the Principal of Waterstone AML.

<https://www.linkedin.com/pulse/questions-boards-should-ask-aml-amanda-wood/>.

## APPENDIX II

### Further reading:

1. Lincoln Caylor, Maureen Ward, Mark Jewett, David Gruber, Simon Grant, Nathan Shaheen, and Jessica Horwitz, “The Cullen Commission Releases Its Final Report on Money Laundering in British Columbia – Key Takeaways,” Bennett Jones, June 17, 2022, <https://www.bennettjones.com/Blogs-Section/The-Cullen-Commission-Releases-Its-Final-Report-Key-Takeaways>.
2. Jacqueline D. Shinfield, “The Cullen Commission Report: What You Need to Know,” Blakes, June 20, 2022, <https://blakes.com/insights/bulletins/2022/the-cullen-commission-report-what-you-need-to-know>.
3. Laura Thistle, Julia Webster, Nadia Effendi, and Heather Webster, “Cullen Commission Final Report Makes Sweeping Recommendations for Anti-Money Laundering Regulation in B.C.,” Borden Ladner Gervais, June 23, 2022, <https://www.blg.com/en/insights/2022/06/cullen-commission-final-report-makes-sweeping-recommendations>.
4. Dentons, “The Cullen Commission Overview,” July 19, 2022, <https://www.dentons.com/en/insights/articles/2022/july/14/the-cullen-commission-overview>.
5. Andrew I. Nathanson, Gavin Cameron, and Julia Kindrachuk, “Cullen Commission Report on Money Laundering in B.C. Recommends Extensive Regulatory and Enforcement Improvements to Fight Money-Laundering,” Fasken, June 22, 2022, <https://www.fasken.com/en/knowledge/2022/06/22-cullen-commission-report-on-money-laundering-in-bc>.
6. Ana Badour, Shauvik Shah, and Khristoff J. Browning, “Cullen Report Sets Out Recommendations to Address Money Laundering in British Columbia,” McCarthy Tetrault, June 29, 2022, <https://www.mccarthy.ca/en/insights/blogs/techlex/cullen-report-sets-out-recommendations-address-money-laundering-british-columbia>.
7. Lawrence E. Ritchie, Malcolm Aboud, Sarah Firestone, and Stéphane Eljarrat, “Cullen Commission Releases Final Report on Money Laundering in British Columbia,” Osler, June 23, 2022, <https://www.osler.com/en/blogs/risk/june-2022/cullen-commission-releases-final-report-on-money-laundering-in-british-columbia>.
8. Ernst & Young, *The Full Impact of the Cullen Report: Implications for all Reporting Entities* [Internal document], November 2022.



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