



UNIVERSITY OF
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Institute of
Islamic Studies

HUMANITARIANISM & THE EXCLUSION OF MUSLIM CHARITIES FROM THE FINANCIAL SECTOR

THE UNINTENDED
CONSEQUENCES OF
CANADA'S ANTI-
MONEY LAUNDERING,
ANTI-TERRORIST
FINANCING, AND
SANCTIONS REGIME

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ABBREVIATIONS

AML/ATF	Anti-money laundering/anti-terror financing
BoC	Bank of Canada
CBA	Canadian Bankers Association
CRA	Canada Revenue Agency, Ministry of National Revenue
FATF	Financial Action Task Force
FCAC	Financial Consumer Agency of Canada, Department of Finance
FINTRAC	Financial Transactions and Reports Analysis Center of Canada, Department of Finance
GAC	Global Affairs Canada
NGO	Non-governmental organization
NPO	Not-for-Profit Organization
NSIRA	National Security Intelligence Review Agency, Public Safety
OBSI	Ombudsman for Banking Services and Investments, Department of Finance
OFAC	Office of Foreign Asset Control, United States Treasury
OSFI	Office of the Superintendent of Financial Institutions
OSRI	Office of the Special Representative on Islamophobia
OTO	Office of the Taxpayers' Ombudsperson
PCMLTFA	Proceeds of Crime (Money Laundering) and Terrorist Financing Act
RAD	Review and Analysis Division, Canada Revenue Agency
UN	United Nations



EXECUTIVE SUMMARY

Canadian Muslim charities have consistently raised concerns about the discriminatory impact of Canada’s anti-money laundering/anti-terror financing and sanctions regimes (hereinafter AML/ATF+sanctions regime) on their activities. While there are good reasons to ensure charitable funds do not end up in the hands of terrorists, Canada recognized in 2025 that the threat of this happening is limited in Canada¹ Nonetheless, Canada enables a regulatory regime that charities complain poses unintended consequences that undermine their essential humanitarian work in regions that Canada deems high-risk for terrorist financing. These complaints extend to Not-for-Profit Organizations (NPOs) writ large—non-profits and registered charities—and implicate broader issues of financial access, consumer protection, and economic fairness at a time of rising costs, a weakening Canadian dollar, and global diversification beyond Canada’s traditional trading partners.

Canada’s more than 80,000 registered charities play an indispensable role in Canada and abroad. For many Muslims, charities also sustain faith traditions, transmit values across generations, and enable fulfilment of religious obligations such as zakat —supporting the poor and vulnerable both in Canada and abroad. Philanthropy is a cornerstone of Muslim life in Canada despite the ongoing challenges described in this paper.

The Financial Action Task Force (FATF), the global standard setting body for AML/ATF policies (of which Canada is a founding member), recognizes the significant role charities play in providing relief and support in moments of crisis and in regions of the world facing difficulties. In recent years, the FATF has recognized, based on considerable NPO intervention, that state implementation of its recommendations may lead to adverse “unintended consequences”² on the charitable sector, including but not limited to the over-securitization of charities by domestic charities regulators and financial derisking by private sector financial institutions.³ Notably, European charities have successfully pressed the FATF to include mitigation of unintended consequences as a factor in its country evaluations.

The topic of unintended consequences and, more specifically, financial derisking of NPOs have not been significantly discussed in Canadian public policy debates. This report fills this gap by offering recommendations on how Canada, in compliance with FATF recommendations, can mitigate against the unintended consequences that Canadian NPOs, including registered charities, now experience. The proposed recommendations fulfill the mandates of the Canadian government given its international humanitarian commitments, and its promise to grow and diversify Canada’s economy. For instance, when Global Affairs Canada (GAC) allocates funding to its Canadian Humanitarian Assistance Fund (CHAF), it does so knowing that the charitable sector—working through the coordinating body Humanitarian Coalition—will combine these tax dollars with private donations to support relief efforts around the world.⁴ Likewise, recently the Secretary of State (International Development) has committed to leverage Canada’s development assistant programs with the expansion of trade partners and the creation of efficient supply chains. Canada’s NPOs will inevitably play a front-line role in executing development programs via Canadian funding programs.⁵

Canadian government hearings and independent research have shown that Muslim-led charities are disproportionately subjected to onerous audits by the Canada Revenue Agency (CRA),⁶ often extending beyond standard compliance with the Income Tax Act. A review by the Office of the Taxpayers' Ombudsperson (OTO)⁷ concluded that it could not fully assess the issue due to lack of access to data for privacy and national security reasons. The National Security Intelligence Review Agency's (NSIRA) review of the CRA and its audits under the AML/ATF+sanctions regime found serious deficiencies in the risk methodologies used to review and audit NPOs, specifically regulated charities, under the rubric of national security.⁸ Consultations with various stakeholders, including Muslim charitable organizations and subject-matter experts highlighted persistent challenges that go beyond individual cases. It is, therefore, urgent to understand and address how Canada's AML/ATF+sanctions regime undermines the ability of NPOs to deliver on their beneficial charitable purposes.

Based on a review of literature and evidence, and consultations with stakeholders, there are three primary unintended consequences of Canada's AML/ATF+sanctions regime on the NPO sector. First, among the unintended consequences that have already been addressed (e.g., CRA and RAD audits), the regime incentivizes private sector risk assessment practices that create the conditions for bias and privacy violation. Second, the regime leads to undesirable financial derisking, leaving NPOs, including registered charities, without access to important banking services and, in practice, unable to operate. Finally, the regime has led to "humanitarian derisking" as NPOs prioritize AML/ATF+sanctions risk assessments over principled humanitarian action.

Each one of these consequences is significant in its own right and the interplay of the three has led to particularly serious consequences. For example, due to financial derisking, NPOs and registered charities providing life-saving humanitarian relief are losing access to payment systems essential for transferring funds to crisis-affected regions. In order to preserve that access, Muslim charities in Canada are increasingly forced to conduct "humanitarian derisking," weighing their ability to maintain financial services against their charitable mandate to respond to humanitarian disasters. In some cases, this has forced organizations to withdraw entirely from high-need regions.

American and European NPO advocates have successfully pressed the FATF to recognize unintended consequences (and their mitigation) as a factor in its country evaluations. While Canadian charities have contributed to these global discussions, they have not played a leadership role. Nor has it been robustly examined in national policy debates. This paper seeks to fill that gap. Section I provides a background to the work done to date on the issue of NPOs, with an emphasis on registered charities, and their regulation under Canada's AML/ATF regime. That first generation of research (Charities 1.0) informed two federal reviews that focused on the Canada Revenue Agency (CRA) and its AML/ATF unit the Review and Analysis Division (RAD). Leveraging the learnings from that research and federal reviews, this report adopts a whole-of-government approach to inaugurate a new generation of research (Charities 2.0) to examine how NPOs and regulated charities are subject to a complex public-private partnership involving (a) numerous siloed federal agencies enforcing Canada's AML/ATF, UN sanctions, and autonomous sanctions regimes, and (b) private sector institutions whose compliance practices lead to adverse unintended consequences with few mitigation measures in place. Section II introduces the relevant public-private partners

and Section III explains the unintended consequences NPOs encounter when caught in their web of regulation and compliance. Section III concludes with a series of new recommendations designed to mitigate those consequences, also listed below. The FATF's evaluation team visited Ottawa in November 2025 and upon further research and consultations will produce its Mutual Evaluation report on Canada's compliance regime in 2026. This report underscores the urgency of addressing how Canada's AML/ATF+sanctions regime—while advancing security goals—has undermined the ability of NPOs and Canada's vibrant charitable sector to deliver on their public benefit purposes.

It is possible to mitigate these unintended consequences while continuing to effectively guard against money laundering and terrorist financing and to respect sanctions regimes. But a coordinated government response is required. The following recommendations identify actionable steps that can be taken by implicated federal departments and agencies to meaningfully address the problems.⁹

RECOMMENDATIONS

1. **CRA:** Require the CRA to disclose legal and regulatory grounds for an audit to the charity under audit, including any grounds related to AML/ATF+sanctions.
2. **Department of Finance, OSFI, BoC:** The Office of the Superintendent of Financial Institutions (OSFI), the Bank of Canada (BoC) and any other federal regulators of financial institutions and payment services should adopt financial inclusion as a prudential principle of financial regulation.
3. **Department of Finance, FINTRAC:** The Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) should be amended to require all reporting entities under s. 5 to provide annual reports to Financial Transactions and Reports Analysis Center of Canada (FINTRAC) on the number of terminated accounts and accompanying rationale for derisking.
4. **Department of Finance, FINTRAC:** Subject to Recommendation 3, FINTRAC should include an assessment of the state of derisking in Canada's financial institutions in its legislatively mandated annual report under PCMLTFA, s. 71(1).
5. **Department of Finance, FINTRAC:** Subject to Recommendation 3, FINTRAC should provide a standardized reporting template for reporting entities to ensure consistency and alignment with FATF concerns on unintended consequences and the prudential principle of financial inclusion.
6. **Department of Finance, FCAC:** Financial Consumer Agency of Canada (FCAC) should develop a strategy to support financial inclusion, and periodic assessments (every five years) on the state of financial exclusion in Canada's financial services industry, including progress toward fulfilling its strategies to redress financial exclusion of Canada's financial consumers.
7. **Department of Finance, OBSI:** Ombudsperson for Banking Services and Investments (OBSI) should develop a redress mechanism within its existing consumer complaints process that examines derisking as a potential instance of bias in the application of risk analysis.
8. **Department of Finance:** Representatives of the NPO sector should be included on the Advisory Committee on AML/ATF.

9. **CRA:** The Charities Directorate, with consultation from Public Safety, should issue guidance to help charities understand the scope and limits of the new humanitarian exception and authorization regime in the Criminal Code.
10. **CRA and Public Safety:** CRA and Public Safety should jointly organize semi-annual sessions to address the NPO sector at large, and the humanitarian/development sector in particular, on compliance with the humanitarian exception and to advise on best practices when applying to the authorization regime under the Criminal Code s. 83.032.
11. **CRA and GAC:** CRA and GAC should jointly organize for the NPO sector, in particular the humanitarian and development sector, semi-annual sessions to support NPOs comply with Canada’s UN and autonomous sanctions regime.
12. **Public Safety:** Public Safety should conduct a periodic review of its authorization regime in coordination with representatives from the CRA’s Charity’s Directorate and Canada’s NPO sector, specifically leading humanitarian and development agencies, to assess the efficacy and any unintended consequences of the new authorization regime, including but not limited to whether and to what extent the authorization regime contributes to Canadian charities derisking their humanitarian and development programs due to AML/ATF+sanctions mission creep. This periodic review should be included as part of Public Safety’s annual reporting requirements under Criminal Code s. 83.0392 (1).

1. See, for instance, Department of Finance, *2025 Assessment of Money Laundering and Terrorist Financing Risks in Canada* (Ottawa: Government of Canada, 2025), 55, where Finance Canada explains: “The terrorist financing threat assessment indicates that Canada’s terrorist financing landscape is largely low volume, characterized by low value transactions and limited financial flows.”
2. The Financial Action Task Force uses the language “unintended consequences” to address the downstream adverse consequences stemming from state compliance with its recommendations. For an example of FATF usage, see [here](#). For the FATF, the fact that these unintended consequences are adverse is presumed and implicit. Throughout this paper, the phrase “unintended consequences” follows FATF usage, including the implication that all such consequences under review are adverse to the parties identified.
3. For an example of the FATF’s approach, see here: <https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Unintended-consequences-project.html>.
4. On the CHAF, see https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/response_conflict-reponse_conflits/canadian_humanitarian-canadien_humanitaire.aspx?lang=eng. Humanitarian Coalition is an umbrella organization consisting of Canada’s twelve largest humanitarian aid and relief charities. For more on Humanitarian Coalition, its membership, and its coordinating function, visit its website here: <https://www.humanitariancoalition.ca>.
5. Riddhi Kachhela, “International development strategy now linked to economic agenda says Sec State Sarai,” *The Hill Times*, 22 December 2025, <https://www.hilltimes.com/story/2025/10/29/international-development-strategy-linked-to-economic-agenda-says-secstate-sarai/480149/>. For examples of Canadian funding programs for development assistance, see Global Affairs Canada’s funding opportunities for international assistance, online: https://www.international.gc.ca/world-monde/funding-financement/open_calls-appels_ouverts.aspx?lang=eng.
6. Canada, Parliament Senate Standing Committee on Human Rights, *Combatting Hate: Islamophobia and its Impact on Muslims in Canada*, 44TH Parl, Sess 1 (November 2, 2023), 50-54; Anver M. Emon and Nadia Z. Hasan, *Under Layered Suspicion: A Review of CRA audits of Muslim charities* (Toronto: University of Toronto Institute of Islamic Studies, 2021), www.layeredsuspicion.ca; Tim McSorely, *The CRA’s Prejudiced Audits* (Ottawa: International Civil Liberties Monitoring Group, 2021), <https://iclmg.ca/confronting-the-cras-prejudiced-audits/>.
7. For the OTO report, see Office of the Taxpayers’ Ombudsperson, *Charity Begins with Fairness: More to Explore* (Ottawa: Government of Canada, 2023), online: <https://www.canada.ca/en/taxpayers-ombudsperson/programs/reports-publications/special-reports/charity-begins-with-fairness.html>.
8. National Security Intelligence Review Agency, *Review of the Canada Revenue Agency’s Review and Analysis Division*, Review 23-08 (Ottawa: Government of Canada, 2025).
9. Many of the agencies highlighted in this discussion paper, including those referenced further in the recommendations, were consulted in a preliminary capacity to inform the development of the proposed recommendations. The author extends his gratitude and appreciation to all stakeholders who contributed their expertise, insights and support throughout the research process and in developing this paper.





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Numerous stakeholders across Government and the NPO sector were consulted for this research. I wish to express my deep and sincere gratitude for their time and commitment to reflect with me on how to support Canada's NPO sector under conditions of national security. Since 2023, national discussion on the issues identified herein were led by Canada's Office of the Special Representative to Combat Islamophobia, led by Ms. Amira Elghawaby. I was privileged to serve as a special advisor to that Office. The research for this report, while always independent, was conducted under the auspices of that Office, the tireless leadership of Ms. Elghawaby, and the support of her dedicated colleagues in the public civil service. In February 2026, the Government of Canada dissolved that office. This report remains an academic product produced under conditions of academic freedom. It does not reflect the views of the Government of Canada. Nonetheless I express my deep gratitude to Ms. Elghawaby and her former colleagues at the Office of the Special Representative on Combatting Islamophobia at the Department of Canadian Heritage for their collegiality, friendship, and leadership.



SECTION I: BACKGROUND

Over the past decade, concerns have intensified regarding perceived and actual systemic Islamophobia in the Canada Revenue Agency's (CRA) regulation of charities. The CRA's Review and Analysis Division (RAD) is responsible for fulfilling Canada's anti-terrorism financing obligations with respect to charity regulation. It has been particularly scrutinized for disproportionate audits and charity registration revocations of Muslim-led Canadian organizations, often under the pretext of counter-terrorism financing.

Reports published by [the University of Toronto](#) and the [International Civil Liberties Monitoring Group \(ICLMG\)](#)¹⁰ documented patterns of evidence selection bias, interpretive bias, overreach, lack of transparency, and the use of confidential intelligence that cannot be challenged in a fair process. These reports were the first to provide an analytic foundation addressing what Muslim charities had long experienced. This first generation of research (Charities 1.0). provided the necessary inducements for subsequent federal inquiries.

In hearings with the CRA and Muslim charities, the Senate Standing Committee on Human Rights, concluded "that RAD's work to date—regardless of the intentions of its employees—has demonstrated structural bias against Muslim charities."¹¹ An independent review of the CRA's auditing processes by the Office of the Taxpayers' Ombudsperson (OTO) acknowledged the seriousness of these concerns; but due to limited access to relevant information, files, and data, the OTO was unable to fulfill its mandate.¹² Thereupon,¹³ the National Security Intelligence Review Agency (NSIRA) commenced a review of RAD and its audits of charities. Its 2025 report¹⁴ explained that, given the absence of systemic data on registered charities, not to mention RAD's poor record keeping, it was unable to address whether RAD's actions constituted discrimination, including under Section 15 of the *Charter*. Unless the CRA collects sufficient demographic data on registered charities and their boards, it is methodologically impossible under current *Charter* jurisprudence to determine if the CRA's audits of Muslim charities violate the *Charter*. Nonetheless, NSIRA found that RAD's risk factors for terror financing are inadequate and not regularly reviewed for their accuracy and reasonability. Moreover, NSIRA found "that a lack of rigour in RAD's processes for identifying and selecting charities for audit introduced risks of bias and discrimination."¹⁵ NSIRA also questioned the value added of RAD when its audits do not result in a finding of terrorist financing. More often, RAD's findings in charities reviews and audits will report violations of the Income Tax Act that have little to do with terrorist financing. For NSIRA, this empirical finding called into question why RAD audits resulted in revocations of charity registration more often than standard Compliance Division audits. The CRA accepted the NSIRA recommendations except for two. First it rejected NSIRA's recommendation that "the CRA collect and evaluate demographic data from the charitable sector to ensure that its treatment of charities is free from discrimination."¹⁶ The CRA rejected this recommendation due to Privacy Act restrictions on the data it can collect.

[T]he CRA collects only such information as is necessary to administer the tax incentives for charitable donations, and the registration system for charities, including

ensuring the ongoing compliance of charities with the rules in the Act. While the CRA has limited authority to collect additional demographic information from the charitable sector to evaluate the program, the CRA cannot require a charity to provide such information, as it is not necessary for the administration of these provisions, nor would it serve a compliance-related purpose.¹⁷

The CRA also rejected NSIRA’s recommendation that it “conduct a focused comparison of audit outcomes between RAD and Compliance Division to determine whether the differences identified here are justified.” The CRA explained its rejection of this recommendation as follows: “CRA audits seek to enforce uniform regulations that apply to all registered charities, even when addressing risks that may relate to terrorist abuse. All audit outcomes are determined on a case-by-case basis, relying on the same guidance products and not with targets in mind.”

In the last federal election, dismantling RAD became a campaign issue,¹⁸ and was amplified when NSIRA released its report in Fall 2025.¹⁹ NPO stakeholders called for strengthened oversight of the CRA, anti-Islamophobia training, and enhanced support for charities. At the same time, the pressure Muslim charities and not-for-profit organization have felt over decades stems from *both* public sector regulation *and* private sector financial institutions, and the latter’s internal compliance metrics and varied risk tolerance as the global business climate evolves.

While Charities 1.0 centered on the CRA and RAD to ensure a fair and unbiased charities regulatory regime, the challenges charities face (a) apply broadly to all not-for-profit organizations (NPOs); (b) cut across the whole-of-government and do not stem solely from the CRA or RAD; and (c) implicate Canada’s private sector financial institutions. This report represents the next stage of research in this complex regulatory area (i.e., Charities 2.0). Building on what came before, this report situates NPOs in the complex web of a public-private partnership that spans both AML/ATF and Canada’s autonomous sanctions regime and its UN sanctions regime under the *UN Act*. As such, the construct of “AML/ATF+sanctions” is used herein to represent the report’s scope and scale of analysis. Certainly, the CRA plays an important role in this AML/ATF+sanctions regime, but it is only one among many actors that need to be appreciated for effective diagnosis and efficient responses. Section II provides an overview of the extensive cast of government and private sector actors, which in the aggregate contribute to the unintended consequences outlined in Section III. By virtue of the whole-of-government regulation of AML/ATF+sanctions requirements, the recommendations outlined below adopt an equally whole-of-government approach.



10. Anver M. Emon and Nadia Z. Hasan, *Under Layered Suspicion: A Review of CRA audits of Muslim-led Charities* (Toronto: University of Toronto, 2021), www.layeredsuspicion.ca; Tim McSorely, *The CRA's Prejudiced Audits: Counter-Terrorism and the Targeting of Muslim Charities in Canada* (Ottawa: International Civil Liberties Monitoring Group, 2021), <https://iclmg.ca/wp-content/uploads/2021/06/Prejudiced-Audits-ICLMG-2021.pdf>.
11. Canada, Senate Standing Committee on Human Rights, *Combating Hate: Islamophobia and its Impact on Muslims in Canada*, 44th Parl, 1st Sess (November 2023), 51, <https://sencanada.ca/en/info-page/parl-44-1/ridr-islamophobia/>.
12. Office of the Taxpayers' Ombudsperson, *Charity Begins with Fairness: More to Explore* (Ottawa: Government of Canada, 2023), online: <https://www.canada.ca/en/taxpayers-ombudsperson/programs/reports-publications/special-reports/charity-begins-with-fairness.html>.
13. Between the OTO report and the NSIRA report was *Charter* litigation against the CRA by the Muslim Association of Canada. The Ontario Superior Court found the litigation 'premature' given that the charity had not exhausted all remedies under the Income Tax Act. However, in obiter dicta, the court shared some of the charity's concerns about the audit. *Muslim Association of Canada v. Attorney General of Canada*, 2023 ONSC 5171.
14. National Security Intelligence Review Agency (NSIRA), *Review of the Canada Revenue Agency's Review and Analysis Division*, Review 23-08 (Ottawa: Government of Canada, 2025).
15. NSIRA, *Review of the Canada Revenue Agency's Review and Analysis Division*, 15.
16. Canada, Canada Revenue Agency, "CRA Response to the National Security and Intelligence Review Agency's (NSIRA) report," 2 October 2025, <https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/transparency-proactive-disclosure-canada-revenue-agency/responses-reviews-reports/responce-nsira-report.html>.
17. CRA, "CRA Response to the National Security and Intelligence Review Agency's (NSIRA) report."
18. Raffy Boudjikianian, "In appeal to Muslims, Freeland pledges to scrap controversial CRA division," *CBC News*, 20 February 2025, <https://www.cbc.ca/news/politics/freeland-cra-rad-muslim-audits-1.7463471>.
19. Ian Bailey, "Muslim advocacy group demands CRA transparency over audits tied to terrorism," *The Globe and Mail*, 30 October 2025, <https://www.theglobeandmail.com/politics/article-coalition-of-muslims-cra-terrorism-audits-charities-revenue-agency/>.



SECTION II: CANADA'S AML/ATF + SANCTIONS REGIME —A PUBLIC-PRIVATE PARTNERSHIP

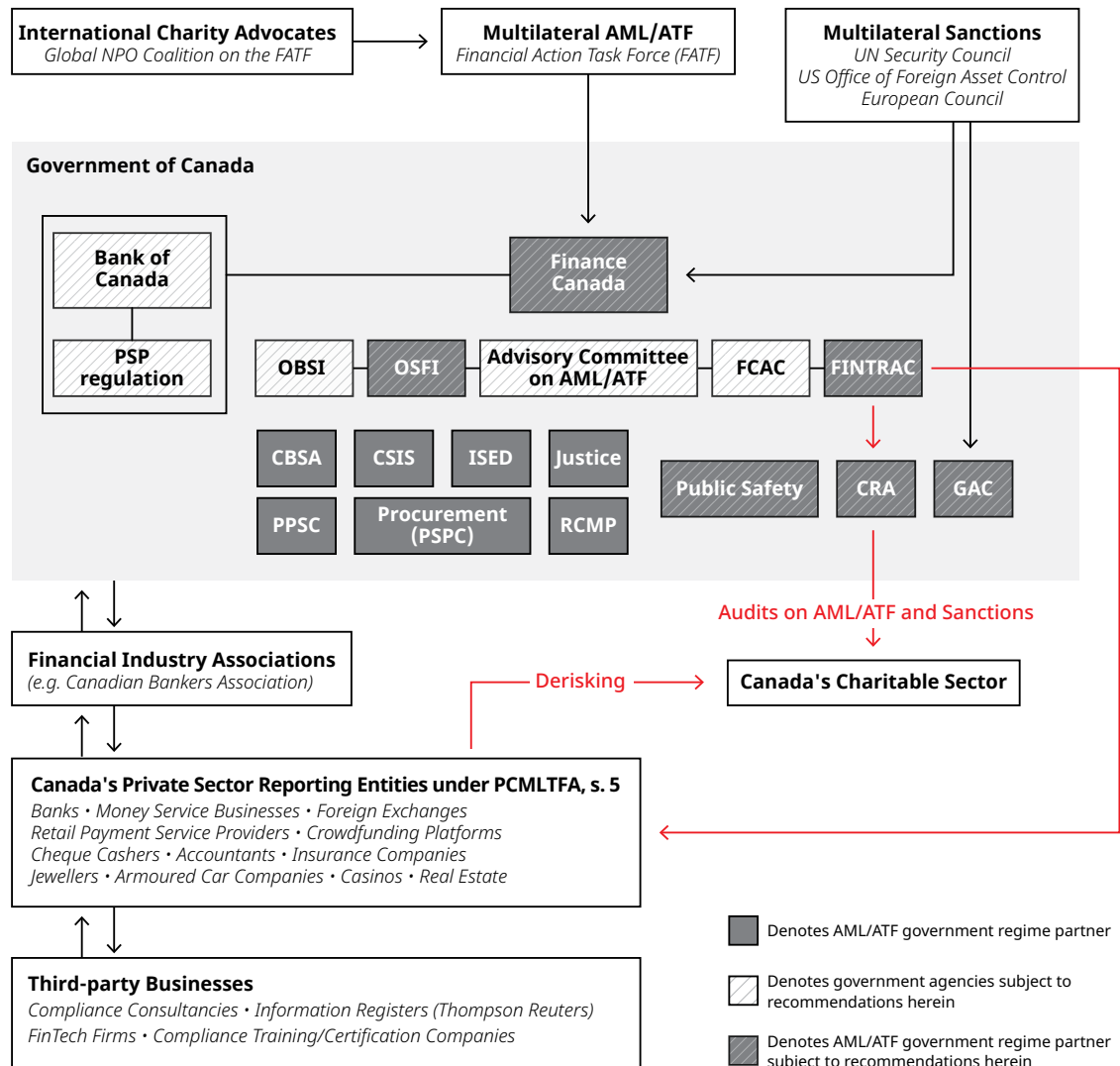
At the heart of Canada's AML/ATF+sanctions regime is a concern about money: who has it, who receives it, who moves it, to where, and through what payment channels. For instance, when an NPO or charity decides to move money to support humanitarian relief it relies on a number of private sector financial institutions (e.g., banks, retail payment service providers, credit card payment systems, electronic wire-transfer systems), all of which are subject to a host of financial regulations enforced by different federal offices that do their work, sometimes siloed from each other, at other times in coordination with each other. The legislative framework for both AML/ATF+sanctions compliance imposes obligations on private sector financial institutions, which work in partnership with the Government of Canada.

Canada's AML/ATF+sanctions regime exists to protect the integrity of the financial system, prevent its misuse by criminals or terrorist organizations, and uphold Canada's international obligations. In particular, the regime fulfills Canada's obligations as a member of the Financial Action Task Force (FATF), which sets global AML/ATF standards. In doing this, the AML/ATF+sanctions regime protects Canadians, promotes economic stability, and strengthens Canada's reputation as a trusted, transparent, and economically safe place to do business. While there are good reasons to ensure charitable funds do not end up in the hands of terrorists, Canada recognized in 2025 that the threat of this happening is limited in Canada.²⁰ As Finance Canada explained in its 2025 risk assessment, "The terrorist financing threat assessment indicates that Canada's terrorist financing landscape is largely low volume, characterized by low value transactions and limited financial flows."

Canada's AML/ATF+sanctions regime involves thirteen federal entities.²¹ It is a whole-of-government (WoG) framework involving FINTRAC (Canada's financial intelligence unit), law enforcement, the Canada Revenue Agency (charities and tax compliance), OSFI (bank supervision), Department of Justice, Public Safety, CBSA, and others. Not all of these agencies directly oversee the flow of funds into and out of Canada, or focus specifically on the NPO sector. This discussion paper centers on those agencies with responsibilities for regulating financial flows. Many of these agencies fall under the Department of Finance portfolio such as the Office of the Superintendent of Financial Institutions (OSFI) and Financial Transaction and Reports Analysis Center of Canada (FINTRAC). Others operate in parallel, such as the Bank of Canada (BoC)—which has statutory independence but reports to Parliament through the Minister of Finance—and now regulates retail payment service providers. Both OSFI and the BoC coordinate closely on monetary and fiscal matters. Collectively, these and other federal agencies regulate private sector financial institutions

(e.g., banks), which are also subject to section 5 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)*,²² with mandatory reporting requirements to FINTRAC.

Private sector financial institutions often engage public sector financial regulators through industry associations such as the Canadian Bankers Association (CBA). In addition, third-party for-profit firms contribute to the economy of AML/ATF+sanctions by creating compliance-centered software, training courses, and other products to support the regulated entities in meeting their compliance obligations.²³ While the AML/ATF+sanctions regime is grounded in federal legislation, it applies to multiple federal agencies, imposes reporting obligations on private sector financial institutions, and generates a market for third-party companies and consultancy firms to support compliance officers at regulated financial institutions. The regime is also shaped by a feedback loop in which industry representatives lobby and/or advise the federal government on behalf of their member financial institutions. Figure 1 illustrates the complexity and extensive scope of the AML/ATF+sanctions regime.



INTERNATIONAL STAKEHOLDERS

The Financial Action Task Force (FATF):

The FATF is an international standard-setting body that develops recommendations for states to combat money laundering and terrorist financing. The FATF's recommendations do not constitute a treaty or a convention, nor are they formally incorporated by Parliament into law; they are “soft law”. Canada's legislative developments, including the PCMLTFA and the *Charities Registration (Security Information) Act* (CRSIA, S.C. 2001, c. 41, s. 113) are examples of federal legislation that comply with FATF recommendations.²⁴

Within months of September 11, 2001, the FATF announced a series of recommendations to address terrorist financing. The FATF's Recommendation 8²⁵—which identifies NPOs as uniquely vulnerable to terrorist financing—states:

Countries should identify the organisations which fall within the FATF definition of non-profit organisations (NPOs) and assess their terrorist financing risks. Countries should have in place focused, proportionate and risk-based measures, without unduly disrupting or discouraging legitimate NPO activities, in line with the risk-based approach. The purpose of these measures is to protect such NPOs from terrorist financing abuse, including:

- a. by terrorist organisations posing as legitimate entities;
- b. by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
- c. by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

This recommendation is reflected in Canada through legislation such as the PCMLTFA and CRSIA, but also in the practices of various agencies, such as FINTRAC and the CRA's Review and Analysis Division (RAD).

Member states of the FATF are subject to periodic reviews called “mutual evaluations” or peer evaluations conducted by the FATF and its regional bodies to assess how well a country is implementing its Recommendations on combatting money laundering and terrorist financing (e.g., technical compliance and level of effectiveness). Canada has already been subjected to a mutual evaluation in 2016,²⁶ and it will once again be reviewed in 2025-2026.

UN Security Council Sanctions

The UN Security Council periodically imposes economic sanctions on states and non-state actors (including those engaged in terrorism) on the authority of Section 41 of the *UN Charter*. Canada is subject to these economic sanctions by an Order of the Governor in Council per Canada's *United Nations Act*. Section 2 of that Act states:

When, in pursuance of Article 41 of the Charter of the United Nations...the Security Council of the United Nations decides on a measure to be employed to give effect to any

of its decisions and calls on Canada to apply the measure, the Governor in Council may make such orders and regulations as appear to him to be necessary or expedient for enabling the measure to be effectively applied.²⁷

After the 9/11 attacks in the United States, the UN Security Council issued Resolution 1373 on the suppression of terrorist financing. In that resolution, the Security Council “[d]ecides that all States shall...[p]revent and suppress the financing of terrorist acts.”²⁸ As a member of the United Nations, Canada used its *United Nations Act* to issue its *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*.²⁹ The Security Council Resolution called upon states to “[p]rohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available....for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts...”³⁰ Canada’s Regulations implementing this Security Council Resolution provide in an attached Schedule a list of people and/or entities that fall under the Security Council’s resolution, which upon review are largely Muslim-identified individuals or entities.

US Office of Foreign Asset Control (OFAC)/European Union & Canada’s Autonomous Sanctions.

Canada can also issue economic sanctions either on its own initiative, or in cooperation with other states and/or other non-UN bodies. When Canada imposes sanctions alone and/or in coordination with the United States or the European Union, it can do so in accordance with statutes, such as its *Special Economic Measures Act* (SEMA)³¹ or its *Justice for Victims of Corrupt Foreign Officials Act* (JVCFO).³² It can also freeze assets of corrupt foreign officials under the *Freezing Assets of Corrupt Officials Act* (FACO),³³ or restrict trade to certain regions under its *Export and Import Permits Act*.³⁴ An example of this autonomous sanctions regime in action concerns Iran. Under the authority of SEMA, the Governor in Council issued SEMA regulations against Iran concerning suspected nuclear weapons proliferation.³⁵

Canada regularly coordinates its autonomous sanctions with bodies such as the US Office of Foreign Asset Control (OFAC) and/or the European Union. Within US Treasury, OFAC administers and enforces economic and trade sanctions based on US foreign policy and national security objectives, including but not limited to, combatting terrorism. To support compliance with its mandate, OFAC publishes updated lists of those subject to various sanctions and economic restrictions.³⁶ The European Union takes a similar approach, with sanctions lists of its own. In fact, it provides an interactive Sanctions Map.³⁷ Canadian institutions have ready access to these lists as they navigate their own compliance obligations under Canada’s AML/ATF+sanctions regime.

When Canada issues an autonomous sanction, it calls upon its domestic industries to comply accordingly. For instance, in its Special Economic Measures (Hamas Terrorist Attacks) Regulations, Canada prohibits “any person in Canada and any Canadian outside Canada to...provide any financial or related services to or for the benefit of a listed person.”³⁸ The schedule of that regulation provides a list of individuals and entities that allegedly have a tie with Hamas. This means that a Canadian NPO doing humanitarian relief in Gaza or the West Bank should first check the identity of any recipient before distributing its aid package, lest it run afoul of Canada’s AML/ATF+sanctions regime.

International Charity Advocates

Various regional NPO advocacy bodies organize collectively to redress the unintended consequences of how their respective state satisfies FATF recommendations. These advocates often consist of private sector NGOs that coordinate collectively across national borders, such as the Global NPO Coalition on the FATF.³⁹ This is a body coordinated by a series of domestic NPOs in the United States and Europe. Though Canadian charities have made presentations to the Coalition, no Canadian charity advocacy organization contributes to the governance and coordination of the Coalition.

DOMESTIC STAKEHOLDERS

Bank of Canada

The Bank of Canada (BoC) serves as lender of last resort for Canada's banking industry. But with the passage of the *Retail Payment Activities Act* (2021), the Bank of Canada now assumes a prudential regulatory role with respect to retail payment service providers (PSPs) operating in Canada, such as Stripe, PayPal, ApplePay, and GooglePay.⁴⁰ Prudential financial regulation focuses on safety and stability of financial institutions and services to protect the interests of depositors, maintain market confidence, and prevent systemic risks (see "prudential regulation" in Glossary).

The *Retail Payment Activities Act* (2021) was introduced to regulate, and thereby safeguard, the stability and soundness of PSP services, which have proliferated across Canada in recent years. During the COVID-19 pandemic, Canadians across the country relied on PSPs to make purchases as they sheltered in place. However, consultations with Canadian NPO leaders reveal that their organizations are unable to access these everyday payment services. In practice, either the PSPs or their acquiring banks adopt risk-management frameworks that exclude NPOs and registered charities from becoming clients—particularly humanitarian organizations operating in regions Canada has sanctioned or designated as high-risk jurisdictions for terrorist financing.

While the Bank of Canada enforces prudential safeguards to maintain trust and stability in the financial system, it has no principle promoting financial inclusion. Financial inclusion is a principle designed to ensure financial consumers have reliable access to cost-effective financial services (see "financial inclusion" in Glossary). Without a principle of financial inclusion in its regulatory role of PSPs, the Bank of Canada does not have a mandate to prevent retail PSPs from denying services to NPOs out of excessive caution (derisking), leaving many organizations without access to important banking services and, in practice, unable to operate.

Canada Revenue Agency (Charities Directorate & Review and Analysis Division)

The CRA's Charities Directorate serves as the regulator for Canada's more than 80,000 registered charities. Its responsibilities include registering charities, supporting their effective operation, and auditing them to ensure compliance with the *Income Tax Act*. Following legislative changes after 9/11 and subsequent updates to its anti-terrorism financing regime in 2003, the CRA's Review and Analysis Division (RAD) became integrated into Canada's AML/ATF+sanctions regime to help ensure that charities are insulated from vulnerabilities to terrorist financing.

Only in recent years has RAD been subject to heightened scrutiny from both the charitable sector and policy observers due to claims that it has over-securitized Muslim charities.⁴¹ In its study

of RAD audits, the Senate Standing Committee on Human Rights expressed concern that the disproportionate focus on Muslim-identified charities may indicate potential bias or Islamophobia in audit selection criteria.⁴² In its review of RAD, the NSIRA was unable to find either a Charter violation (due to limited data) or actual bias (due to poor RAD record keeping), but instead found “a lack of rigour in RAD’s process for identifying and selecting charities for audit”, which NSIRA believed “introduced risks of bias and discrimination.”⁴³ In its response, the CRA rejected two of six NSIRA recommendations: (a) that the CRA collect and evaluate demographic data from the sector to ensure its treatment of charities is free of discrimination, and (b) that the CRA conduct a focused comparison of audit outcomes between RAD and the CRA’s Compliance Division.⁴⁴

Public Safety

Public Safety’s role in Canada’s AML/ATF+sanctions regime centers on combatting financial crimes and terrorism, principally through the enforcement of the Criminal Code, which contains various provisions criminalizing terrorist financing.⁴⁵ The provisions criminalizing terrorist financing have a history stemming from the tragic events in the United States on 11 September 2001, and have evolved as terrorist threats have also evolved. Of particular concern to NPOs and registered charities is the ambiguity in recent amendments to the Criminal Code that introduce exceptions to terrorist financing, namely the humanitarian exception and the authorization regime for development aid to areas under effective control of a terrorist entity.

After 9/11, the global community rallied around the United States in its invasion of Afghanistan. Canada was a committed participant to that military effort. Since then and for over two decades, Canadian charities directed funds to Afghanistan to support humanitarian and development projects aimed at alleviating the hardships of a society in crisis. At that time, the Criminal Code prohibited direct and indirect financial support for listed terrorist entities, such as the Taliban. Since the Taliban were on the run and under attack, there was little danger of these charities violating these Criminal Code provisions. But in August 2021, when the United States pulled out of Afghanistan, the Taliban quickly retook Kabul and continues to rule Afghanistan as it had prior to the US-led invasion in 2001. The Taliban’s resumption of power in 2021 put Canadian charities in a difficult dilemma. While committed to continuing their humanitarian work, these charities risked criminal liability under Canadian law since their humanitarian effort, depending on its scale and scope, could be construed as indirect support of a terrorist regime. Each dollar transferred to Afghanistan carried the potential of being deemed terrorist financing under the Criminal Code, placing charities in a precarious position between criminal liability and humanitarian commitment.

In 2023, Canada passed Bill C41, introducing a humanitarian exception and an authorization regime for development aid into the Criminal Code. For instance, the new section 83.03(4) allows charities and not-for-profit organizations to provide humanitarian assistance in areas affected by conflict or disaster, even where terrorist groups may exercise control. Likewise, the new section 83.03(3) requires development organizations to apply to an authorization regime prior to undertaking development work in regions controlled by terrorist entities. The following year, Public Safety issued guidance to NPOs outlining the application process for the authorization regime.⁴⁶

Consultations revealed confusion over Canada’s humanitarian exception (Criminal Code s. 83.03(4)) and its authorization regime (Criminal Code s. 83.032). The humanitarian exception exempts from

the crime of terrorist financing “a person who carries out any of the [proscribed] acts...for the sole purpose of carrying out humanitarian assistance activities conducted under the auspices of *impartial humanitarian organizations* in accordance with international law while using reasonable efforts to minimize any benefit to terrorist groups.”⁴⁷ NPO sector leaders expressed confusion about the meaning of “impartial humanitarian organizations” and its distinction from “a person” in the statutory language. Registered charities are already legal persons under the law. Some of them conduct humanitarian relief efforts as part of their broader portfolio. Others are solely committed to impartial humanitarian relief. NPO sector leaders expressed uncertainty about whether “impartial humanitarian organization” connotes a certain threshold of operational focus on humanitarianism before this provision can apply. As they explained, some NPOs operate numerous portfolios, only some of which are humanitarian in nature.

NPO sector leaders also find the phrase “terrorist groups” in Criminal Code ss. 83.032(1) and 83.032(2) vague and ambiguous. Sector leaders rely on Public Safety’s “Currently listed entities” webpage to govern their compliance.⁴⁸ But under Criminal Code s. 83.032(1), the Government explains that

For purposes of this section, a terrorist group controls a geographic area if the group exerts sufficient influence over the area such that the carrying out, in the area, of an activity involving property or financial or other related services could reasonably be expected to result in the terrorist group using or benefiting from the property or services, in whole or in part.⁴⁹

The language of the statute uses terms that create more confusion than clarity. For example, Public Safety makes plain in its guidance to the authorization regime that “terrorist groups” are not limited to those on its terrorist entities list.⁵⁰ This creates ambiguity as to what “a terrorist group” refers. Also, terms like “sufficient influence”, without more guidance, require NPOs to make calculations without a baseline unit of measure.

In addition, sector leaders repeatedly expressed concern that the authorization application process is unduly onerous, with little publicly available information on the rates of success in the application process, or guidance on best practices to ensure a successful application. Lastly, the Government has not clarified the distinction between humanitarian aid covered by the legislated exception and development aid requiring formal approval by Public Safety’s authorization regime. For example, a program to clear landmines could be considered either developmental or humanitarian. GAC has advised that clearing landmines by itself is developmental, and thereby requires an application to the Public Safety authorization regime. But if the purpose of clearing landmines is to secure safe access to a local hospital, then a project to clear land mines in this instance can be humanitarian and fall under the humanitarian exception. Clearing landmines, therefore, cannot be pre-assessed as either developmental or humanitarian.⁵¹

While the Government considers this humanitarian-development distinction a solution, it has led Canadian NPOs, including registered charities, to prioritize Canada’s AML/ATF risk management regime over principled humanitarian action. Humanitarian operational decision making is

premised on certain principles, including impartiality.⁵² Charities only need to know if people are in need. Humanitarian sector leaders make this determination through robust needs assessments conducted in the regions in which they operate. The needs assessment metrics are not simple; their nuances are designed precisely to ensure humanitarian principles are upheld.⁵³ But AML/ATF+sanctions risk metrics often require entities to “Know Your Client” (KYC), namely, to know enough about clients to determine if they pose any AML/ATF+sanctions compliance risks.⁵⁴ Humanitarian impartiality (serving clients based on need only) and AML/ATF+sanctions KYC protocols can and do conflict with one another. For instance, suppose a Canadian humanitarian charity oversees a cash-based program for those in need in an area Canada considers high risk for terrorist financing, such as Yemen. High risk jurisdictions like Yemen also happen to be the same areas in greatest need of humanitarian relief. Under the principle of impartiality, a Canadian charity will focus on the needs of those who come to its program all the while respecting their privacy and confidentiality. Moreover, cash-based programming is consistent with best humanitarian practices. It was enshrined in the UN’s 2016 Grand Bargain,⁵⁵ reflecting a commitment to reform the delivery of humanitarian aid. Significantly, Canada is party to the Grand Bargain.⁵⁶ But because Canadian charities are also subject to audits under Canada’s AML/ATF+sanctions regime, any Canadian charity providing cash-based programming would be expected to conduct a KYC-like assessment of every person in need that comes to its local program. If a charity insists on humanitarian impartiality alone, it runs the risk of an audit on reasonable grounds of suspicion for committing terrorist financing. In practice, the more charities integrate AML/ATF+sanctions compliance within their humanitarian programming protocols, the more they prioritize domestic national security at the expense of principled humanitarian action, undermining Canada’s long-standing global reputation for supporting humanitarian initiatives.

The Government has tried to redress this concern with C41’s humanitarian exception and authorization regime. While an NPO may certainly benefit from the exception, this regime lacks (a) guidance on the ceiling of humanitarian aid beyond which charities will be subject to regulatory audit, and (b) clarity on the authorization regime application and review process under Public Safety. Moreover, the Government’s distinction between humanitarian and development aid runs contrary to its commitment to the humanitarian-development-peace nexus, or what Canada calls the Triple Nexus.⁵⁷ As the Minister of International Development explained in 2021:

[W]ith traditional approaches, humanitarian assistance can help displaced persons in developing countries meet basic needs but is not meant to support them with income-generating opportunities, which displaced persons need when they live in protracted displacement situations. Moreover, providing development aid without also supporting peacebuilding and reconciliation risks continuing a cycle of violence and instability. A shift and adaption is therefore needed to more deliberately and effectively address the interface between humanitarian, development and peace and security interventions.

The humanitarian-development-peace or “triple nexus” is a concept that builds on efforts aimed at improving coordination and cooperation between the 3 areas or pillars of work, with the end goal of improving results and generating greater impacts.⁵⁸

Canada's complex of AML/ATF, sanctions, the Grand Bargain, and the Triple Nexus create a confusing—indeed, contradictory—policy space within which humanitarian and development charities must navigate with little or no guidance.

Global Affairs Canada⁵⁹

Global Affairs Canada (GAC) oversees Canada's UN and autonomous sanctions regime, though sanctions are also a whole-of-government affair, involving FINTRAC, the CRA, and others that operate in the AML/ATF+sanctions regime. The sanctions regime has been subject to regular Parliamentary reviews in 2017, 2023, and 2024. These reviews reveal that Canada's sanctions regime suffers from limited guidance, limited enforcement, and a growing culture of overcompliance by private sector parties in accordance with their already existing AML/ATF+sanctions compliance methodologies.⁶⁰ This section will provide an overview of Parliament's reviews of the sanctions regime, while centering on the downstream unintended consequences on charities and other NPOs.

As explained above, the UN Act authorizes the Governor in Council to issue regulations that conform with Security Council resolutions.⁶¹ Likewise, under autonomous sanctions statutes such as SEMA, the Governor in Council may issue orders or regulations imposing economic measures (i.e., sanctions) against certain states, non-state actors, and individuals. Sanctions regulations under either the UN Act or autonomous sanctions statutes apply to both NPOs and their financial institutions. As an example, the Regulations Implementing the United Nations Resolutions on Iran provides

It is prohibited for any person in Canada or any Canadian outside Canada to knowingly

- a. deal in any property in Canada that is owned, held or controlled, directly or indirectly, by a designated person, by a person acting on behalf of or at the direction of a designated person or by a person that is owned, held or controlled by a designated person;
- b. enter into or facilitate any transaction related to a dealing referred to in paragraph (a);
- c. provide any financial or related service in respect of a dealing referred to in paragraph (a); or
- d. make any property or any financial or related service available, directly or indirectly, to a designated person, to a person acting on behalf of or at the direction of a designated person or to a person that is owned, held or controlled by a designated person.⁶²

This provision applies widely to all Canadians and entities. Any NPO providing humanitarian assistance to Iran is subject to these sanction requirements. The humanitarian exception in the Criminal Code may provide relief from liability for their efforts (see above, Public Safety), but only up to a certain un-specified ceiling of humanitarian relief provision. If a charity exceeds this un-specified ceiling, the CRA may be called upon to perform an audit.

To finance their programs in Iran, these charities will need to send money through a series of financial service providers, all of which are also subject to this sanction in addition to any AML/

ATF requirements under the PCMLTFA. But unlike NPOs, which benefit from the humanitarian exception in the Criminal Code, there is no associated relief for financial institutions asked by their clients to process transactions to Iran. Financial institutions are of course free to undertake considerable KYC measures to know what their NPO-clients are doing. But they are also free to decide, as a matter of business risk management, that the KYC efforts are too costly, and instead terminate the NPO-clients' accounts.

Department of Finance

The Department of Finance is Canada's lead agency engaging with the FATF and has oversight on production of the National Risk Assessments in accordance with FATF Recommendation 1, which requires states, among other things, to prepare periodic national AML/ATF risk assessments. To date, the Department of Finance has published three risk assessments in 2015, 2023, and 2025.⁶³ As the 2025 National Risk Assessment explains:

Canada has a robust Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) Regime that contributes to its efforts to combat transnational organized crime and is a key element of its counter-terrorism strategy. It comprises 13 federal departments and agencies with policy, regulatory, intelligence, and enforcement mandates. The federal Regime works with provincial and municipal counterparts and over 38,000 Canadian businesses with reporting obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), known as reporting entities, to prevent, detect, and disrupt financial crime.⁶⁴

In addition, under the Department of Finance are various agencies that play key roles in regulating Canada's financial institutions, implementing and overseeing Canada's AML/ATF+sanctions policy development and implementation, and shaping the effect of the regime on Canadian charities and NPOs.

Financial Transactions Reporting Agency of Canada (FINTRAC)

Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), FINTRAC plays a central role in regulating Canada's financial institutions to ensure their compliance with Canada's AML/ATF+sanctions regime. Each year, private sector parties submit millions of reports to FINTRAC, including those on suspicious transactions, large cash transactions, and suspected terrorist property.

FINTRAC's role in Canada's AML/ATF+sanctions regime has been subjected to parliamentary review, and most recently, British Columbia's Cullen Commission.⁶⁵ A key finding of the Cullen Commission was that Canada's current reporting framework generates high volumes of reports with limited actionable intelligence. Similarly, Parliamentary reviews have questioned whether the regime delivers value for money, given the significant compliance costs it imposes on the private sector and the limited demonstrated effectiveness in achieving policy objectives.

Office of the Superintendent of Financial Institution (OSFI)

OSFI is Canada's prudential banking regulator. Prudential regulation refers to regulatory oversight designed to safeguard the stability of the financial system, ensure consumer confidence, and maintain the solvency and liquidity of financial institutions so they can meet their obligations and manage risks.⁶⁶ OSFI's mandate is to ensure that Canada's regulated financial institutions "remain in sound financial condition," take precautions against "threats to their integrity and security, including foreign interference," adopt corrective measures where necessary, and "promote sound risk management" through continuous monitoring and evaluation.⁶⁷

Importantly, financial inclusion is not a prudential principle of Canadian financial regulation. While the Department of Finance acknowledges the challenges of de-risking and financial exclusion, these issues are not framed as prudential considerations requiring oversight or intervention by the banking regulator.

Financial Consumer Agency of Canada (FCAC)

The FCAC adopts a consumer-centric approach to regulation, focusing on enhancing Canadians' financial literacy, clarifying their rights in relation to financial institutions, and supporting informed participation in the economy. However, Access to Information (ATIP) disclosures show that FCAC does not require regulated financial institutions to report on the scope or prevalence of de-risking practices. While the agency has received consumer complaints about account closures and financial exclusion, it provides limited resources or guidance on consumer protection strategies to address de-risking and its impacts.

Ombudsman for Banking Services and Investment (OBSI)

When financial consumers in Canada have a complaint against their financial institution, they can file it with OBSI. However, OBSI makes plain that it offers consumers no recourse against banks that have unilaterally terminated their accounts.⁶⁸ Moreover, Canada's leading treatise on banking regulation advises banks to provide no reasons when informing clients that their accounts will be terminated.⁶⁹ While OBSI may examine certain account termination complaints for bias, it offers the financial consumer no guidance on how to make such a claim under conditions of AML/ATF+sanctions overcompliance.

Advisory Committee on AML/ATF

This Advisory Committee, co-chaired by the Department of Finance, brings together Government regulators and private sector bodies that represent the interests of reporting entities subject to the PCMLTFA. Notably, its membership excludes the NPO sector, even though the FATF's Recommendation 8 explicitly singles out NPOs for heightened scrutiny under domestic anti-terrorist financing regulations. Sector advocates such as Imagine Canada, or umbrella organizations like the Humanitarian Coalition and Cooperation Canada, are absent. These groups collaborate closely with government in supporting charities and non-profits serving the public good. They also represent the interests of NPOs most vulnerable to the adverse consequences of Canada's AML/ATF+sanctions regime, given how NPOs are positioned within the framework of terrorist financing risks.

PRIVATE SECTOR STAKEHOLDERS

Canada's Private Sector Reporting Entities under the PCMLTFA

Under s. 5 of the PCMLTFA, Canadian financial institutions including banks, credit unions and caisses populaires are required to report certain transaction to FINTRAC. While some reporting requirements are triggered by certain large cash transactions, the most significant requirement is filing the “suspicious transaction report” or STR. Section 7 of the PCMLTFA compels financial institutions to submit a report to FINTRAC for any transaction—completed or attempted—where there are reasonable grounds to suspect that it is related to:

- a. the commission or the attempted commission of a money laundering offence;
- b. the attempted commission of a terrorist activity financing offence; or
- c. the commission or the attempted commission of a sanctions evasion offence.

In effect, private sector financial institutions are legislatively conscripted into a public-private partnership with the Government of Canada, serving as front-line actors in the fight against money laundering, terrorist financing, and sanctions evasion. Whether FINTRAC acts on these reports or not is never shared with the reporting financial institution. Industry officials complain that without greater shared intelligence between the public and private sector, financial institutions bear considerable information costs to be compliant with the regime with little feedback from FINTRAC on how well they are doing. An unintended consequence is that financial institutions will weigh their profit maximizing motives against their AML/ATF+sanctions compliance costs to decide whether to maintain a client relationship, or to do any business in certain parts of the world. In practice, NPOs complain that financial institutions decline their applications for accounts or terminate existing ones often without disclosing the reason. NPO-clients are then required to withdraw their funds within a set timeframe, after which the institution ceases to provide services. Once “derisked” in this manner, Canadian charities in good standing with the CRA lose access to essential financial services and cannot fulfill their charitable purposes.

Financial Industry Associations

Financial institutions, often speaking through their industry associations, take their role seriously. As Sandy Stephens of the Canadian Bankers Association (CBA) dutifully said in 2019 before the House of Commons Standing Committee on Finance, “[t]he banking industry is fully committed to the fight against money laundering and terrorist financing. Banks in Canada take their responsibility under Canada’s AML-ATF regime very seriously.”⁷⁰ Professional associations such as the CBA, the Canadian Money Service Businesses Association (CMBSA), the Small Bank Forum, and others play important roles in advising Finance and its regulatory agencies on new developments in financial regulation, including AML/ATF+sanctions. They serve as bridges between the public sector regulator and private sector reporting entities under the PCMLTFA, and are current members on the Government’s Advisory Committee on AML/ATF.

Miscellaneous Third-Party Businesses

Supporting reporting entities to maximize compliance are a host of private sector, for-profit businesses that are not subject to the same reporting requirements under the PCMLTFA. Some are FINTECH firms that produce software that can process a financial institution's millions of daily transactions and flag transactions that may require further review on grounds of suspicion. Others are training centers, such as the Canadian Anti-Money Laundering Institute (CAMLII), which provides training courses on AML/ATF compliance to support the development of compliance officers within reporting entities. Yet others provide research to help reporting entities identify suspect individuals or organizations.

20. See, for instance, Department of Finance, *2025 Assessment of Money Laundering and Terrorist Financing Risks in Canada* (Ottawa: Government of Canada, 2025), 55.
21. For an outline of these thirteen agencies and their contributions to the regime, see, Canada, Department of Finance, *Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime Strategy, 2023-2026* (Ottawa: Government of Canada, 2023, online: <https://www.canada.ca/content/dam/fin/programs-programmes/fsp-psf/rs-sr/rs-sr-eng.pdf>). Arguably the number may be more now given the Bank of Canada's role in regulating retail payment service providers per the *Retail Payment Activities Act*, 2021 and Citizenship Immigration Canada's role in the authorization regime under Criminal Code s. 83.032(5).
22. *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), S.C. 2000, c. 17, s. 5.
23. Training centers include the Canadian Anti-Money Laundering Institute (CAMLII). Compliance consultancies and software developers in Canada include Cancheck, the AML Shop, ComplyAdvantage, and Insight Threat Intelligence.
24. On the concept of "soft law" generally, see Emily Crawford, *Non-Binding Norms in International Humanitarian Law* (Oxford: Oxford University Press, 2021), 11-12, (footnotes omitted). For a critique of the FATF soft law standards as a by-pass around legislative accountability, see, Doron Goldbarsht, "Who's the Legislator Anyway? How the FATF's Global Norms Reshape Australian Counter Terrorist Financing Laws," *Federal Law Review* 45, no 1 (2017): 127-151.
25. For the latest version of the FATF's recommendations, see, FATF, *The FATF Recommendations: International Standards on Combating Money Laundering, and the Financing of Terrorism & Proliferation* (Paris: FATF, 2025). For an online version, see here: <https://www.fatf-gafi.org/en/topics/fatf-recommendations.html>.
26. For the FATF's 2016 review of Canada's compliance with its recommendations, see its Canada portal here: <https://www.fatf-gafi.org/en/countries/detail/Canada.html>.
27. *United Nations Act*, R.S.C. 1985, c. U-2, section 2.
28. United Nations Security Council Resolution 1373 (2001), S/RES/1373 (2001).
29. *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*, SOR/2001-360.
30. UN Security Council Resolution 1373, S/RES/1373 (2001), ¶1(d).
31. *Special Economic Measures Act*, S.C. 1992, c. 17.
32. *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, S.C. 2017, c. 21.
33. *Freezing Assets of Corrupt Foreign Officials Act*, S.C. 2011, c. 10.
34. *Export and Import Permits Act*, R.S.C. 1985, c. E-19.
35. *Special Economic Measures (Iran) Regulations*, SOR/2010-165.
36. See, United States, Department of the Treasury, Office of Foreign Assets Control, *Sanctions List Service*, available online: <https://ofac.treasury.gov/sanctions-list-service>.
37. For the EU Sanctions Map, visit online: <https://sanctionsmap.eu/#/main>.
38. *Special Economic Measures (Hamas Terrorist Attacks) Regulations*, SOR/2024-17, s. 3.
39. The Global NPO Coalition website is found here: <https://fatfplatform.org/>. Other international charities and NPO groups include the International Center for Not-for-Profit Law, online: <https://www.icnl.org/>; and the European Center for Not-for-Profit Law, online: <https://ecnl.org/>.

40. See, for instance, the Bank of Canada announcement: www.bankofcanada.ca/publications/annual-reports-quarterly-financial-reports/annual-report-2021/supervising-retail-payments-in-canada/#:~:text=Under%20the%20Retail%20Payment%20Activities,about%20the%20Bank's%20core%20functions.
41. See, Emon and Hasan, *Under Layered Suspicion*; McSorely, *The CRA's Prejudiced Audits*.
42. Canada, Senate, Standing Committee on Human Rights, *Combatting Hate: Islamophobia and its Impact on Muslims in Canada*, 44th Parl, 1st Session, at 51. Online: <https://sencanada.ca/en/committees/RIDR/Report/121389/44-1>
43. National Security Intelligence Review Agency, *Review of the Canada Revenue Agency's Review and Analysis Division*, Review 23-08 (Ottawa: Government of Canada, 2025), see esp. Finding #6.
44. For the CRA response to the NSIRA review, see <https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/transparency-proactive-disclosure-canada-revenue-agency/responses-reviews-reports/response-nsira-report.html>.
45. See, Criminal Code, R.S.C., 1985, c. C-46, sections 83.01 et seq.
46. For Public Safety Guidance on the regime, visit its website at the Government of Canada: <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/hmtrn-xcptn/bt-en.aspx>
47. Criminal Code, s. 83.03(4), emphasis added.
48. See, Public Safety Canada, "Currently listed entities," 29 September 2025, online: <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx>
49. Criminal Code, s. 83.032(2)
50. See, Public Safety Canada, "Geographic areas controlled by a terrorist group," 22 July 2024, online: <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/hmtrn-xcptn/ggrphc-en.aspx>
51. See, Ministry of National Revenue, Advisory Committee on the Charitable Sector, Working Group on National Inherent Risk Assessment 2023, *Report and Recommendations*. The Working Group paper is available online: https://islamicstudies.artsci.utoronto.ca/wp-content/uploads/2024/10/NIRAWG-Final-Report_EN.pdf. For the Advisory Committee's letter to the Minister and its recommendations, see Canada Revenue Agency, *Report #4 of the Advisory Committee on the Charitable Sector — October 2024*, available online: <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/corporate-reports-information/advisory-committee-charitable-sector/report-advisory-committee-charitable-sector-july-2024.html>.
52. See, for instance, United Nations High Commissioner for Refugees, "Humanitarian principles," online: <https://emergency.unhcr.org/protection/protection-principles/humanitarian-principles>
53. The UN's Office for the Coordination of Humanitarian Affairs (UN OCHA) provides guidance on needs assessment metrics. See online: <https://knowledge.base.unocha.org/wiki/spaces/hpc/pages/3992616975/Needs+Assessments>
54. FINTRAC provides guidance to reporting entities to ensure they know their clients and the risks they present for money laundering and terrorist financing. See, for instance, <https://fintrac-canafe.canada.ca/guidance-directives/client-clientele/Guide11/11-eng>.
55. On the Grand Bargain, see the UN Office for the Coordination of Humanitarian Affairs (UN OCHA), <https://www.unocha.org/publications/report/world/grand-bargain-shared-commitment-better-serve-people-need>.
56. For an example of how Canada engages the Grand Bargain in its humanitarian aid programs, see Global Affairs Canada, "Background: Canada announces funding for humanitarian and development assistance for those affected by conflict in Syria," May 10, 2022, online: <https://www.canada.ca/en/global-affairs/news/2022/05/background-canada-announces-funding-for-humanitarian-and-development-assistance-for-those-affected-by-conflict-in-syria.html>.
57. "In 2019, Canada joined the other members from the Organization for Economic Co-operation and Development's Development Assistance Committee (OECD-DAC), along with 6 UN agencies, in pledging support to the OECD-DAC Recommendation on the Humanitarian-Development-Peace Nexus." Global Affairs Canada, Report to Parliament on the Government of Canada's International Assistance 2021-2022, vol. 1 (Ottawa: Government of Canada, 2023), at 15. Also available online: <https://www.international.gc.ca/transparency-transparence/assets/pdfs/international-assistance-report-rapport-aide-internationale/2021-2022/2021-2022-vol1-en.pdf>.
58. Minister of International Development, "Briefing Book," October 2021, section E, available online: <https://international.canada.ca/en/global-affairs/corporate/transparency/briefing-documents/briefing-books/2021-10-international-development>.
59. Incidentally, Global Affairs Canada also leads Canada's humanitarian aid contributions and coordination. For more on Canada's commitment to global coordination on humanitarian aid and assistance, see Government of Canada, "Humanitarian assistance," February 3, 2025, online: https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/response_conflict-reponse_conflits/humanitarian_assistance-aide_humanitaire.aspx?lang=eng
60. While financial institutions certainly bear the onus of compliance, they face no risks or repercussions for overcompliance, over-reporting, or reporting on grounds that do not meet statutory thresholds. Until there are adverse consequences for over-compliance practices, financial institutions will do so, thereby offloading any risk from the bank to FINTRAC, while Canadian NPOs (and consumers more broadly) pay the price in terms of privacy.
61. UN Act, R.S.C., 1985, c. U-2, s. 2.
62. Regulations Implementing the United Nations Resolutions on Iran, SOR/2007-44 (emphasis added).
63. The reports are available online:
2015: <https://www.canada.ca/en/department-finance/services/publications/assessment-inherent-risks-money-laundering-terrorist-financing.html>
2023: <https://www.canada.ca/en/department-finance/programs/financial-sector-policy/updated-assessment-inherent-risks-money-laundering-terrorist-financing-canada.html>
2025: <https://www.canada.ca/en/department-finance/programs/financial-sector-policy/nira-neri/2025.html>
64. Department of Finance, *2025 Assessment of Money Laundering and Terrorist Financing Risks in Canada* (Ottawa: Government of Canada, 2025).
65. For the *Cullen Commission report* and evidence, see its archived website: <https://cullencommission.ca/>.



66. Juan F. Rendon, Lina M. Cortes, and Javier Perote, “Prudential regulation and bank solvency based on flexible distributions of money: an example for evaluating the impact of monetary policy,” *World Economy* 46, no 9 (2023): 2780-2807, 2781.
67. On OSFI’s mandate, see its website: <https://www.osfi-bsif.gc.ca/en/about-osfi/osfi-story>.
68. On OBSI’s limited recourse on derisking, see its website: <https://www.obsi.ca/en/how-we-work/our-approaches/relationship-ended/>
69. Bradley Crawford, *The Law of Banking and Payments in Canada*, vol. 1 (Toronto: Thomson Reuters, 2020), §9:70.20(1)(a) at 9-137.
70. Testimony of Sandy Stephens before Canada, Parliament, House of Commons, Standing Committee on Finance, Minutes of Proceedings and Evidence, 42nd Parl, 1st Session, No. 210 (May 8, 2019) at 1620, available online: <https://www.ourcommons.ca/documentviewer/en/42-1/FINA/meeting-210/evidence> (accessed June 17, 2025).



SECTION III: UNINTENDED CONSEQUENCES OF CANADA'S AML/ATF + SANCTIONS REGIME

As Figure 1 illustrates and the above summary explains, the combination of multilateral, governmental, and private sector actors creates an expansive ecosystem of AML/ATF+sanctions recommendations, regulations, and compliance requirements. This ecosystem has, however, been subjected to sufficient review and critique internationally that the FATF now requires states to mitigate against unintended consequences of how they implement their AML/ATF regime. These consequences extend no less to the way in which sanctions are implemented. This section will introduce the idea of “unintended consequences”, and follow them through a series of operational overviews at the multilateral, federal, and private sector levels. It will then address three major unintended consequences of Canada’s AML/ATF+sanctions regimes on NPOs, and provide recommendations for redress. The three unintended consequences are (a) a lack of transparency in private sector risk assessment practices, which may lead to bias and/or privacy violations; (b) private sector derisking of NPOs; and (c) humanitarian derisking from conflict zones.

A MULTILATERAL OPERATIONAL OVERVIEW: THE FATF ON UNINTENDED CONSEQUENCES OF AML/ATF

Since its adoption, Recommendation 8 has come under heavy criticism from US, European, and UK NPO advocates.⁷¹ These advocates make plain that Recommendation 8 applies an excessively security-driven lens to the NPO sector, including already regulated charities, regardless of the public benefit they provide to the societies in which they work. Moreover, Recommendation 8 creates the context for serious downstream, unintended consequences that adversely affect NPOs, such as financial institutions derisking of NPOs to reduce overhead costs of compliance with AML/ATF+sanctions regulations. Financial derisking prevents NPOs from accessing basic financial services, ultimately impeding their ability to deliver aid or support those in crisis, exacerbating already dire situations.

The FATF’s most recent version of Recommendation 8 (see above) was amended,⁷² due to NPO critique, to require states to take a more targeted approach so that NPOs are not unduly prejudiced by a state’s AML/ATF regime. Specifically, in its interpretive note to Recommendation 8, the FATF explains:

NPOs play a vital role in the world economy and in many national economies and social systems. Their efforts complement the activity of the governmental and business sectors in providing essential services, comfort and hope to those in need around the

world. The FATF recognises the vital importance of NPOs in providing these important services, as well as the difficulty of providing assistance to those in need, including in high-risk areas and conflict zones, and applauds the efforts of NPOs to meet such needs... Measures to protect NPOs from potential terrorist financing abuse should be focused and in line with the risk-based approach. It is also important for such measures to be implemented in a manner which respects countries' obligations under the Charter of the United Nations and international law, in particular international human rights, international refugee law and international humanitarian law.⁷³

In recent years, the FATF has acknowledged that charities suffer serious adverse consequences from state implementation of its AML/ATF recommendations. Specifically, the FATF has recognized the over-securitization of charities by regulators and private sector financial derisking of charities, which ultimately affects their legitimate operations.⁷⁴

A FEDERAL OPERATIONAL OVERVIEW: CHARITIES AND AML/ATF+SANCTIONS COMPLIANCE

Examining the unintended consequences of Canada's application of FATF recommendations is not only consistent with global practices, but also is essential to support Canada's role on the world stage. Consultations with charity stakeholders reveal that their principal experience with AML/ATF+sanctions is through their interaction with the CRA. The CRA becomes the vehicle by which the AML/ATF+sanctions regime is applied to charities, though it does not oversee the design and development of the regime itself.

The Department of Finance is the lead unit liaising with the FATF, preparing Canada's periodic risk assessments on AML/ATF, and coordinating across all AML/ATF government regime partners. The AML/ATF regime requires private sector parties to file reports with FINTRAC which in turn will analyze these reports and issue a disclosure to a federal regime partner for purposes of investigation and enforcement, such as the CRA when the disclosure concerns a charity. As explained above, the Review and Analysis Division (RAD) of the CRA will receive such disclosures and proceed with a review and/or audit of a charity. NSIRA's recent review of RAD audits raises serious concerns about the application of risk assessment criteria. NSIRA concluded that RAD did not explicitly address the risk factors posed by a charity under review, which limits RAD's ability to validate its findings over time.⁷⁵ Moreover, NSIRA found a "lack of rigour in RAD's process for identifying and selecting charities for audit," which NSIRA concluded "introduced risks of bias and discrimination."⁷⁶

Multilateral sanctions are overseen by Global Affairs Canada. The UN Act authorizes the Governor in Council to issue regulations that conform with Security Council resolutions.⁷⁷ Likewise, under autonomous sanctions statutes such as the *Special Economic Measures Act (SEMA)*, the Governor in Council may issue orders or regulations outlining the economic measures Canada imposes on certain persons. In other words, the Governor in Council issues regulations, which constitute economic measures or sanctions against states or individuals who have gravely breached international peace and security, committed gross and systemic human rights violations, or have perpetrated significant corruption.⁷⁸ Sanctions regulations under either the *UN Act* or autonomous sanctions statutes apply

to financial institutions under the terms of the relevant regulations. For instance, section 3 of the Regulations Implementing the United Nations Resolutions on Iran,⁷⁹ provides

- It is prohibited for any person in Canada or any Canadian outside Canada to knowingly
- a. deal in any property in Canada that is owned, held or controlled, directly or indirectly, by a designated person, by a person acting on behalf of or at the direction of a designated person or by a person that is owned, held or controlled by a designated person;
 - b. enter into or facilitate any transaction related to a dealing referred to in paragraph (a);
 - c. provide any financial or related service in respect of a dealing referred to in paragraph (a); or
 - d. make any property or any financial or related service available, directly or indirectly, to a designated person, to a person acting on behalf of or at the direction of a designated person or to a person that is owned, held or controlled by a designated person.

This provision applies widely to all Canadians and entities; moreover s. 3(d) implicates Canada's financial institutions.⁸⁰ Financial institutions processing payments for charities hosting humanitarian programming in sanctioned areas of the world will file reports with FINTRAC under its obligations under the PCMLTFA. FINTRAC's review of these reports may lead to disclosure to regime partners such as RAD, which may review and audit the charity.

A PRIVATE SECTOR OPERATIONAL OVERVIEW: PRIVATE SECTOR DE-RISKING

Even when a charity is not under audit by the Government, financial institutions frequently weigh their obligations to shareholders and profit margins above the interests of individual clients seeking access to financial services. Consultations with the NPO-sector revealed frustration among sector leaders with financial institutions, whose business decisions are driven by profit margins and shareholder value. Financial institutions, in other words, have no incentive to consider the impact of their derisking decisions on their terminated clients or the downstream implications of derisking humanitarian organizations to the broader public good. Given the power imbalance between financial institutions and their clients, service contracts are typically drafted to maximize the financial institution's discretion, including broad authority to terminate the client relationship. In practice, this can mean banks terminate a client's account with a bare notice requirement that often does not disclose the reason or give the client an opportunity to redress any concerns. Clients are then required to withdraw their funds within a set timeframe, after which the institution ceases to provide services. Once "derisked" in this manner, Canadian organizations—including registered charities in good standing with the CRA—lose access to essential financial services.⁸¹

UNINTENDED CONSEQUENCE 1: PRIVATE SECTOR RISK ASSESSMENT PRACTICES, BIAS, AND PRIVACY VIOLATIONS

Research shows that when charities are audited on suspicion of AML/ATF+sanctions-related concerns, they are generally not informed that these concerns are a basis for the audit.⁸² There

may be valid security reasons for withholding such information. However, studies of these audits indicate that the underlying evidence often reflects systemic weaknesses in Canada’s AML/ATF+sanctions framework—limitations that have already been documented in multiple forums, including Parliamentary reviews of FINTRAC and Canada’s sanctions regime, FINTRAC audits conducted by the Office of the Privacy Commissioner, and the British Columbia Cullen Commission’s inquiry into Canada’s AML regime. Indeed, the current AML/ATF+sanctions regime enables public and private sector compliance practices that create the condition for bias against and privacy violations of NPOs. The *Charter of Rights and Freedoms* protects Canadians from unreasonable searches and seizures under Section 8. Justice Canada explains,

The protection section 8 provides for privacy—personal, territorial and informational—is essential not only to human dignity, but also to the function of our democratic society. As such, section 8 protects a sphere of individual autonomy within which people have the right to be “let alone” and on which the state cannot intrude without permission.⁸³

In its review of the CRA’s RAD, NSIRA already identified serious problems in its risk analysis process, which may impinge on the values underlying Section 8. As it turns out, this lack of rigour extends to private sector reporting entities that do not satisfy the relevant thresholds for reporting private information to FINTRAC. Section 7 of the PCMLTFA requires all institutions subject to the PCMLTFA to submit a Suspicious Transaction Report concerning a financial transaction when there are “reasonable grounds to suspect” that the transaction is related to a money laundering, terrorist financing, and sanctions evasion offense.

The legislated threshold of reasonable grounds of suspicion is taken from Supreme Court of Canada’s jurisprudence on Section 8 of the Charter. This threshold is one among different thresholds by which to justify state interference with someone’s privacy interests. The higher the threshold, the more interference is justified under the law. These thresholds provide an objective basis by which to balance people’s “interest in being left alone, against the public interest in providing the state with the means to investigate crime.”⁸⁴

The Court explains the limited probity of reasonable grounds of suspicion by contrasting it with the higher threshold of reasonable grounds to believe:

A “reasonable” suspicion means something more than a mere suspicion and something less than a belief based upon reasonable and probable grounds. Thus, while reasonable grounds to suspect and reasonable and probable grounds to believe are similar in that they both must be grounded in objective facts, reasonable suspicion is a lower standard, as it engages the reasonable possibility, rather than probability, of crime.⁸⁵

Importantly, the Supreme Court of Canada recognizes that “reasonable grounds of suspicion” is such a low threshold that it can capture entirely lawful and legitimate activity. Because this threshold “deals with possibilities, rather than probabilities,” the Court admits, “in some cases the police will reasonably suspect that innocent people are involved in crime.”⁸⁶ To protect against

unchecked interference with people’s privacy interests, the Court explains that this low threshold “cannot be so broad that it descends to the level of generalized suspicion.”⁸⁷ Importantly, reasonable grounds of suspicion cannot be a cover for suspicion based on a generalized characteristic of the individual without a “particularized constellation of factors.”⁸⁸

The Privacy Commissioner audits of submitted reports to FINTRAC⁸⁹ raise concern that the current state of AML/ATF+sanctions compliance breaches the requisite legislative threshold, and thereby creates the conditions for bias and discrimination to enter into private sector compliance with the AML/ATF+sanctions regime. An examination of the 2009, 2013, and 2017 Privacy Commissioner audits provides reasons to believe that **the current AML/ATF+sanctions regime has unintentionally created the conditions for bias and discrimination to enter into the mandated reporting process.** To illustrate the grounds for this belief, consider the following hypothetical.

Suppose a charity undertakes humanitarian activity in Yemen. Under regulations per the UN Act, the PCMLTFA, and SEMA, the charity will be remiss if it did not integrate AML/ATF+sanctions compliance requirements alongside its principled humanitarian planning and due diligence. If it did not, it would risk an audit by the CRA’s AML/ATF compliance unit, RAD.⁹⁰ Certainly, a charity will benefit from the newly legislated humanitarian exception under the Criminal Code. But that humanitarian exception has no bearing on the charity’s banks or retail payment service providers under PCMLTFA. When the charity sends money to Yemen through its financial institutions, those institutions will subject that transaction to their AML/ATF+sanctions compliance regime, and potentially file a report with FINTRAC.

But what will those reports say? Suspicious Transaction Reports require only a minimal level of objective analysis, namely reasonable grounds of suspicion. Other reports, such as the former Terrorist Property Report (TPR), required a more substantial threshold, namely knowledge or reasonable grounds of belief.⁹¹ In other words, the threshold for reporting on terrorist property is higher than reasonable grounds of suspicion.

When the Federal Privacy Commissioner audited FINTRAC in 2009, 2013, and 2017, it examined TPRs and STRs filed by reporting entities. In its 2009 audit of FINTRAC’s TPR holdings, the Privacy Commissioner explained, “[w]e examined all TPRs to determine the extent to which reporting entities confirmed that the subjects of the reports were, in fact, listed individuals or entities. We found that almost half of the reports were filed on the basis of a ‘possible [not probable] match’ to terrorist entity listings...Where identity cannot be confirmed [by FINTRAC], the Centre does not pursue further analysis; however, the information remains in FINTRAC’s database.”⁹² The same observation was made in the 2013 audit.⁹³ By 2017, the Commissioner expressed frustration with the unchanged state of affairs:

We reviewed a sample of TPRs and noted that the type of issues observed in 2009 and 2013 remain. Reporting entities continue to submit reports on the basis of a ‘possible match’ to terrorist listings. In addition, we found a TPR filed in 2007 on the basis of a ‘possible name match’; two months later, the reporting entity sent a correction to the first report indicating the individual was not affiliated with terrorism. Both the initial TPR and the subsequent correction remain in the database.⁹⁴

The Privacy Commissioner's findings show that reporting entities did not meet the requisite threshold to file TPRs. In fact, their filed TPRs did not even meet the lowest threshold of reasonable grounds of suspicion. Filing TPRs on the ground that a name possibly matches someone on the listed persons or entities list is no different than relying on general characteristics. Simply having a name that may be popular around the world (though perhaps not in Anglo- or Franco-Canada) cannot be a reasonable ground of suspicion, let alone a reasonable ground of belief or even knowledge. The Supreme Court of Canada is clear that "characteristics that apply broadly to innocent people are insufficient, as they are markers only of generalized suspicion."⁹⁵ Names such as Mohammad, Ahmed, Hasan, Hussain, Fatima, Aisha, Amira—these are names rooted in an Arabic/Islamic historical tradition. They have inspired parents around the world (at least outside Anglo/Franco-Canada) for centuries when naming their children. There is no ground that warrants filing a TPR simply on the basis of a "possible" name match, without more particularized contexts.

If the above TPRs reflect the state of compliance when the threshold is high, it logically follows *a maiore ad minus* that reports filed under lower thresholds, such as reasonable grounds of suspicion, will also suffer from bias in the risk analysis process. The Privacy Commissioner confirms this logical inference in its review of STRs filed by reporting entities. The Commissioner expressed shock to find one STR in FINTRAC's database that was filed simply because "[a] number of individuals identified themselves with Middle Eastern passports during a real estate transaction...No further details or justification for suspicion were provided."⁹⁶

If there are any reasonable grounds of suspicion, it is that the current state of reporting under the PCMLTFA does not meet the legislative standards that warrant reporting Canadians' private financial information to FINTRAC. This belief is corroborated by the final report of British Columbia's Cullen Commission on money laundering, which found the PCMLTFA reporting regime to generate "high-volume, low-value" reports.⁹⁷

The trade-offs imposed on some Canadians – unequally and inconsistently - in the name of national security are concerning. Moreover, the consequences of these arguably bias-informed trade-offs are especially felt by charities in the dynamics of audit by the CRA and RAD. Under current audit practices, charities are led to believe that audits are conducted solely pursuant to the Income Tax Act, when in fact the audit is animated by AML/ATF+sanctions risk metrics. Failure to disclose the legal basis for an audit constitutes a failure of notice to the charity of the relevant law(s) under which it is being scrutinized, undermining a fundamental principle of the rule of law and raising questions about fairness, transparency, accountability and regulatory oversight.

Non-disclosure of the ATF grounds of an audit prevents charities from having the sufficient notice to understand the issues under scrutiny or to secure the professional expertise necessary to respond effectively. This lack of transparency undermines trust between the CRA and its regulated entities and fosters an adversarial dynamic at a time when the Charities Directorate is seeking to promote a more cooperative regulatory regime.⁹⁸

Disclosing the legal and regulatory ground(s) of the audit would enhance the CRA's capacity to foster a cooperative, education-forward regulatory relationship with charities registered under the Income Tax Act, supporting both compliance and goodwill in the sector.

Recommendation 1 (Ministry of National Revenue, CRA): Require the CRA to disclose all legal and regulatory grounds for an audit, specifically registered charities, including any grounds related to sanctions and/or AML/ATF.

UNINTENDED CONSEQUENCE 2: PRIVATE SECTOR DE-RISKING OF NPOS

When financial institutions submit their required reports to FINTRAC, they will not know what FINTRAC does with those reports. They may not even get feedback on the efficacy of their reporting. But that does not preclude financial institutions from weighing their obligations to their clients against their compliance liabilities with the Government and their corporation's profit margins, and deciding that a client simply poses too many risks for them. Given the power imbalance between financial institutions and their clients, service contracts are typically drafted to maximize the institution's discretion, including broad authority to terminate the client relationship. In practice, this can mean they terminate a client's account with limited notice and without disclosing the reason.⁹⁹ Clients must withdraw their funds within a set timeframe, after which the institution ceases to provide services. Once "derisked" in this manner, Canadian organizations—including registered charities in good standing with the CRA—lose access to essential financial services and cannot fulfill their operational requirements.

For instance, suppose a charity supports humanitarian relief efforts in Iran after a major natural disaster.¹⁰⁰ Section 3 of the Regulations Implementing the United Nations Resolutions on Iran,¹⁰¹ provides in relevant part:

- It is prohibited for any person in Canada or any Canadian outside Canada to knowingly
- a. deal in any property in Canada that is owned, held or controlled, directly or indirectly, by a designated person, by a person acting on behalf of or at the direction of a designated person or by a person that is owned, held or controlled by a designated person;...
 - b. provide any financial or related service in respect of a dealing referred to in paragraph (a); or
 - c. make any property or any financial or related service available, directly or indirectly, to a designated person, to a person acting on behalf of or at the direction of a designated person or to a person that is owned, held or controlled by a designated person.

This provision applies widely to all Canadians and entities; moreover s. 3(c) and 3(d) directly implicate Canada's financial institutions.¹⁰² Even if charities can claim a humanitarian exception under the Criminal Code, financial institutions processing payments for charities sponsoring humanitarian programming in Iran (or any area at high risk for terrorist financing) are still subject to reporting requirements under Canada's AML/ATF+sanctions regime. The complexity and ambiguity¹⁰³ of this regime incentivizes financial institutions not only to over-report (even if their reports fall below requisite thresholds) but also to withhold or suspend financial services or even terminate client relationships entirely. For instance, humanitarian charities conducting cash-based programming under the Grand Bargain in a high-risk jurisdiction for terrorist financing (e.g.,

Somalia, Yemen), run the risk of losing their financial services if their financial service providers have a zero-AML/ATF+sanctions risk tolerance for transactions going to that jurisdiction. The bank or payment service provider in this scenario is entirely free to decide that its risk tolerance no longer permits it to conduct any business in that part of the world or with clients that do business there. This risk tolerance assessment is a private, business decision. It is entirely within the corporation's private law rights and authority.¹⁰⁴

De-Risking in the International Context

Derisking has been widely discussed in the United States, the United Kingdom, and European Union. In the UK, the All-Party Parliamentary Group on Fair Business Banking has examined derisking, and the downstream exclusion of NPOs from the financial services sector.¹⁰⁵ Moreover, the European Center for Not-for-Profit Law has numerous reports and publications on the issue of derisking and financial exclusion.¹⁰⁶

In the United States, s. 6215(b) of the 2020 Anti-Money Laundering Act (AMLA) was specifically added to the legislation to address derisking, especially of charities. That provision, which mandates an analysis of financial 'de-risking', was motivated by concerns that AML/ATF+sanctions-related compliance decisions "may have the unintended consequence of reducing financial services to nonprofit and international development organizations carrying out humanitarian activities in high-risk jurisdictions."¹⁰⁷ The AMLA also requires US Treasury to develop a strategy to redress derisking through the domestic regulation of financial institutions, which has led to the United States' first-ever De-risking Strategy in April 2023.¹⁰⁸

By contrast, in Canada, the issue of derisking and financial exclusion receives limited attention among financial regulatory bodies, both prudential and non-prudential, despite evidence that Canadian charities face similar vulnerabilities.

Recommendation 2 (Department of Finance, OSFI, BoC): Require federal prudential regulators of financial institutions and payment services providers to adopt and implement financial inclusion as a prudential principle of regulation.

Financial inclusion reflects a principled commitment to ensure that individuals and businesses have reliable, dependable, and affordable access to a range of financial services and products. Financial inclusion does not appear to be a prudential principle in Canada's financial regulatory ecosystem. By adopting financial inclusion as a prudential principle, Canada's financial regulators can ensure that Canada's financial institutions better calibrate their AML/ATF+sanctions compliance metrics, risk tolerance levels, and customer relations to ensure that all Canadians, including charities, can conduct legitimate financial activity.

While consumer protection agencies such as FCAC may appear better placed to examine financial inclusion under AML/ATF+sanctions, FINTRAC is best positioned to uphold the principle of financial inclusion in the AML/ATF+sanctions regulatory space. Reporting entities under the PCMLTFA are already required to file a series of reports about distinct transactions they are asked to process.

Recommendation 3 (Department of Finance, FINTRAC): Amend the PCMLTFA to include a new reporting requirement that all reporting entities under s. 5 must provide annual reports to FINTRAC on the scope of account terminations (derisking) within their institutions, categorized by rationale for the termination (e.g., AML/ATF compliance, business decision, sanction-related concerns).

It is recommended that a new provision be added to the PCMLTFA as follows:

Section 7(1): Every person or entity referred to in section 5 shall, in accordance with the regulations, submit an annual report to the Centre on all accounts terminated during the reporting period, organized by the business and/or regulatory grounds for termination.

Under the PCMLTFA, FINTRAC has an annual reporting obligation under section 71(1) of the PCMLTFA. Since AML/ATF+sanctions regulations, among others, may be significant drivers of derisking NPOs in Canada, FINTRAC's legislatively required annual report should include an assessment of derisking by reporting entities.

Recommendation 4 (Department of Finance, FINTRAC): FINTRAC should be mandated to include in its annual report an assessment of the state of de-risking and financial exclusion in Canada. This would bring Canada into alignment with comparable jurisdictions, such as the United States, which have adopted strategic approaches to address de-risking as part of broader financial inclusion commitments.

To ensure effective visibility on derisking, FINTRAC should prepare a template for reporting entities to use when submitting their derisking reports. The template should require sufficient reporting to enable visibility on derisking by the nature of the account (individual, business, charity account) and to allow for a review of any nexus between these accounts. Indeed, NPO-sector leaders complain that after derisking a charity, banks will penetrate the corporate veil and derisk any individual accounts held by that charity's board members in their private capacity.

Recommendation 5 (Department of Finance, FINTRAC): Subject to Recommendation 3, a corresponding Regulation should provide a standardized reporting template to ensure consistency and alignment with FATF concerns on unintended consequences and the prudential principle of financial inclusion.

Across jurisdictions, significant efforts have been made to examine financial derisking and its implications for fairness and equity in access to domestic and global markets. In Canada, however, consultations with federal regulators and consumer-oriented agencies confirm that derisking and financial exclusion fall outside the mandates of the current regulatory framework. Given its mandate to advance financial literacy, the Financial Consumer Agency of Canada (FCAC) is best positioned to provide Canadians with clear, evidence-based guidance on safeguarding their financial access in the face of institutions prioritizing compliance with an often-ambiguous AML/ATF+sanctions regime.

Recommendation 6 (Department of Finance, FCAC): Require the FCAC, as part of its financial literacy mandate, to develop a strategy to support financial inclusion, and periodic assessments (every five years) of the state of financial exclusion in Canada’s financial services industry, including progress toward fulfilling its strategies to redress financial exclusion of Canadians and Canadian businesses.

When banks terminate client relationships due to overcompliance with AML/ATF+sanctions regulations, such actions may be — or may be perceived as — an extension of the public-private partnership within Canada’s AML/ATF+sanctions regime. This perception, whether accurate or not, creates a significant vulnerability to public confidence in the fairness and accessibility of Canada’s financial system. The Ombudsman for Banking Services and Investments’ (OBSI) current stance on relationship termination risks obscuring this vulnerability, thereby undermining effective consumer protection.

Recommendation 7 (Department of Finance, OBSI): With financial inclusion as a prudential principle of financial regulation, OBSI should develop a redress mechanism within its existing consumer complaints process that examines derisking as a potential instance of bias.

UNINTENDED CONSEQUENCE 3: HUMANITARIAN DE-RISKING

Since the Second World War, Canada has cultivated a global reputation as a humanitarian state. The Blue Helmets worn by Canadian peacekeepers became a symbol of Canada’s principled commitment to humanitarian assistance and international development. Today, Global Affairs Canada continues to channel humanitarian funding through umbrella organizations such as the Humanitarian Coalition.

That reputation, however, is increasingly challenged by the reach of AML/ATF+sanctions regulatory demands. The issue became acute in August 2021, when the Taliban regained control of Afghanistan. Canadian charities operating in the country suddenly faced the prospect of criminal liability. Under Canada’s Criminal Code, humanitarian funds that could incidentally benefit the Taliban risked being construed as support to a listed terrorist entity. Many charities halted programming altogether or routed funds through intermediaries in jurisdictions that had moved more quickly than Canada to implement humanitarian exceptions.

In 2023, Canada passed Bill C-41¹⁰⁹ to amend the Criminal Code (s. 83.03(4)) to feature a humanitarian exception. This exception permits the delivery of basic assistance where “reasonable efforts” are made to minimize any benefit to terrorist groups. However, development programming—projects with longer time horizons and broader social impact—remains subject to a separate authorization regime administered by Public Safety Canada under Criminal Code s. 83.03(3).

This dual framework contradicts Canada’s commitment to the Triple Nexus humanitarian principle.¹¹⁰ The effect of this contradiction is amplified by Canada’s failure to distinguish between humanitarian and development aid to help NPOs appreciate the ceiling on Canada’s humanitarian exception. The ACCS’s Working Group on the 2023 NIRA explained:

though the new [C41] amendments distinguish between humanitarian aid and development assistance, the new amendments do not define the difference between these two forms of aid. Global Affairs Canada offered little guidance except to say that organizations working in this field will know and evolve the definition. When pressed on what they know of the sector, Global Affairs Canada officials charged with C41 mandates acknowledged they were not fully apprised of the work Canada’s humanitarian and development aid sector does abroad.¹¹¹

Research and consultations suggest that C41 is pregnant with policy contradictions and conceptual ambiguity that, in the aggregate, leave humanitarian NPOs unduly vulnerable both to public audit and private sector derisking. Pursuing best humanitarian practices—e.g., the Triple Nexus and Grand Bargain principles—these NPOs are vulnerable to both (a) a regulatory regime that securitizes them per Canada’s AML/ATF+sanctions regime, and (b) market exclusion by Canada’s financial institutions that are increasingly derisking from certain clients or regions of the world that require, on their internal estimates, too much cost to ensure AML/ATF+sanctions compliance. Muslim charities are especially vulnerable because they are committed to providing humanitarian aid to hard hit regions that Canada also deems high-risk for terrorist financing. Humanitarian-sector leaders complain that the ambiguities and unintended consequences of the regime impose an immense burden on a sector that is already subject to regulatory oversight and resource restraints, especially in conjunction with global trends and pressures on humanitarian work (e.g., increased international scrutiny and defunding of UNRWA). It also redirects already limited resources away from programming operations and toward compliance documentation, reducing the impact of the sector’s collective efforts. NPOs, including registered charities, complain of the immense legal and compliance fees they must spend to navigate the contradiction between Canada’s commitment to the Grand Bargain and Triple Nexus on the one hand, and its AML/ATF+sanctions regime on the other. The result is that NPOs—especially regulated charities—concerned about an over-securitized regulatory regime and financial market exclusion are increasingly opting to “de-risk” from operating in the very jurisdictions where their humanitarian support is most needed.

To ensure that regulatory frameworks balance security imperatives, trade strategies, and humanitarian commitments, NPOs and charities must be included in the membership of Canada’s Advisory Committee on Money Laundering and Terrorist Financing (ACMLTF).¹¹² The Advisory Committee’s terms of reference include addressing “emerging issues and provide general advice”,

including the “effectiveness and efficiency” of the regime. That Committee, which is co-chaired by the Department of Finance, includes representatives of reporting entities under the PCMLTFA. But it does not include a single member from the NPO sector despite the sector being specifically targeted by FATF Recommendation 8. The Advisory Committee should include both umbrella organizations serving the entire NPO sector and specialized groups focused on humanitarian and development work.

Recommendation 8 (Department of Finance): Include on the Advisory Committee on AML/ATF representatives of the NPO sector, including but not limited to the humanitarian and development aid sectors, given the unique role these organizations play in society and their specific delineation in FATF recommendation 8.

Charities providing humanitarian aid in jurisdictions considered high-risk for terror financing may rely on the Criminal Code’s humanitarian exception to avoid criminal liability. However, the scope of “humanitarian” aid under this exception remains unclear, leaving NPO leaders and advocates uncertain when further assistance would trigger Public Safety Canada’s authorization regime. This ambiguity exposes NPOs to potential criminal liability and has led them to conduct their own AML/ATF+sanctions risk assessments, often resulting in self-imposed humanitarian derisking from areas in urgent need of humanitarian and development support. The Charities Directorate should address this gap by developing clear guidance in consultation not only with relevant ministries under Bill C-41 (i.e., Public Safety, Global Affairs Canada, and Immigration, Refugees and Citizenship Canada) but also with the humanitarian sector, whose expertise and due diligence practices can inform effective and compliant aid delivery.

As a parliamentarian has explained in the House of Commons, Bill C-41 reinforces Canada’s “hard-earned international reputation as both a fierce protector and a steadfast source of humanitarian assistance.”¹¹³ The legislation is intended to enable, not restrict, humanitarian and development aid. In this context, it is recommended that the Charities Directorate and Public Safety Canada jointly host sector-wide sessions to clarify compliance with the humanitarian exception and provide guidance on best practices for obtaining authorization under the broader regime. These sessions would help prevent NPOs from self-derisking and withdrawing critical aid from high-need regions.

Recommendation 9 (CRA): Require the Charities Directorate of the CRA, in consultation with Public Safety, to issue guidance to help charities understand the scope and limits of the new humanitarian exception and authorization regime in the Criminal Code.

Recommendation 10 (CRA and Public Safety): Require the Charities Directorate of the CRA and Public Safety to jointly organize semi-annual education-forward sessions to address the NPO sector at large, and the humanitarian/development sector more specifically, about how to ensure compliance with the humanitarian exception and to advise on best practices when applying for a license under the C41 authorization regime.

Parliamentary reviews of Canada’s complex sanctions statutes have highlighted the challenges of ensuring compliance. In the absence of active enforcement by Global Affairs Canada, private entities—including NPOs and registered charities—must navigate overlapping and sometimes ambiguous statutory obligations. Charities may also face CRA audits, during which the Charities Directorate could raise concerns regarding potential sanctions violations, adding further regulatory complexity and uncertainty.

Recommendation 11 (CRA and Global Affairs Canada): Require the Charities Directorate and GAC to jointly organize for the NPO sector, in particular the humanitarian and development sector, semi-annual sessions to address the NPO sector at large, and the humanitarian/development sector more specifically, about how to ensure compliance with Canada’s sanctions regime.

Consultations reveal that the expansion of AML/ATF+sanctions risk-based analysis has significantly influenced the scope, scale, and effectiveness of Canadian charities’ humanitarian and development work abroad. Some organizations express concern that the authorization regime undermines core humanitarian principles, particularly impartiality, and Canadian humanitarian and development policy commitments. Others report providing only minimal subsistence-level aid to remain within the humanitarian exception, even when such aid is not aligned with local needs. In some cases, charities have abandoned planned development initiatives entirely due to the burdensome and time-intensive requirements of the authorization process.

Recommendation 12 (Public Safety): Public Safety should conduct a periodic review of its authorization regime in coordination with representatives from the CRA’s Charity’s Directorate and Canada’s NPO sector, specifically leading humanitarian and development agencies, to assess the efficacy and any unintended consequences of the new authorization regime, including but not limited to whether and to what extent the authorization regime contributes to Canadian charities derisking their humanitarian and development programs due to AML/ATF+sanctions mission creep. This periodic review should be included as part of Public Safety’s annual reporting requirements under Criminal Code s. 83.0392 (1).

71. At the prompting of the international NPO advocacy groups, the FATF has conducted reviews of the unintended consequences of its recommendations on NPOs. The range of such consequences it has found are consistent with the findings herein. For more on the FATF findings of unintended consequences, see, FATF, “High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards,” 27 October 2021, online: <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf>.
72. The original version of Recommendation 8 did not emphasize the targeted approach and its interpretive notes did not provide an effective balance between security and the public good that NPOs uphold. International NPO advocacy with the FATF secretariat has been instrumental in modifying the language though the continued security lens on NPOs remains an abiding problem globally. For the overt security orientation to these “special recommendations,” see the FATF annual report for 2001-2002, online: <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Fatfannualreport2001-2002.html>.
73. FATF, *The FATF Recommendations*, 60-61 (emphasis added).
74. FATF, “High-level synopsis of the stocktake of the Unintended Consequences of the FATF Standards,” 27 October 2021, online: <https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Unintended-consequences-project.html>.
75. NSIRA, *Review of the Canada Revenue Agency's Review and Analysis Division*, ¶48.
76. NSIRA, *Review of the Canada Revenue Agency's Review and Analysis Division*, ¶ 59 and finding 6.
77. UN Act, R.S.C., 1985, c. U-2, s. 2.
78. *Special Economic Measures Act*, S.C. 1992, c. 17.
79. Regulations Implementing the United Nations Resolutions on Iran, SOR/2007-44.
80. A parallel example under SEMA is s. 3(e) of *Special Economic Measures (Iran) Regulations*, SOR/2010-165.
81. Sector leaders explain that even when the Government, after having sanctioned a county, later creates exceptions to its sanctions requirements, financial institutions do not calibrate their compliance with these new exceptions. Moreover, they explain that Canadian banks generally will not send their clients' money for humanitarian relief programming to regions Canada defines as “high risk” for terrorist financing. NPO- and charity-sector leaders complain they must increase their overhead costs by utilizing multiple payment channels, including money service businesses.
82. Emon and Hasan, *Under Layered Suspicion*, 19.
83. Government of Canada, “Charterpedia: Section 8—Search and seizure,” July 14, 2025, online: <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art8.html>
84. *R v. Chehil*, [2013] 3 S.C.C 49 at ¶22.
85. *R v. Chehil*, [2013] 3 S.C.C 49 at ¶26-7 (emphasis added).
86. *R v. Chehil*, [2013] 3 S.C.C 49 at ¶28.
87. *R v. Chehil*, [2013] 3 S.C.C 49 at ¶28.
88. *R v. Chehil*, [2013] 3 S.C.C 49 at ¶30.
89. PCMLTFA sec. 72(2) provides that every two years, the Privacy Commissioner “shall review the measures taken by the Centre [FINTRAC] to protect information it receives or collects under this Act.” PCMLTFA, s. 72(2).
90. FINTRAC disclosures are not the only mechanisms that may trigger a RAD review or audit. RAD audits and reviews can be initiated on a variety of bases, of which FINTRAC disclosures are only one.
91. Office of the Privacy Commissioner, *Financial Transactions and Reports Analysis Centre of Canada: Final Report 2017*, ¶3, available online: https://www.priv.gc.ca/en/opc-actions-and-decisions/audits/ar-vr_fintrac_2017/ (hereinafter FINTRAC Privacy Audit 2017). The Terrorist Property Report has now been superseded by the Listed Person or Entity Property Report, which is filed when the reporting entity knows or has reason to believe the property in their control belongs to a listed person or entity. FINTRAC, Reporting listed person or entity property to FINTRAC, October 1, 2025, online: <https://fintrac-canafe.canada.ca/guidance-directives/transaction-operation/Guide5/5-eng>.
92. Office of the Privacy Commissioner of Canada, *Financial Transactions and Reports Analysis Centre of Canada: Final Report: 2009*, ¶164, online: https://www.priv.gc.ca/en/opc-actions-and-decisions/audits/ar-vr_fintrac_200910/ (hereinafter FINTRAC Privacy Audit 2009).
93. Office of the Privacy Commissioner of Canada, *Financial Transactions and Reports Analysis Centre of Canada: Final Report: 2013*, ¶135, online: https://www.priv.gc.ca/en/opc-actions-and-decisions/audits/ar-vr_fintrac_2013/ (hereinafter FINTRAC Privacy Audit 2013).
94. FINTRAC Privacy Audit 2017, ¶55-56.
95. *R v. Chehil*, [2013] 3 S.C.C 49 at ¶31.
96. FINTRAC Privacy Audit 2017, at ¶46.
97. Cullen Commission Final Report, 3.
98. On the salience of notice to the rule of law, see, generally, Lon L. Fuller, *The Morality of Law* (New Haven: Yale University Press, 1969).
99. Crawford, *The Law of Banking and Payments in Canada*, §9:70.20(1)(a) at 9-137. As noted above, the leading treatise on banking in Canada advises banks not to disclose any reason for termination.
100. Canada has a history of partnering with global institutions to support relief efforts around the world, especially when disaster strikes. For instance, in 2010-2011, Global Affairs Canada partnered with the World Food Programme to support a food-program in Iran supporting refugees and internally displaced persons. The project is found online: <https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/M013434003>
101. Regulations Implementing the United Nations Resolutions on Iran, SOR/2007-44, s. 3 (emphasis added).
102. A parallel example under SEMA is s. 3(e) of *Special Economic Measures (Iran) Regulations*, SOR/2010-165.
103. See the 2017, 2023, and 2024 Parliamentary reviews of Canada's sanctions regime, cited in above analysis.



104. Canada's Ombudsman for Banking Services and Investments (OBSI) makes plain that terminated clients have little recourse against their financial institutions and that the Ombudsman offers limited if any forms of redress. See, OBSI's FAQ on "Relationship Ended," available online for financial consumers at: <https://www.obsi.ca/en/how-we-work/our-approaches/relationship-ended/>.
105. *De-Banking Report* (All-Party Parliamentary Group for Fair Business Banking, February 2024), 5, https://www.parallelparliament.co.uk/files/appg_documents/fair-banking/De-Banking-Report-2024-240221-Digital-js36.pdf.
106. See ECNL website at: <https://ecnl.org>
107. *The Financial Crimes Enforcement Network (FinCEN): Anti-Money Laundering Act of 2020, Implementation and Beyond*, R47255 (Congressional Research Service, 2022), 17, <https://crsreports.congress.gov/product/pdf/R/R47255>.
108. "Treasury Department Announces 2023 De-Risking Strategy," U.S. Department of the Treasury, April 25, 2023, <https://home.treasury.gov/news/press-releases/jy1438>.
109. Importantly, C-41 was also in furtherance of UN Security Council Resolution 2664 (2022), which emphasized that "sanctions measures are not intended to have adverse humanitarian consequences" including for those conducting the humanitarian programming. See, United Nations Security Council, "S/RES/2664 (2022)," online: <https://main.un.org/securitycouncil/en/content/sres2664-2022>.
110. See, the Ministry of National Revenue's Advisory Committee on the Charitable Sector (ACCS), *Report #4*, which seeks "clear guidance" on the C-41 amendments "for navigating potential contradictions." The report is available online: <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/corporate-reports-information/advisory-committee-charitable-sector/report-advisory-committee-charitable-sector-july-2024.html#toc3>.
111. ACCS, Working Group on National Inherent Risk Assessment 2023, *Report and Recommendations*, October 2024, at 33. The Working Group's paper is available upon request from the ACCS Secretariat and is also available online here: https://islamicstudies.artsci.utoronto.ca/wp-content/uploads/2024/10/NIRAWG-Final-Report_EN.pdf
112. See the Advisory Committee's webpage here: <https://www.canada.ca/en/department-finance/programs/committees/advisory-committee-money-laundering-terrorist-financing.html>
113. Pam Damoff on Bill C-41, *Edited Hansard*, 44th Parl., 1st Sess., no. 210 (June 9, 2023), 1015, <https://www.ourcommons.ca/documentviewer/en/44-1/house/sitting-210/hansard>.



GLOSSARY OF TERMS

AML/ATF	Anti-Money Laundering/Anti-Terrorism Financing. This refers a whole-of-government regime within Canada that, under the auspices of the Wars on Drugs and Terrorism, involves 13 federal agencies that investigate the movement of money through Canada’s financial institution to protect it from being used for criminal or other nefarious purposes.
Authorization Regime	Under Canada’s C41 legislation in 2023, Canadian NPOs that want to undertake substantive development projects that may benefit terrorist groups in the region are required to apply to Public Safety for an authorization or license to undertake such activities. Failure to do so may subject the charity to criminal liability.
Debanking	See, Derisking
Derisking	For purposes of this Discussion Paper, derisking occurs when a financial institution decides to terminate the account of its client. Various international bodies have recognized that the current anti-terrorism financing regime has created the economic incentives for financial institutions to over-comply with anti-terrorism financing regulations, which can adversely affect NPOs that are engaged in otherwise legitimate and lawful activity.
Financial Action Task Force	Formed in 1989 at the G7, the Financial Action Task Force was originally tasked to develop standards to guide states in combatting money laundering from the illicit trade in drugs. After 11 September 2001, the FATF issued a series of recommendations guiding states on how to combat terrorism financing. Recommendation 8 of the FATF specifically identifies NPOs as vulnerable to terrorism financing, which explains in part how charities are now scrutinized under both the Income Tax Act as well as other legislation pertaining to Canada’s multilateral commitments to combat terrorism financing.
Financial Exclusion	Financial exclusion occurs when individuals and businesses are unable to secure affordable and reliable access to financial services and products, effectively excluding them from payment channels that enable whole portions of the market.
Financial Inclusion	Financial inclusion reflects a principled commitment to ensuring across the entire regulated financial system that individuals and businesses have reliable, dependable, and affordable access to a range of financial services and products.

- Humanitarian Derisking** Humanitarian derisking occurs when humanitarian and development NPOs withdraw relief programming in certain parts of the world out of concern either with Canada’s application of its AML/ATF and sanctions regime, or with their financial institution’s presumed compliance with AML/ATF and sanctions requirements, or a combination of the two. Humanitarian derisking is an unintended consequence of Canada’s compliance with the FATF’s recommendations. Also, see, Unintended Consequences.
- Humanitarian Exception** An exception to criminal liability for terror financing legislated by Parliament into Canada’s Criminal Code at section 83.03(4) in 2023.
- Mutual Evaluation** The FATF conducts periodic reviews of member states for their compliance with its recommendations. It calls these periodic reviews “mutual evaluations”.
- Prudential regulation** Prudential regulation connotes a broad regulatory gaze that aims to ensure the stability of the economy, consumer confidence in financial service capacity and efficiency, and so on. “Prudential regulation seeks to promote the solvency and liquidity of financial institutions and ensure their ability to meet their obligations and manage risks.”¹¹⁴
- Unintended Consequences** As a response to NPO sector advocacy, the FATF has recognized that depending on how state parties implement and enforce its recommendations, there may be adverse, downstream consequences on NPOs that it did not intend when it originally promulgated its recommendations. As of June 2025, the FATF [introduced](#) unintended consequences and their redress as an criteria for mutual evaluations.

114. Juan F. Rendon, Lina M. Cortes, and Javier Perote, “Prudential regulation and bank solvency based on flexible distributions of money: an example for evaluating the impact of monetary policy,” *World Economy* 46, no 9 (2023): 2780-2807, 2781.

