

**LEGISLATIVE PROPOSALS RELATING TO THE REPORTING OF
INTERNATIONAL ELECTRONIC FUNDS TRANSFERS**

PART 1

INCOME TAX ACT

1. The portion of subsection 238(1) of the *Income Tax Act* before paragraph (a) is replaced by the following:

Offences and
punishment

238. (1) Every person who has failed to file or make a return as and when required by or under this Act or a regulation or who has failed to comply with subsection 116(3), 127(3.1) or (3.2), 147.1(7) or 153(1), any of sections 230 to 232, section 244.7 or a regulation made under subsection 147.1(18) or with an order made under subsection (2) is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

2. Subsection 241(4) of the Act is amended by striking out “or” at the end of paragraph (p), by adding “or” at the end of paragraph (q) and by adding the following after paragraph (q):

(r) provide information, solely for the purpose of ensuring compliance with Part 1 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, to an official of the Financial Transactions and Reports Analysis Centre of Canada, if the information

(i) can reasonably be considered to be relevant to a determination of whether a reporting entity (as defined in section 244.1) has complied with a duty or obligation under Part XV.1, and

(ii) does not directly or indirectly reveal the identity of a client (as defined in section 244.1).

3. (1) The Act is amended by adding the following after Part XV:

Part XV.1

REPORTING OF ELECTRONIC FUNDS TRANSFER

Definitions

244.1 The following definitions apply in this Part.

“cash”
« espèces »

“cash” means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada or coins or bank notes of countries other than Canada.

“casino”
« casino »

“casino” means an entity that is licensed, registered, permitted or otherwise authorized to do business under any of paragraphs 207(1)(a) to (g) of the *Criminal Code* and that conducts its business activities in a permanent establishment

(a) that the entity holds out to be a casino and in which roulette or card games are carried on; or

(b) where there is a slot machine, which, for the purposes of this definition, does not include a video lottery terminal.

	A casino does not include an entity that is a registered charity as defined in subsection 248(1) and is licensed, registered, permitted or otherwise authorized to carry on business temporarily for charitable purposes, if the business is carried out in the establishment of the casino for not more than two consecutive days at a time under the supervision of the casino.
“client” « <i>client</i> »	“client” means a particular entity that engages in a financial transaction or activity with a reporting entity, and includes an entity on whose behalf the particular entity is acting.
“credit union central” « <i>centrale de caisses de crédit</i> »	“credit union central” means a central cooperative credit society, as defined in section 2 of the <i>Cooperative Credit Associations Act</i> , or a credit union central or a federation of credit unions or caisses populaires that is regulated by a provincial Act other than one enacted by the legislature of Quebec.
“electronic funds transfer” « <i>télévirement</i> »	“electronic funds transfer” means the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of Society for Worldwide Interbank Financial Telecommunication messages, only SWIFT MT 103 messages are included.
“entity” « <i>entité</i> »	“entity” means an individual, a body corporate, a partnership, a fund or an unincorporated association or organization.
“funds” « <i>fonds</i> »	“funds” means cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate an entity’s title or interest in them.
“money services business” « <i>entreprise de transfert de fonds ou de vente de titres négociables</i> »	“money services business” means an entity engaged in the business of foreign exchange dealing, of remitting funds or transmitting funds by any means or through any entity or electronic funds transfer network, or of issuing or redeeming money orders, traveller’s cheques or other similar negotiable instruments except for cheques payable to a named entity.
“reporting entity” « <i>entité déclarante</i> »	<p>“reporting entity” means an entity that is</p> <p>(a) an authorized foreign bank within the meaning of section 2 of the <i>Bank Act</i> in respect of its business in Canada, or a bank to which that Act applies;</p> <p>(b) a cooperative credit society, savings and credit union or caisses populaires regulated by a provincial Act;</p> <p>(c) a financial services cooperative regulated by <i>An Act respecting financial services cooperatives</i>, R.S.Q., c. C-67.3, or <i>An Act respecting the Mouvement Desjardins</i>, S.Q. 2000, c. 77;</p> <p>(d) an association regulated by the <i>Cooperative Credit Associations Act</i>;</p> <p>(e) a company to which the <i>Trust and Loan Companies Act</i> applies;</p> <p>(f) a trust company regulated by a provincial Act;</p> <p>(g) a loan company regulated by a provincial Act;</p>

	<p>(h) a money services business;</p> <p>(i) a casino, including a casino owned or controlled by Her Majesty;</p> <p>(j) a department or an agent of Her Majesty in right of Canada or of a province that is engaged in the business of accepting deposit liabilities in the course of providing financial services to the public; or</p> <p>(k) a credit union central in respect to financial services it offers to an entity, other than an entity that is referred to in any of paragraphs (a) to (g) and (j) and is a member of that credit union central.</p>
Electronic funds transfer	<p>244.2 (1) Every reporting entity shall file with the Minister an information return in prescribed form in respect of</p> <p>(a) the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction; or</p> <p>(b) the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction.</p>
Transfer within Canada	<p>(2) For greater certainty and subject to subsection (3), subsection (1) does not apply to a reporting entity in respect of an electronic funds transfer if the entity</p> <p>(a) sends the transfer to an entity in Canada, even if the final recipient is outside Canada; or</p> <p>(b) receives the transfer from an entity in Canada, even if the initial sender is outside Canada.</p>
Intermediary	<p>(3) Subsection (1) applies to a reporting entity in respect of an electronic funds transfer if the entity</p> <p>(a) orders another reporting entity to send, at the request of a client, the transfer out of Canada, unless it provides the other reporting entity with the name and address of the client; or</p> <p>(b) receives the transfer for a beneficiary in Canada from another reporting entity in circumstances where the initial sender is outside Canada, unless the transfer contains the name and address of the beneficiary.</p>
Transfer conducted by agent	<p>(4) If a particular reporting entity is an agent of or is authorized to act on behalf of another reporting entity in respect of an electronic funds transfer, subsection (1) applies, in respect of the transfer, to the other reporting entity and not to the particular reporting entity.</p>
Casino	<p>244.3 An electronic funds transfer in respect of which subsection 244.2(1) applies that occurs in the course of a business, temporarily conducted for charitable purposes in the establishment of a casino by a registered charity carried on for not more than two consecutive days at a time under the supervision of the casino, shall be reported by the supervising casino.</p>
Single transaction	<p>244.4 (1) For the purposes of this Part, two or more electronic funds transfers of less than \$10,000 each that are made within 24 consecutive hours and that total \$10,000 or more are considered to be made in the course of a single transaction of \$10,000 or more if</p>

	<p>(a) an individual, other than a trust, who is a reporting entity knows that the transfers are conducted by, or on behalf of, the same entity; and</p> <p>(b) an employee of a reporting entity, other than an entity described in paragraph (a), knows that the transfers are conducted by, or on behalf of, the same entity.</p>
Exception	<p>(2) For greater certainty, subsection (1) does not apply in respect of an electronic funds transfer sent to two or more beneficiaries if the transfer is requested by</p> <p>(a) an administrator of a pension fund that is regulated by or under an Act of Parliament or of the legislature of a province;</p> <p>(b) a department or agent of Her Majesty in right of Canada or of a province;</p> <p>(c) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them;</p> <p>(d) an organization that operates a public hospital and that is designated by the Minister as a hospital authority under the <i>Excise Tax Act</i>, or an agent of such an organization; or</p> <p>(e) a corporation that has minimum net assets of \$75 million on its last audited balance sheet, whose shares are traded on a Canadian stock exchange or a designated stock exchange and that operates in a country that is a member of the Financial Action Task Force on Money Laundering established in 1989.</p>
Foreign currency	<p>244.5 If an electronic funds transfer is carried out by a reporting entity in a foreign currency, the amount of the transfer is to be converted into Canadian dollars using</p> <p>(a) the official conversion rate of the Bank of Canada for the currency published in the Bank of Canada's <i>Daily Memorandum of Exchange Rates</i> that is in effect at the time of the transfer; or</p> <p>(b) if no official conversion rate is set out in that publication for the currency, the conversion rate that the entity would use for the currency in the normal course of business at the time of the transfer.</p>
Filing of return	<p>244.6 An information return in respect of an electronic funds transfer that is required to be filed by a reporting entity under this Part shall be filed</p> <p>(a) not later than five working days after the day of the transfer; and</p> <p>(b) using electronic media, in the manner specified by the Minister, if the entity has the technical capabilities to do so.</p>
Record keeping	<p>244.7 (1) Every reporting entity that is required to file an information return under this Part shall keep such records as will enable the Minister to determine whether the entity has complied with its duties and obligations under this Part.</p>
Form of records	<p>(2) A record that is required to be kept under this Part may be kept in machine-readable or electronic form if a paper copy can be readily produced from it.</p>
Retention of records	<p>(3) A reporting entity that is required to keep records under this Part in respect of an electronic funds transfer shall retain those records for a period of at least five years from the day of the transfer.</p>

(2) Subsection (1) applies in respect of electronic funds transfers made after 2014.

4. (1) The definition “credit union” in subsection 248(1) of the Act is replaced by the following

“credit union”
« *caisse de
crédit* »

“credit union” has the meaning assigned by subsection 137(6), except for the purposes of Part XV.1;

(2) Subsection (1) comes into force on January 1, 2015.

PART 2

EXCISE TAX ACT

5. (1) The *Excise Tax Act* is amended by adding the following after section 98.1:

Electronic
funds transfer

98.2 For greater certainty, information obtained under Part XV.1 of the *Income Tax Act* by the Minister may be used for the purposes of this Act.

(2) Subsection (1) comes into force on January 1, 2015.

6. (1) The headings before section 273.2 of the Act are replaced by the following:

Subdivision b.3

Information Returns

(2) Subsection (1) comes into force on January 1, 2015.

7. (1) The Act is amended by adding the following after section 273.2:

Electronic
funds transfer

273.3 For greater certainty, information obtained under Part XV.1 of the *Income Tax Act* by the Minister may be used for the purposes of this Part.

(2) Subsection (1) comes into force on January 1, 2015.

PART 3

EXCISE ACT, 2001

8. (1) The *Excise Act, 2001* is amended by adding the following after section 207:

Electronic
funds transfer

207.1 For greater certainty, information obtained under Part XV.1 of the *Income Tax Act* by the Minister may be used for the purposes of this Act.

(2) Subsection (1) comes into force on January 1, 2015.

PART 4

AIR TRAVELLERS SECURITY CHARGE ACT

9. (1) The *Air Travellers Security Charge Act* is amended by adding the following after section 37:

Electronic
funds transfer

37.1 For greater certainty, information obtained under Part XV.1 of the *Income Tax Act* by the Minister may be used for the purposes of this Act.

(2) Subsection (1) comes into force on January 1, 2015.

