Federation of Law Societies of Canada | Fédération des ordres professionnels de juristes du Canada

Submission of the Federation of Law Societies of Canada to the House of Commons Standing Committee on Justice and Human Rights

Bill C-29 – An Act to establish the Financial Crimes Agency and to make consequential amendments to certain Acts and Regulations

Ottawa, September 18, 2026

INTRODUCTION

1. The Federation of Law Societies of Canada ("the Federation"), on behalf of its member law societies, appreciates the opportunity to provide comments on Bill C-29, *An Act to establish the Financial Crimes Agency and to make consequential amendments to certain Acts and regulations,* which was tabled in Parliament on April 27, 2026.

2. The Federation is the national association of the 14 provincial and territorial law societies that are mandated by law to regulate Canada's lawyers, Quebec's notaries and Ontario's licensed paralegals in the public interest. Our member law societies are statutorily charged by legislation in each province and territory with the responsibility for regulating more than 136,000 lawyers, 3,800 notaries in Quebec and Ontario's nearly 12,000 licensed paralegals in the public interest. An important role of the Federation is to express the views of the law societies on national and international issues relating to the administration of justice and the rule of law.

3. As an integral part of Canada's anti-money laundering and terrorist financing ("AMLTF") framework, the Federation and its member law societies support Canada's efforts to fight money laundering and terrorist financing. The Federation and the law societies of Canada have long demonstrated their commitment to protecting the public by regulating the legal profession to mitigate the risk of engaging in or facilitating money laundering or the financing of terrorism. The development by the Federation of Model Rules limiting the ability of legal counsel to accept cash (the "Cash Transactions Model Rule"), imposing extensive client identification and verification obligations (the "Client Identification and Verification Model Rule"), and limiting the use of trust accounts (the "Model Trust Accounting Rule"), (collectively "the Model Rules"), and their adoption and enforcement by the law societies, is evidence of the commitment to proactively regulate in this area. Legal professionals are also bound by robust trust accounting rules, and by professional conduct duties that include a prohibition on engaging in any activity that they know or ought to know is in furtherance of any crime. These rules and duties, combined with the law societies' extensive audit, investigation, and enforcement powers, together with the powers to compel information, provide effective regulation of the risks of legal professionals becoming involved in, or assisting in money laundering or the financing of terrorism.

4. The Federation has publicized extensive documents describing the form and effectiveness of law society regulation as part of Canada's 2025 Mutual Evaluation by the Financial Action Task Force ("FATF"), made submissions to Finance Canada in response to a 2023 consultation on strengthening Canada's AMLTF regime via amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("PCMLTFA"), participated as a witness and provided written submissions for the Cullen Commission of Inquiry into money laundering in British Columbia, and appeared before the House of Commons Standing Committee on Finance in prior reviews of the PCMLTFA.

5. Since 2019, the Federation and the Government of Canada have collaborated to address issues related to money laundering and terrorist financing via a Joint Working Group comprising representatives of the Department of Finance and other federal departments and agencies, as well as representatives from the Federation and its constituent law societies. The Joint Working Group provides valuable opportunities to share information about evolving risks, typologies, legislative and other developments. It also provides a forum for the legal regulators to demonstrate their commitment to robust and effective regulation to mitigate money laundering

risks and provides opportunities to explore ways in which the law societies' regulations might be enhanced, including via national initiatives such as education.

6. The Federation recognizes the importance of the objectives of the proposed Financial Crimes Agency ("FCA") and concurs with its purpose. Initiatives to fight these crimes, which include fulfillment of Canada's commitments internationally as a result of its membership in the FATF, must respect the framework of the values and constitutional principles on which Canadian society rests. This includes the rule of law, and within that, the right of individuals to an independent judiciary and independent legal counsel. While affirming the Federation's commitment to addressing money laundering and terrorist financing risks, we offer the following comments on Bill C-29 to highlight opportunities for collaboration and ensure adherence to constitutional principles.

AGREEMENTS

7. Subsection 24(1) and 24(2) of the Bill provide for the possibility that the Agency may enter into agreements or other arrangements in respect of information sharing in relation to financial crimes or collaborating in the investigation of financial crimes. The Federation and the law societies welcome this proposed collaboration and believe it would further strengthen our collective ability to combat money laundering.

8. As the authority to regulate the legal profession in Canada rests with the provincial and territorial law societies, they are vested with various powers to investigate, audit, and discipline their members, including for breaches of AMLTF related obligations. Law societies are uniquely empowered to investigate legal professionals, including access to and review of materials protected by legal privilege. This power permits law societies to compel answers and documents from legal professionals, and use search and seizure type powers unavailable to law enforcement agencies due to constitutional protections. The law societies' ability to detect possible instances of misconduct would be enhanced via deeper collaboration with government counterparts such as the new Agency. Such collaboration would provide another window into the behaviour of legal professionals for the law societies and facilitate risk management, investigations and sanctioning procedures. Enhanced collaboration facilitates the early detection of non-compliance allowing authorities such as the FCA and the law societies to prioritize preventive anti-money laundering measures.

RESPECTING PRIVILEGE AND CONFIDENTIALITY

9. The Bill authorizes investigations (ss.16-18) and police powers (s.19) but does not expressly safeguard solicitor–client privilege or set special procedures for handling privileged material. In 2015 the Supreme Court of Canada recognized that the provisions in the PCMLTFA requiring legal counsel to collect and retain information not required for client representation, expansive powers to search law offices, and inadequate protection for solicitor-client privilege violated provisions of the *Canadian Charter of Rights and Freedoms* and undermined the ability of lawyers and Quebec notaries to comply with their duty of commitment to the client's cause, a principle of

fundamental justice.[1]

10. The broad powers conferred by the Bill on the Agency to investigate “any financial crime or any offence under any Act of Parliament committed in relation to a financial crime” (ss.16(1)) raises questions as to potential conflicts with the law of solicitor-client privilege in Canada, and the duty of confidentiality owed by licensed legal professionals to their clients. The Supreme Court of Canada has described solicitor-client privilege as “a principle of fundamental justice and a civil right of supreme importance in Canadian law” that “must remain as close to absolute as possible if it is to retain relevance.”[2] Furthermore, the Supreme Court held that a lawyer’s billing and fee information is presumptively protected by solicitor-client privilege, because even seemingly neutral financial records can reveal confidential details about the client’s legal matters, strategy, or relationship with counsel.[3] As such, solicitor-client privilege must be interpreted broadly and protected rigorously, and state searches and seizures involving lawyers’ records require especially strict safeguards.

11. The principles of solicitor-client privilege were reaffirmed in the Supreme Court’s decision in *Canada (Privacy Commissioner) v. Blood Tribe Department (“Blood Tribe”)*[4] and more recently in *Alberta (Information and Privacy Commissioner) v. University of Calgary*.[5] In *Blood Tribe* the Court held that solicitor-client privilege can only be interfered with when “absolutely necessary”. The Court further held that compelled disclosure to an administrative agency or officer would, in the eyes of a client as owner of the privilege, constitute an infringement of the privilege. Where other, less intrusive measures exist, the absolute necessity test is unlikely to be met. In addition, the Court has made it clear that any infringement on solicitor-client privilege must impair the privilege as minimally as possible. In addition, and as a practical matter, licensed legal professionals would be unable to comply with inspection orders due to their professional obligations relating to confidentiality and solicitor-client privilege. The Federation submits that a carveout for information subject to solicitor-client privilege should be included within the Bill.[6]

12. The Bill, while granting peace officer status and investigatory powers to employees of the Agency at the Commissioner’s discretion, lacks explicit procedures for search and seizure or production orders targeting lawyers’, paralegals’ and notaries’ records. The Bill or its regulations should provide details about an independent review step such as privilege-filtered judicial review for any document production or search warrant that risks capturing communications with legal professionals. The Supreme Court has held that any legislative provisions that interfere with solicitor-client privilege more than “absolutely necessary” will be found to be unconstitutional.[7]

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[1] *Canada (Attorney General) v. Federation of Law Societies of Canada*, [2015] 1 SCR 401, 2015 SCC 7 (CanLII).
[2] *Lavallee, Rackel & Heintz v. Canada (Attorney General); White, Ottenheimer & Baker v. Canada (Attorney General); R. v. Fink*, 2002 SCC 61 (CanLII) at para. 36
[3] *Maranda v. Richer*, 2003 SCC 67 (CanLII)
[4] 2008 SCC 44 (CanLII)
[5] 2016 SCC 53 (CanLII)
[6] *Canada (Attorney General) v. Chambre des notaires du Québec*, [2016]1 SCR, 336.
[7] *Lavallee, Rackel & Heintz v. Canada (Attorney General)*, 2002 SCC 61 (CanLII)

INFORMATION HANDLING SAFEGUARDS

13. The Bill lacks detail regarding the broad powers provided to government officials to search and inspect documents. The Federation is concerned that these powers could be used to authorize sweeping searches. The Bill should be closely reviewed to ensure it is in line with the *Canadian Charter of Rights and Freedoms*, specifically its s. 8, and the law of search and seizure in Canada. For example, search warrants are likely required in many cases.

14. In addition, the Bill does not contemplate data handling safeguards and leaves the "collection, retention, use, disclosure and disposal of information" (ss. 25(1)(c)) to regulations. The Federation strongly recommends that the development of these regulations be done in a way that provides for public consultations.

REGULATIONS

15. The Bill leaves much of the details about the core functions of the Agency to regulation. The Federation and its member law societies should be formal consultees for regulations developed under s. 25, especially in regards to the items dealing with designation as police officers (ss. 25(1)(b)) and respecting the collection, retention, use, disclosure and disposal of information for the purposes of the Act (ss. 25(1)(c)).

CONCLUSION

16. The Federation and its member law societies value the collaborative approach to combatting financial crime that the Bill puts forward. As key authorities within Canada's AMLTF framework, the Federation and the law societies look forward to engaging with the Agency to further this collaboration, while ensuring the respect of principles of fundamental justice such as solicitor-client privilege, and assisting the Agency in developing sound regulations around search and seizure, document retention, use and disclosure, and ensuring appropriate safeguards are in place.

17. The Federation would welcome the opportunity to discuss the matters in this submission further and to assist the Committee in its study of the Bill.