



## **CHANGES TO SECTION 347 OF THE CRIMINAL CODE:**

**347 (1)** Despite any other Act of Parliament, every **person** who enters **or offers to enter** or offers to enter into an agreement or arrangement to receive interest at a criminal rate, **who advertises an offer to enter into an agreement or arrangement that provides for the receipt of interest at a criminal rate** or **who** receives a payment or partial payment of interest at a criminal rate, is

- (a)** guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or
- (b)** guilty of an offence punishable on summary conviction and liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than two years less a day, or to both.

### **Background on the CLA Non-Prime Roundtable's Advocacy**

The Canadian Lenders Association (CLA), appreciates the opportunity to submit written feedback on Bill C-69: the Budget Implementation Act.

The CLA's Non-Prime Roundtable has been actively engaged with the federal government on the matter of the maximum allowable rate of interest. Other member companies of the CLA have not been involved in this issue, as it is not relevant to their everyday business operations. Since the fall of 2022, the Non-Prime Roundtable has been involved in education and advocacy regarding access to credit on this specific matter. The CLA's Non-Prime Roundtable consists of CLA member companies who have a specific interest in this issue because they offer non-prime credit to Canadians and understand their customers.

Members of the CLA's Non-Prime Roundtable provide essential credit solutions for a demographic that traditional banks are unable to serve. The primary concern of the CLA's Non-Prime Roundtable is to ensure that Canadians have access to credit when they need it most.

### **Section 347 of the Criminal Code & Combating deceptive marketing and advertising**

The CLA firmly stands against illegal lending and deceptive marketing practices used by illegal lenders to charge rates above the current maximum allowable rate of interest. The CLA has

actively participated in discussions with the Department of Finance to advocate for exemptions to the lowering of the maximum allowable rate of interest, ensuring that borrowers are not left without reliable, compliant ways to obtain credit. The CLA has cited reputable studies from other jurisdictions, which show a significant increase in the number of borrowers forced to seek credit from noncompliant sources once the maximum allowable rate of interest is lowered. For example, in a 2022 report entitled *Swimming with Sharks: Tackling illegal money lending in England*,<sup>1</sup> it was estimated that 1 million people in the UK rely on illegal lending. This number has since been reported to have risen to over 3 million people. The CLA has referenced this study, alongside data from Quebec (where the licensing limit resulted in a decrease of access to credit in the province of Quebec, along with a corresponding increase in illegal lending activity by extraterritorial entities)<sup>2</sup>, because our membership believes in the importance of offering Canadians legal, reliable sources of credit.

Regarding the legislative amendment to Section 347 of the Criminal Code which specifically aims to combat deceptive marketing and advertising practices, the CLA recommends that the government also take decisive action against lead generators that are encouraging Canadians to file consumer proposals and go the bankruptcy route without fully disclosing the implications of such actions. Many vulnerable Canadians may be lured into these options without fully understanding the long-term consequences, including the impact on their credit score and financial future. By cracking down on these deceptive practices, the government can protect consumers and ensure that they have access to accurate and truthful information when making important financial decisions. The CLA's Non-Prime Roundtable is aligned with the need to take swift and decisive action against these unethical practices to prevent further harm to Canadian consumers.

In Canada, provincial governments currently have several measures in place to ensure that deceptive marketing practices do not occur. One of the primary ways they do this is by enforcing consumer protection legislation. Each province has its own consumer protection laws, which outline what constitutes deceptive marketing practices and prohibit such practices from occurring. The CLA advocates for the Department of Finance to harmonize the provincial consumer legislation that deals with deceptive marketing practices, with the aim of bringing consistency and alignment across all provinces. By doing so, businesses operating in multiple provinces can adhere to a single set of rules and regulations, making compliance easier and more efficient. This effort towards harmonization can also help to strengthen consumer protection and promote fair competition in the marketplace, which benefits both consumers and businesses.

---

<sup>1</sup> "UK Non-Prime Lending Falls by Over a Third, Reports ClearScore," Retail Banker International, last modified May 21, 2024, <https://www.retailbankerinternational.com/news/uk-non-prime-lending-falls-by-over-a-third-reports-clearscore/#:~:text=The%20whitepaper%20%E2%80%93%20Building%20a%20non,of%20loans%20offered%20since%202019.>

<sup>2</sup> Government of Canada's Interest Cap Risks Criminal Surge," Ontario Association of Chiefs of Police, <https://www.oacp.ca/en/news/government-of-canada-s-interest-cap-risks-criminal-surge.aspx>.

## **CHANGES TO THE PCMLTFA:**

“Division 34 of Part 4 contains measures that are related to money laundering, terrorist financing and sanctions evasion and other measures.

Subdivision A of Division 34 amends the Proceeds of Crime (Money Laundering) and Terrorist Financing Act to, among other things,

- (a) permit information sharing between reporting entities for the purpose of detecting and deterring money laundering, terrorist financing and sanctions evasion;
- (b) authorize, subject to certain conditions, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to disclose certain information to provincial and territorial civil forfeiture offices and to the Department of Citizenship and Immigration;
- (c) authorize FINTRAC to publicize additional information pertaining to violations of that Act; and
- (d) extend the application of that Act to cheque cashing businesses.”

While the CLA commends the government’s commitment to strengthening Canada’s AML regime through Bill 69, it is crucial that any future amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) (“the Act”), particularly those which seek to bring new reporting entities into scope of the Act, are proportionate to the actual risks. Imposing substantial regulatory burdens, including significant IT infrastructure costs, on new reporting entities without clear evidence of enhanced AML benefits is not economically justifiable. Therefore, transparency in the risk assessments that inform these decisions is essential to ensure that regulatory measures are both effective and efficient.

Additionally, before bringing new reporting entities under the Act, it is imperative that the government conducts thorough consultations with the affected industries. Such collaboration will help tailor AML requirements to better fit the specific risks and operational realities of these entities, fostering a cooperative effort toward our shared goal of combating money laundering and terrorist financing. By working together, we can develop practical solutions that enhance AML effectiveness without imposing unnecessary burdens on legitimate businesses.