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Co-Chairs:
The Honourable Gwen Boniface Mr. Matthew Green Mr. Rhéal Fortin



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• (1830)

[English]

The Joint Chair (Mr. Matthew Green (Hamilton Centre, NDP)): Good evening, friends. I'd like to call this meeting to order.

Welcome to meeting six of the Special Joint Committee on the Declaration of Emergency, created pursuant to the order of the House on March 2, 2022, and the Senate on March 3, 2022.

Today's meeting is taking place in a hybrid format pursuant to the order of the House dated November 25, 2021.

I'd like to remind all those present in the room to please follow the recommendations of the public health authorities as well as the directives of the Board of Internal Economy to maintain health and safety.

Should any technical challenges arise, please advise me, as we may need to suspend for a few minutes to ensure that all members are able to participate fully.

Witnesses should also be aware that translation is available through the global icon at the bottom of your screen.

We have with us today, from the Department of Finance, Isabelle Jacques, assistant deputy minister of the financial sector policy branch; Julien Brazeau, director general of financial crimes and security division of the financial sector policy branch; and Manuel Dussault, senior director for framework policy, financial institutions division of the financial sector policy branch.

Also, from the Financial Transactions and Reports Analysis Centre of Canada, FINTRAC, we have Barry MacKillop, deputy director, intelligence; and Donna Achimov, deputy director and chief compliance officer in the compliance sector.

Each department will have five minutes for opening remarks.

Let's begin with the Department of Finance.

The floor is yours for five minutes, please, for opening remarks.

[Translation]

Ms. Isabelle Jacques (Assistant Deputy Minister, Financial Sector Policy Branch, Department of Finance): Good evening, Mr. Chair, and thank you for inviting me to appear before you today.

[English]

As you mentioned, my name is Isabelle Jacques. I am the assistant deputy minister of the financial sector policy branch at Finance Canada.

I'm here today to explain the measures contained in the Emergency Economic Measures Order.

As you know, the order was adopted by the government pursuant to the Emergencies Act. It was in force upon its registration on February 15 until its revocation on February 23. The order was not retroactive.

[Translation]

The first category of measures in the Order required financial service providers to cease providing financial services to any individual or entity engaged, directly or indirectly, in activities prohibited by the Emergency Measures Regulations. The Order referred to such an individual or entity as a "designated person".

The industry told the Department that their actions taken in response to the Order resulted in the freezing of approximately 280 financial products, such as savings and chequing accounts, credit cards and lines of credit, for a total of approximately \$8,000,000, including \$3,800,000 from a payment service provider.

We understand that financial service providers undertook these actions based in large part on information provided by the RCMP. The Order authorized law enforcement agencies, and other government institutions, to disclose information to financial service providers to apply the Order.

[English]

In addition, the order required financial service providers to determine on a continuing basis whether they were in possession of a designated person's property and to disclose to the RCMP or CSIS the existence of such property and any information they could have had about associated transactions.

The measures in the order were targeted exclusively at designated persons, and financial service providers were required to resume providing financial services when a designated person ceased engaging in activities prohibited by the regulations.

I also understand that financial service providers began unfreezing accounts, credit cards and lines of credit on February 21, after receiving additional and updated information from the RCMP. All accounts frozen in response to the order had been unfrozen by February 24.

[Translation]

The other broad category of measures in the Order was specifically aimed at crowdfunding platforms and payment service providers that were not subject to the obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

The Order extended certain anti-money laundering and anti-terrorist financing requirements, such as registration with the Financial Transactions and Reports Analysis Centre of Canada, FINTRAC, and the reporting of suspicious and large value transactions, to crowdfunding platforms and some payment service providers that were in possession of a designated person's property.

• (1835)

[English]

The measure reduced the risks that these platforms and payment service providers could receive funds from illicit sources, and increase the quality and quantity of financial transaction information received by FINTRAC, which would in turn make more information available to support investigations by law enforcement.

[Translation]

Thank you.

We will be pleased to answer your questions.

[English]

The Joint Chair (Mr. Matthew Green): Thank you very much.

We'll now proceed with the opening statement from FINTRAC.

[Translation]

Mr. Barry MacKillop (Deputy Director, Intelligence, Financial Transactions and Reports Analysis Centre of Canada): Thank you, Mr. Chair.

I want to thank the committee for inviting FINTRAC to participate in your review of the declaration of emergency.

I would like to begin by explaining briefly the Centre's role in protecting Canadians and Canada's economy.

FINTRAC's mandate is to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities.

[English]

FINTRAC was established as an administrative financial intelligence unit and not a law enforcement or investigative agency. We do not have the authority to monitor or track financial transactions in real time, freeze or seize funds, ask any entity to freeze or seize funds, or cancel or delay financial transactions. This did not change under the Emergencies Act.

As Canada's anti-money laundering and anti-terrorism financing regulator, we are responsible for ensuring the compliance of more

than 24,000 businesses that have requirements under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. Businesses subject to this act are required to fulfill a number of obligations, including reporting certain transactions to FINTRAC, such as international electronic funds transfers and suspicious transactions.

With the reporting that we receive, we are able to generate actionable financial intelligence for Canada's police, law enforcement and national security agencies. Last year our financial intelligence contributed to over 376 major, resource-intensive investigations and many hundreds of other individual investigations at the municipal, provincial and federal levels across the country.

Mr. Chair, under the emergency economic measures order, certain businesses were required to take specific actions in relation to the financial activity of individuals who were engaged in the blockades. For example, crowdfunding platforms and payment service providers were required to register with FINTRAC when they were in possession or control of property that was owned, held or controlled by an individual or entity that was engaged in an activity that was prohibited in the emergency measures regulations. These same businesses were also required to report certain types of transactions when thresholds set out in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its regulations were met.

Following the invocation of the Emergencies Act, FINTRAC was contacted by a number of crowdfunding platforms and payment service providers to discuss registration. In addition to engaging in these preregistration discussions, we also prepared guidance for businesses potentially affected by the Emergencies Act. We modified our own IT systems to allow for the registration of these new entities.

Given that it normally takes about 30 days to complete the registration process with FINTRAC, we did not have the opportunity to formally register any entities in relation to the Emergencies Act prior to its revocation.

In terms of our role as Canada's financial intelligence unit, I am prohibited under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act from discussing any information that we receive or any specific financial intelligence that we disclose. I can say, however, that we were actively engaged throughout this period in fulfilling our mandate and supporting the money-laundering and terrorist activity financing investigations of Canada's police, law enforcement and national security agencies.

I can also say that it was clear that businesses were very much aware of the Emergencies Act and the need to be extra diligent in relation to their anti-money laundering and anti-terrorist financing obligations.

Thank you, Mr. Chair. We are available for any questions you may have.

The Joint Chair (Mr. Matthew Green): Thank you very much to both for your presentations and opening remarks.

I would like to provide the preface that in these upcoming rounds, you may find from time to time that parliamentarians or senators may interject to redirect you to another question. It's not that they're being rude; it's just that they have a very limited amount of time.

Should you not be able to answer a question in its fullness, you can always follow up in writing. We'll do our best to avoid scenarios where people are talking over each other. As we found out in previous rounds, it really puts a lot of strain on the interpreters.

To the folks around the table, I think the last meeting was made better by the chair when we had an acknowledgement of a minute left. For the purpose of this meeting, I'll hold up a folder to indicate that you have a minute. That will let you know that it's time to wrap up your remarks. I'll also state that there will be discretion. If there is a fulsome answer being provided, I will, to the best of my ability, allow that question to end.

If that's okay, we will proceed now with the opening round of questions, beginning with Mr. Motz.

Mr. Motz, the floor is yours for five minutes.

• (1840)

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you, Chair.

Thank you, witnesses, for being here. I will fire off some rather rapid questions at you.

Mr. MacKillop, your direction to investigate under the Emergencies Act was given to you by whom?

Mr. Barry MacKillop: We have no investigative powers.

Mr. Glen Motz: Okay, I used the wrong choice of words. Who gave you the direction to pursue matters under the Emergencies Act?

Mr. Barry MacKillop: The direction already existed in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, sir, and that was not changed by the Emergencies Act.

Mr. Glen Motz: Was there any evidence of money laundering under the Emergencies Act that you found with the protest?

Mr. Barry MacKillop: There was no money laundering per se during the emergency measures that I could see, but sir, the reporting would have been reported specifically on money laundering or terrorist financing.

Mr. Glen Motz: Did you find any evidence of terrorist financing activities with the protest under the Emergencies Act?

Mr. Barry MacKillop: Well, I can't speak to any specifics. I can't really disclose anything in terms of specifics on any activities that may or may not have taken place.

Mr. Glen Motz: I'm not asking for specifics. I'm asking whether you found any terrorist activities. You've testified at another committee before, and you said you did not.

Did you find any evidence of insurrection funding activities by the protesters during this particular Emergencies Act invocation?

Mr. Barry MacKillop: Nothing that was reported to us, no.

Mr. Glen Motz: All right.

Ms. Jacques, you explained that you were looking for illicit sources of financing. What is that illicit source of financing?

Ms. Isabelle Jacques: Well, no, we were not looking for illicit sources of financing. What we did was put measures in place that would help in case there were illicit sources of financing.

Mr. Glen Motz: Did your department consult with the Department of Justice on the charter risks involving by freezing individual bank accounts without a court order?

Ms. Isabelle Jacques: Yes, we did.

Mr. Glen Motz: And?

Ms. Isabelle Jacques: As you know, I'm not at liberty to provide legal advice that was provided to us, but certainly, the emergency order became law, and as for—

Mr. Glen Motz: So you can't. Did the DOJ express concerns with respect to section 8 of the charter that guarantees protection against unreasonable search and seizure?

Ms. Isabelle Jacques: I cannot provide details of advice provided to us as clients while—

Mr. Glen Motz: I would question whether you were a client.

It would appear to me that you've been specifically instructed by the PMO, the Minister of Finance or the Minister of Justice to invoke solicitor-client privilege in response to these questions or invoke the principle of cabinet confidence.

Would that be an accurate statement?

Ms. Isabelle Jacques: No, that would not.

I used to be a lawyer with the Department of Justice, and I'm aware of the boundaries with respect to solicitor-client privilege.

Mr. Glen Motz: Did you think that the Emergencies Act order in council granted on February 14 gave financial institutions the power to conduct unreasonable search and seizure?

Ms. Isabelle Jacques: No, I did not.

In view of this scheme that was set up in the order, there were two manners in which financial institutions could find information. One was information provided by law enforcement, RCMP, and the other was if they saw suspicious activities while using their own internal resources.

• (1845)

Mr. Glen Motz: It's interesting that banks can freeze assets in people's accounts with judicial orders. Is there a reason why that wasn't pursued?

Ms. Isabelle Jacques: Well, the provincial courts had the jurisdiction to do that under the Criminal Code, but the federal government could not. As such, in view of the emergency and the extraordinary situation that was unrolling on the Hill and across the country—

Mr. Glen Motz: Did you—

A voice: Point of order.

The Joint Chair (Mr. Matthew Green): I've stopped the time. I understand there's a technical difficulty. It looks like the French translation has gone to the English side and has vacated the French translation.

Is that correct, Senator Carignan?

[*Translation*]

Hon. Claude Carignan (Senator, Quebec (Mille Isles), C): I can't hear anyone on the interpretation channel.

[*English*]

Mr. Glen Motz: I'm going to ask the question again.

Can you hear the translation right now?

[*Translation*]

Hon. Claude Carignan: It's working now.

[*English*]

The Joint Chair (Mr. Matthew Green): Feel free to ask the question. When you finish asking the question, I'll restart the time.

Hon. Claude Carignan: Could she repeat the last two sentences?

Ms. Isabelle Jacques: I'm not quite sure where I was when I was interrupted.

The Joint Chair (Mr. Matthew Green): Ms. Jacques, I'm going to allow for Mr. Motz to re-ask the question.

Mr. Glen Motz: Actually, it wasn't going where I wanted her to go, so I will ask a different question. The bottom line is she can't answer the question because of obvious confidences.

Did you, Ms. Jacques or Mr. MacKillop, consult at all with the Privacy Commissioner on any of these matters related to the order in council, most specifically about part (c)(iii), which required crowdfunding platforms and payment processors to report certain transactions to FINTRAC?

Ms. Isabelle Jacques: I did not.

The Joint Chair (Mr. Matthew Green): Thank you very much.

We will now move on to Ms. Bendayan for five minutes.

The floor is yours.

Ms. Rachel Bendayan (Outremont, Lib.): Thank you.

Just before starting my clock can I just point out that there was a problem with translation that prevented the witness's answer from being translated. Has that been resolved?

The Joint Chair (Mr. Matthew Green): I believe it has. I believe it was just a switch issue, but in the event that there are any disruptions on your end, please do raise your hand and I'll stop the clock and allow for that to be fixed.

Ms. Rachel Bendayan: Mr. MacKillop, I'll begin with you. Did FINTRAC freeze any bank accounts?

Mr. Barry MacKillop: No. FINTRAC does not have the authority or the power to freeze bank accounts.

[*Translation*]

Ms. Rachel Bendayan: Ms. Jacques, did the government freeze bank accounts?

Ms. Isabelle Jacques: No, the government didn't freeze accounts. As you know, the financial institutions were responsible under the order for taking those kinds of measures if they considered them necessary.

Ms. Rachel Bendayan: I'd like to quote Angelina Mason on that point.

[*English*]

I'll do so in English for her quote. She is from the Canadian Bankers Association and she testified before the Standing Committee on Finance on March 7, that banks relied “on the names provided by the RCMP, but there were obligations under the order separate from that, which required banks to make their own determinations.”

[*Translation*]

Unless I'm mistaken, the financial institutions acted on information from the RCMP. Is that correct, Ms. Jacques?

Ms. Isabelle Jacques: Based on the facts subsequently reported to us, I'd say that, yes, most of the measures that were taken stemmed from information received from the RCMP. However, I know that, after determining without relying on the information provided by the RCMP, that transactions seemed suspicious and after making the appropriate checks, some financial institutions took action and froze certain accounts. However, based on what was reported to me, that didn't happen in most cases.

[*English*]

Ms. Rachel Bendayan: But, the RCMP has put out a statement that read, “At no time did we”—being the RCMP—“provide a list of donors to financial institutions”. Perhaps I'll allow you or other witnesses to explain to the Canadians watching this committee exactly how determinations were made for the freezing of accounts.

Ms. Isabelle Jacques: I can't tell you what the RCMP shared with the financial institutions, but certainly, as per the order, the onus was on the financial institution to look at their relationship with their clients on an ongoing basis and make a determination as to whether or not they should freeze assets or stop providing services to their clients.

• (1850)

Ms. Rachel Bendayan: Thank you.

So it was the banks that made that determination. Can you also explain to us, consistent with what the banks acted on, the government's intention in putting these measures in place? Was it to freeze the accounts of people participating in the blockades or the organizers of the blockades? Help us to understand that aspect.

Ms. Isabelle Jacques: The intent was to stop the funding of illegal activities, or certainly curtail it. That was the main goal. The second goal was also to dissuade people from participating in illegal activities on the Hill, so it had two goals.

Ms. Rachel Bendayan: Thank you.

I think you've already clarified that it was the bank making those determinations, but can you point us to on what basis they would make the determinations? Is it on the basis of anything that we provided or on the terms of their own conditions?

I believe banks have terms of service, Madame Jacques. Was it on that basis that they would do so or on something else?

Ms. Isabelle Jacques: They have terms of service. I don't know if I could say it was on those terms of service that they did it, but what they had in their possession was information provided by the RCMP. On top of that, they would also have to do their own assessment because, ultimately, they had to make the determination to cease providing a service to a customer—basically, freezing accounts.

They could also use their own internal programs and search capacity to determine whether there were suspicious transactions that met the definition of the order.

Ms. Rachel Bendayan: Thank you.

I would like to pick up on something my colleague raised earlier. Mr. Motz was pointing you to search and seizure provisions in the charter. Was anything seized as a result of the banks' actions, or are we talking about freezing? Is there a distinction in your opinion?

The Joint Chair (Mr. Matthew Green): Respond briefly, please.

Ms. Isabelle Jacques: There is a big distinction, yes.

There was no seizing of assets. They were frozen.

The Joint Chair (Mr. Matthew Green): Thank you very much.

We will now move on to Monsieur Fortin for five minutes.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin (Rivière-du-Nord, BQ)): Thank you, Mr. Chair.

Thanks to the witnesses for being with us today.

I'm going to continue with Ms. Jacques.

Ms. Jacques, you just said that no accounts were seized and that they were merely frozen. Can you explain to me the distinction you draw between freezing and seizing an account?

Ms. Isabelle Jacques: First, you have to refer to section 2 of the order, which provides that financial service providers "must... cease...making available any property, including funds or virtual currency, to...a designated person or to a person acting on behalf of...a designated person."

There really was a duty to cease dealings. Consequently, the financial service providers stopped making funds available. They didn't seize funds, but rather retained or froze them, as it were.

The Joint Chair (Mr. Rhéal Fortin): Then what is a seizure if it's not a freezing of funds?

Ms. Isabelle Jacques: To my mind, a seizure occurs when a creditor directs a seizure of property belonging to a debtor. In this instance, there was no creditor attempting to be reimbursed. The bank didn't seize the money for a creditor; it merely froze the funds, by which I mean it rendered them inaccessible for the period of time during which the person was engaged in illegal activities.

The Joint Chair (Mr. Rhéal Fortin): All right, I understand. I'm not sure I'd define seizure the same way, but I understand your point of view.

That being said, how did it all work, Ms. Jacques? You say the government didn't seize or freeze any accounts, but then you say the financial institutions did. Who instructed the financial institutions? I don't imagine it happened by chance. No one froze people's accounts simply because they were on Parliament Hill. What was the process? Did you discuss the matter with the financial institutions? How did it all go down?

• (1855)

Ms. Isabelle Jacques: After the order was tabled and made public, given the extraordinary nature of the situation, we of course communicated with various representatives of the financial industry, including the Canadian Bankers Association, Desjardins and other associations, so they could question us about how the process would be carried out. We spoke with those representatives, and they knew they were ultimately responsible for making the decisions. They knew that the RCMP could provide them with information, which it did. They also knew they had an obligation to review their client relationships constantly to ensure no individuals or entities were using funds illegally.

The Joint Chair (Mr. Rhéal Fortin): Did you or anyone from your office instruct any financial institution to freeze or seize bank accounts?

Ms. Isabelle Jacques: No, never. No such instruction was given.

The Joint Chair (Mr. Rhéal Fortin): Were the frozen accounts reported to you?

Ms. Isabelle Jacques: Yes.

The Joint Chair (Mr. Rhéal Fortin): How frequently did you receive reports on those activities?

Ms. Isabelle Jacques: Once the order was in force, it took a few days for us to start receiving reports. A few days later, the Canadian Bankers Association began reporting daily, at the end of the day, on accounts frozen by the financial institutions.

The Joint Chair (Mr. Rhéal Fortin): Could you possibly forward copies of those reports to us, Ms. Jacques?

Ms. Isabelle Jacques: I'll try to see if I can send them to you, but I'll have to inquire.

The Joint Chair (Mr. Rhéal Fortin): When you say you'll have to check and see if you can send them to us, do you mean you have to get authorization to do so?

Ms. Isabelle Jacques: Yes, I'm talking about an authorization.

The Joint Chair (Mr. Rhéal Fortin): Since our committee has to investigate the application of these measures, I imagine it goes without saying that we'll have to know what measures were taken.

I'd like to know the names of the people whose bank accounts were seized or frozen, the amounts that were frozen, the dates on which they were frozen, the dates on which they were unfrozen and, especially, the reasons why the accounts of those persons were frozen. I imagine I'll get that information on...

Ms. Isabelle Jacques: I'd like to make it clear that what we got was aggregate information. We got no names or information on account types. We only received the number of financial products and the amounts, but we got no details on the names of individuals. None of that information was forwarded to us.

[English]

The Joint Chair (Mr. Matthew Green): Thank you very much.

At this point, I'm going to pass the chair virtually over to Senator Boniface. If you could please set a five-minute timer, I'll proceed with my questions.

The Joint Chair (Hon. Gwen Boniface (Senator, Ontario, ISG)): Let's turn to Mr. Green. You have five minutes, sir.

Mr. Matthew Green: Thank you very much, Senator.

I'm going to begin with my questions for FINTRAC. We heard some interesting testimony early on that provides a bit of contradiction to previous testimonies of other witnesses.

I'd like to begin by asking if you observed any red flags prior to the invocation of the Emergencies Act on the financial transactions occurring around the occupation and the blockades.

Mr. Barry MacKillop: We receive reporting on a regular basis from a number of reporting entities related to suspicions of money laundering and/or terrorist financing. We did over 2,000 disclosures last year.

On a daily basis, we disclose to law enforcement and our national security partners on individuals or entities that may be linked through their transactions to potential money laundering or terrorist financing. We would have disclosed on individuals in that case. We do that on a daily basis. That is our mandate and that is what we continued to do before, during and after the emergency measures act.

Mr. Matthew Green: Thank you.

For the witnesses, you will hear me say "thank you" from time to time, so that I can reclaim my time and continue with the questioning.

To be clear, of the 280 frozen accounts, how many of them did you flag as having suspicious financial activity prior to the invocation of the act?

Mr. Barry MacKillop: It is not within our mandate, sir, to flag those to anybody. In terms of flagging them to the financial institutions, that is not within our mandate. Those accounts—

Mr. Matthew Green: Who would you be reporting this to? Ostensibly, you would be receiving these reports, as you've testified. You'd get the information. To whom would it go?

• (1900)

Mr. Barry MacKillop: If I had received a suspicious transaction report and it met my threshold to suspect that it would be relevant to a money laundering or terrorist financing investigation, I would disclose it to local law enforcement or the RCMP.

Mr. Matthew Green: My question, through you, Madam Chair, to Mr. MacKillop is which instances he flagged prior to the invocation of the act that would have been deemed suspicious. To whom did you report? Was it the RCMP, local police or the provincial intelligence task force?

Answer with specificity, please, sir.

Mr. Barry MacKillop: We would have simply fulfilled our mandate, Madam Chair, in disclosing any suspicious activity that we deemed relevant to money laundering and terrorist financing, which we would give to whichever police force—

Mr. Matthew Green: Thank you.

Respectfully, I'm asking a very specific question. I'm not getting a response that's adequate to the nature and the seriousness of this committee.

I would ask you to please disclose, given the mandate that you have now stated multiple times leading up to this, which red flags you received and reported on to law enforcement.

Mr. Barry MacKillop: Madam Chair, with respect, the member's asking whether or not I flagged red flags to somebody that led to the questions to Madame Jacques about seizing bank accounts—

Mr. Matthew Green: That's not what I asked. You've extended that question. I asked a very specific question, sir.

Mr. Barry MacKillop: I'm not at liberty under my legislation, sir, to give you specificity on to whom I disclosed or what I disclosed.

Mr. Matthew Green: What was the nature of the communications between your agency and the RCMP?

Mr. Barry MacKillop: We have communications, Madam Chair, on a daily basis with the RCMP in relation to—

Mr. Matthew Green: Were you in communication prior to the declaration of the emergency regarding suspicious activities of financial transactions related to the occupation and blockades?

Mr. Barry MacKillop: Madam Chair, FINTRAC's mandate does not extend to the development of the emergency measures act. We were not involved in that nor in discussions on the emergency measures act or the regulations and their creation.

Mr. Matthew Green: We have section 4 of the order that also implements a reporting obligation for those entities of suspicious financial transactions and states, and it lists in subsection 4(2) that there's a report to the centre of every financial transaction. Then it has two paragraphs, 4(2)(a) and 4(2)(b), with some more information around money laundering and terrorist financing regulations.

Again, for the fourth or the fifth time, how many transactions were reported under the order after the invocation?

Mr. Barry MacKillop: Madam Chair, unfortunately, under my legislation, I cannot disclose anything specific in terms of numbers.

Mr. Matthew Green: Madam Chair, through you, is the witness aware of the constitution of this committee and would it help if we invited them back and perhaps created an in camera scenario—we've all been sworn in—to provide for the clarity of this committee the nature of FINTRAC's role in this?

Was this something you would be willing to discuss if we had to move in camera at a future date, sir?

Mr. Barry MacKillop: Madam Chair, with all due respect, even in camera, I'm limited by my legislation in what I can and cannot say. We fulfilled our mandate. We did disclose any suspicious transactions—as I normally would—to the RCMP, whether or not—

The Joint Chair (Hon. Gwen Boniface): Mr. MacKillop, I'm sorry; I'm going to have to cut you there.

Thank you.

The Joint Chair (Mr. Matthew Green): Thank you, Madam Chair.

At this point, I'll take back the chair.

We will continue with you, Senator.

You have five minutes. The floor yours, Senator Boniface.

Hon. Gwen Boniface: Thank you very much to all the witnesses for being here.

I want to perhaps give an opportunity for FINTRAC to help the committee understand your relationship with respect to the emergency order.

We've heard where you don't impact and how you're not affected. I'd like to understand better what the role of FINTRAC was during the emergency order.

Mr. Barry MacKillop: FINTRAC's role under the order did not change with respect to our mandate and the role we normally do prior to the order and subsequent to it from an intelligence perspective.

From the compliance side, it added crowdfunding platforms and payment service providers and required that they register with FINTRAC as reporting entities, and that preregistration did, in fact, take place.

As I mentioned in my opening remarks, the registration process was not completed during the time the emergency orders were in effect, but, from an intelligence perspective, all reporting received would have to be received based only on money laundering or terrorist financing suspicions by our reporting entities. We did not

have any extended powers or enhanced authorities from a financial intelligence perspective at FINTRAC because of the orders.

• (1905)

Hon. Gwen Boniface: Thank you very much.

Perhaps I could ask both finance and FINTRAC, as you work through this process, which is unprecedented, have you conducted any internal reviews that would help give you insight into how it worked, didn't work, and what you may have learned from the process?

I'll go to finance first.

Ms. Isabelle Jacques: We did not do a formal review, but certainly, we've thought about it, and some comments were provided from some institutions that they would have liked to have been contacted earlier.

We moved as quickly as we could under the circumstances; the situation was unprecedented. We tried to go to the larger financial institutions, including Desjardins, and we also extensively contacted the Canadian Credit Union Association. We did our best, but I think some of the institutions would have liked to have been contacted earlier, so that's something we would seek to improve in the future.

Hon. Gwen Boniface: Can I hear from FINTRAC's perspective?

Mr. Barry MacKillop: From the financial intelligence component of FINTRAC, there was no review of anything that was done in the sense that our mandate has continued, and we just continued. I think, concerning some of the lessons learned, the outreach and some of the new entities and new sectors we had an opportunity to talk about, perhaps Ms. Achimov could explain to you what that outreach was and how it might position us for the future.

Ms. Donna Achimov (Deputy Director, Chief Compliance Officer, Compliance Sector, Financial Transactions and Reports Analysis Centre of Canada): Thank you, Mr. Chair.

I'd like to say that we took every opportunity. In having preliminary discussions, we had a number of calls and queries from those who weren't quite sure if they fell under the auspices of what was required. We answered questions. What we tried to do was target outreach and be consistent with what we knew at the time. Keep in mind that it was a very short period of time. We had, as my colleague Mr. MacKillop had indicated, 21 potential payment service providers and crowdfunding platform service providers that reached out to us.

Hon. Gwen Boniface: Okay.

Perhaps I'll go back to finance to ask the question. How long were you given to actually put the system in place? Obviously, you were given forewarning that the invocation was coming. How much time did you have?

Ms. Isabelle Jacques: We're talking about days. It was very quick. As such, once the order came into force, we had very little time to try to help all the institutions that had to take action. We moved as quickly as we could.

Hon. Gwen Boniface: I appreciate that.

The Joint Chair (Mr. Matthew Green): We will now move on to Senator Carignan for five minutes.

[Translation]

Hon. Claude Carignan: Thank you, Mr. Chair.

My question is for Ms. Jacques.

I have the Economic Emergency Measures Order before me. Unless I'm mistaken, Ms. Jacques, you're saying there were no seizures because the government seized the designated persons' accounts, but the banks decided on their own to freeze the accounts of those persons.

Is that seriously what you're telling us?

Ms. Isabelle Jacques: No, that's not what I said. I actually said that the financial service providers had to "cease...making available any property, including funds or virtual currency, to...a designated person."

So what that means is to cease and not provide services or...

Hon. Claude Carignan: It's saying to cease providing services.

Ms. Isabelle Jacques: That's correct. It doesn't say to seize property. Nothing in the act states that anyone should seize property. A supplier must cease making property available. So it's really a preservation measure.

• (1910)

Hon. Claude Carignan: That's correct. It's also called a seizure.

Ms. Isabelle Jacques: No. There are actually two kinds of seizures.

Hon. Claude Carignan: Earlier I heard you talk about the law. I'm not sure your law training... I'll let it drop.

Ms. Isabelle Jacques: Well, look...

Hon. Claude Carignan: A seizure doesn't involve a creditor. I encourage you to read the Supreme Court's judgments on this point. I'll send you some quotations from the Supreme Court.

Ms. Isabelle Jacques: I understand. I'm not here to teach a course on the law. I was just trying to answer the questions.

Hon. Claude Carignan: I'm aware of that.

Ms. Isabelle Jacques: The reason it isn't a seizure is that the act provides that an institution must cease...

[English]

The Joint Chair (Mr. Matthew Green): Excuse me, Madam Jacques, I'm just going to take a minute and ask that questions go through the chair.

We will respect the fact that committee time allotted to each parliamentarian is their time to redirect on questions. We'll ask that you please answer the questions that are asked to you, given the seriousness and the nature of this committee.

You're at one minute and 53 seconds. You still have roughly three minutes left in your rounds, Senator Carignan.

[Translation]

Hon. Claude Carignan: Thank you, Mr. Chair.

So the duty to preserve property comes from the order. We agree on that, don't we?

Ms. Isabelle Jacques: Yes.

Hon. Claude Carignan: All right.

Who gave the banks the names of the designated persons? I imagine they were the names of the people who were on the Hill or in the crowds. I wasn't a designated person, which means there was a test for designating those persons. Who determined who the designated persons were?

Ms. Isabelle Jacques: I know that the RCMP provided the banks with the information, but the banks had to decide, based on the order and the information they had, whether the designated persons...

Hon. Claude Carignan: They had to decide whether to hold the property of those persons.

Ms. Isabelle Jacques: That's correct.

Hon. Claude Carignan: It's like in any seizure, where a judge has made an order, except that it was an order made under the Order in this instance.

My next question is for the FINTRAC people and concerns financial services.

Under subsection 4(2) of the order, the banks and financial institutions had to

...report to the Centre every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that...the transaction is related to the commission or the attempted commission of a money laundering offence...or...a terrorist activity financing offence....

Were those types of offences and reasonable grounds for suspicion reported to you?

Mr. Barry MacKillop: Thank you for your question.

But that didn't alter the reason why they had to report suspicious transactions. In this case, they couldn't be connected solely to the convoy or the event as such. They could report suspicious transactions to us only if there was some doubt that they could be linked to money laundering or terrorist activity financing. The fact that a person was in Ottawa wasn't a sufficient reason.

Hon. Claude Carignan: Did anyone report cases of designated persons in which there were reasonable grounds to suspect that those persons had committed money-laundering or a terrorist act?

Mr. Barry MacKillop: I couldn't say since we didn't receive the list of designated persons. That list was provided to the financial institutions, not FINTRAC. So I'm not aware of that.

Hon. Claude Carignan: To your knowledge, no...

[English]

The Joint Chair (Mr. Matthew Green): Senator Carignan, my apologies. I didn't put up the one-minute card, but you are at five minutes and you got a little bit extra there given the interruption.

Thank you.

We will now move onto Senator Harder, for five minutes.

Senator Harder, the floor is yours.

Hon. Peter Harder (Senator, Ontario, PSG): Thank you very much, Chair, and thank you to the witnesses for appearing before us.

I want to pursue some of the questioning that my colleague, Senator Boniface, began with. First I'll go to Isabelle Jacques.

Could you tell us when in the sequencing of events you were asked to develop the regime that became the financial measures in the emergency measures act?

• (1915)

Ms. Isabelle Jacques: I found out the weekend of Saturday the 12th that the emergency order would be invoked.

Hon. Peter Harder: Can you tell us which organizations were in a sense requesting of finance to develop the financial measures because of the circumstances that were before us?

Ms. Isabelle Jacques: There weren't any organizations that requested it, but in view of the circumstances, we were contemplating what could be done to help the situation.

Hon. Peter Harder: Right, but this wasn't you sitting at your desk looking at the screen and seeing what was happening on the street. I presume that there was an interaction with the department at the senior level with police and other organizations who were looking at the options as to what measures could the government undertake. Is that correct?

Ms. Isabelle Jacques: For the economic measures that are covered by the order, certainly I had discussions with the deputy minister of Finance.

Hon. Peter Harder: Can you tell us the extent to which the Department of Finance engaged in consultations before the order came into effect with the financial institutions that would ultimately have the enforcement role and with the RCMP?

Ms. Isabelle Jacques: Unfortunately, I was not involved in any of those consultations that they were in.

Hon. Peter Harder: Was that the deputy minister's prerogative?

Ms. Isabelle Jacques: I would not be able to tell you. I do not know who was involved at what moment. All we know is that when we found out that the emergency order would be invoked, we certainly worked to develop measures that could be taken.

Hon. Peter Harder: I suspect that this will be an area of inquiry with the minister, and hopefully Mr. Sabia will join the minister when she appears.

After the invocation of the Emergencies Act, what kind of outreach did your department undertake to the financial institutions both to respond to their questions and to give them guidelines as to how you expected the enforcement to take place, and how were the

relationships between the financial institutions and the RCMP developed?

Ms. Isabelle Jacques: Independently, after the order came into force, we reached out to some of the larger financial institutions—as I mentioned before—and Desjardins. We also reached out specifically to the Canadian Bankers Association, so we could help centralize some of the questions they might have had. We were trying to help them understand the order.

We reached out to the Canadian Credit Union Association, the Canadian Life and Health Insurance Association and the Insurance Bureau of Canada.

Hon. Peter Harder: In that outreach after the invocation of the Emergencies Act, did they offer any views with respect to how the financial aspects of the emergency declaration could be better tailored to enforcement action?

Ms. Isabelle Jacques: I don't recall any such discussions. I may turn to my colleague, Julien Brazeau, just to ensure that we give you a complete answer.

Mr. Julien Brazeau (Director General, Financial Crimes and Security Division, Financial Sector Policy Branch, Department of Finance): I don't recall any such comments that were made by the FIs themselves.

Hon. Peter Harder: Thank you.

To Barry MacKillop, it's clear, if I interpret your testimony correctly, that the crowdfunding organizations and payment service providers were not part of your mandate before the events on the Hill, and they were added to your mandate at that time. Was that a gap, in your view, and should that continue?

• (1920)

Mr. Barry MacKillop: It was a gap in the sense that they are not covered as a reporting entity. I think the jury is still out. It's new. I think that once they do, if it does become permanent—and it was announced that it would become permanent—we will learn as we go on in terms of what type of reporting we're going to see. I don't know the extent of reporting that we would see from them, so I think it's something that we will learn together as we move forward.

Certainly, I do believe that having them subject to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act would, at the very least, act as a deterrent for anyone who might want to use a crowdfunding platform to advance nefarious activities. So I believe it will have at least that effect.

Because our threshold of reporting is \$10,000 or more in or out of Canada, we would not see the transactions within Canada unless they were suspicious. So I'm not sure what type of reporting we'll get, but I think the jury is out, and we look forward to it. I think any way that we can attempt to reduce the opportunities for people to use these in a nefarious way is beneficial.

The Joint Chair (Mr. Matthew Green): Thank you very much.

We will now conclude the first round with Senator White.

Senator White, the floor is yours.

Hon. Vernon White (Senator, Ontario, C) : Thank you very much, Mr. Chair.

My question is for Assistant Deputy Minister Jacques.

If I may, you spoke to information provided to the financial institutions that would allow those institutions to not permit the accounts or the financial assets to be accessible by certain individuals. Was that list produced solely by the RCMP, or was it produced also with assistance from your office?

Ms. Isabelle Jacques: It was only by the RCMP.

Hon. Vernon White: Thank you.

You also stated that the information would come back from those financial institutions at the end of each day and that there would be an assessment done. I don't understand exactly what that assessment was. Are you referring to an assessment by the RCMP as to whether or not it was an account they wanted to be kept inaccessible?

Ms. Isabelle Jacques: No, I think that, as you saw in the order, the financial institution had to report back to the RCMP directly. What we received on a daily basis was simply the aggregate amount of accounts frozen. It was just the amount and the number of financial products. We did not know who.... We didn't have any names. In my opening remarks, I explained that there were, to our knowledge, as explained to us, 280 different products that were frozen.

Hon. Vernon White: When we say "products" are we referring to accounts?

Ms. Isabelle Jacques: We're referring to accounts, yes. It's possible that one person has three or four different types of accounts.

Hon. Vernon White: Thank you very much.

We had 280 accounts that we provided to the banks for 280 or fewer individuals or organizations. The banks made a decision whether or not to allow them to be accessible. They would then report back each day on how many they had frozen, because it's easier. There was no correlation between those names and what was frozen by the institution. Is that correct?

Ms. Isabelle Jacques: It's slightly different. The RCMP would provide names to the financial institutions. They would do their internal review and also, on an ongoing basis, looked at their accounts. Based on either the information provided by the RCMP, which I understand was largely the source of information, or their own internal review, they froze accounts.

Hon. Vernon White: To be clear, was there any point in time when the RCMP would state that they didn't need to be frozen and would actually release those accounts?

Ms. Isabelle Jacques: No, but I know at one point in time, certainly as of February 21, you saw that accounts started to become unfrozen, so I presume that there was information provided by the RCMP to the financial institution potentially—and I don't know this—saying that a certain individual was no longer participating in illegal activities. There's something that led to the accounts being

unfrozen, but I don't know the exact nature of that information, because I wasn't privy to it.

Hon. Vernon White: If I may, do you know if any criminal charges have been laid in relation to those accounts or the funding that was in those accounts?

• (1925)

Ms. Isabelle Jacques: I have no knowledge to that effect, no.

Hon. Vernon White: Would the RCMP notify you if there were?

Ms. Isabelle Jacques: No, they would not.

Hon. Vernon White: Mr. MacKillop, sorry I missed you. Do you know if any charges have been laid in relation to any of the information you provided to the RCMP?

Mr. Barry MacKillop: I do not, sir.

Hon. Vernon White: I'm done. Thanks.

The Joint Chair (Mr. Matthew Green): Thank you very much.

We are now into our second round, which will be four-minute rounds from the government side and the opposition side, followed by three-minute rounds—

Sorry, is there a question?

Mr. Arif Virani (Parkdale—High Park, Lib.): I am just wondering, since we only have this panel and we have three hours, could we just continue with five-minute rounds? Is that amenable to the members of the committee?

The Joint Chair (Mr. Matthew Green): Would you like to move a motion to that effect, Mr. Virani?

Mr. Arif Virani: Yes. I would move that we continue with five-minute rounds in rounds two and three.

Some hon. members: Agreed.

The Joint Chair (Mr. Matthew Green): We now have a five-minute round for Mr. Brock.

Mr. Larry Brock (Brantford—Brant, CPC): Thank you, Mr. Chair. Thank you to all the witnesses.

I want to start with Mr. MacKillop. Am I correct that this appearance today would represent your third appearance at various committees over the last several months?

Mr. Barry MacKillop: I believe that is correct, Mr. Chair.

Mr. Larry Brock: That would be finance you testified at on February 24. I don't know if public safety was pre-finance or post-finance, but it was probably in the month of February as well.

Mr. Barry MacKillop: Mr. Chair, I do not recall the days, but you are correct it was both the finance and security committees.

Mr. Larry Brock: Following your testimony at both of those committees, was there a debriefing session with you and any member of the government? I'll be very specific in what I mean by that. Did you have any conversations with the Prime Minister? Did you have any conversations with cabinet ministers, specifically the Deputy Prime Minister, Minister of Finance, the Minister of Public Safety, the Minister of Justice, the Minister of Emergency Preparedness or quite frankly, any member of the Liberal caucus? Did you speak to anyone post your attendances?

Mr. Barry MacKillop: I did not, Mr. Chair.

Mr. Larry Brock: Thank you.

Now I'm going to ask you for the third time questions that were put to you by my colleague Mr. Motz and my colleague Mr. Green that you seemed to have some difficulty responding to with clarity. If there is any confusion in the way that I phrase this question, please ask for clarification. I'm more than happy to try to simplify the question because I'm hoping I'm going to get a straight answer.

To Mr. Motz's question, with respect to the 280 financial products that were frozen.... I appreciate that the legislation you are governed by prohibits you from giving us specifics, but the question I'm asking you is not on specifics. The question I'm asking you is: Upon your review or that of anyone working under your command at FINTRAC, did you uncover any evidence of terrorist activities or money laundering?

Mr. Barry MacKillop: I will try to answer this as completely as I can, bearing in mind that it's without providing specifics.

With reference to the 280 financial products, I do not know. I do not have a list of those individuals. If a reporting entity, a financial institution in this case, knew of one of these individuals or had one of these designated, and, in their review of the person's transactions and historical transactions, they suspected that some of their historical transactions were related to money laundering or support for anything else in terms of terrorism, then they would have reported an STR to me. I would not necessarily know, and I would not know that it came because of the designation per se.

The financial institutions do adverse media reviews on all their clients on a regular basis, not necessarily linked to the convoy, but on a regular basis adverse media reviews are done as one of the tools they use to identify people who they may want—

• (1930)

Mr. Larry Brock: Mr. MacKillop, you're not answering the question.

With due respect, you are not, so I'll be more specific now. From February 15 to February 23, did your department receive any information from any financial institution in this country of any evidence of money laundering or terrorist activities, yes or no?

Mr. Barry MacKillop: Yes, we receive about 9,000 STRs a week, sir.

Mr. Larry Brock: I'm asking about February 15 to the February 23 in relation to this particular act, the Emergencies Act, and the order by which the financial institutions were required to report. Did they report terrorist activities or money laundering, yes or no?

Mr. Barry MacKillop: Mr. Chair, they would have reported money laundering or terrorist financing on individuals not necessarily involved in this. They may have been individuals involved in this convoy. The money laundering per se or the terrorist financing per se would not have been directly linked to the convoy.

However, there may have been individuals in the convoy who were identified in the newspapers who historically, through transaction monitoring, may have been identified as having committed potential money laundering activities or money laundering-type activities that the institution would have reported.

During the week of February 15 to February 23, during that period of time, we would have received somewhere around 9,000 STRs, some of which may have involved individuals who were in Ottawa, but there was no convoy-related money laundering per se.

The convoy itself was not an event that was used to launder funds. It was an event where funding was provided to support the convoy in advance of it being declared illegal, at which time any transactions to support would have been frozen and disallowed by the financial institutions.

The Joint Chair (Mr. Matthew Green): Thank you.

Just for the note of the committee, I did allow that final question to be answered. It was an important question.

We will now go on to Mr. Virani, who also has a five-minute round.

Mr. Virani, the floor is yours.

Mr. Arif Virani: Thank you.

I'll direct my questions to Ms. Jacques, and I have many questions, so I'd appreciate somewhat brief responses, if possible.

The economic measures order that we've been discussing at length for the last hour applied nationally, correct, not just to Parliament Hill?

Ms. Isabelle Jacques: Correct.

Mr. Arif Virani: We've been talking a great deal about accounts being frozen. When accounts were frozen for a 90-day period during the invocation, in whose custody did those assets reside? Did they remain with the financial institution that may have had them?

Ms. Isabelle Jacques: Yes. They remained where they were. They were simply not accessible by the owners.

Mr. Arif Virani: Okay.

You had indicated there were 280 products frozen, but those could have been for fewer than 280 individuals because I, for example, could have had four accounts that were frozen.

Ms. Isabelle Jacques: That is correct.

Mr. Arif Virani: You said the accounts would have been unfrozen either because the designated person was no longer designated—so the person had packed up and left the blockade in Windsor or in Ottawa—or because the invocation of the declaration had expired. Is that correct?

Ms. Isabelle Jacques: That is accurate.

Mr. Arif Virani: At the most, these things would have been frozen for nine days, unless they were frozen somewhat earlier, but that would be as a result of the bank's acting on its own volition. Is that correct?

Ms. Isabelle Jacques: Yes. We understand they were orders that existed prior to the order coming into force.

Mr. Arif Virani: Okay.

Do you know how many such orders there may have been, just approximately, prior to that?

Ms. Isabelle Jacques: I don't recall. I know there was at least one Ontario court order, but I do not recall.

Mr. Arif Virani: Okay.

There's an obligation under the economic measures orders about a duty to cease dealings. You've talked about this duty. That's subsection 2(1).

If the RCMP gives information on a hypothetical John Doe to CIBC, and CIBC then makes the decision whether to freeze the assets of that John Doe, yes or no, and it chooses not to freeze the assets, would there be any penalties or consequences for CIBC for not doing so?

Ms. Isabelle Jacques: No, there were no penalties, and your statement was accurate.

Mr. Arif Virani: Okay. Thank you.

You mentioned at the outset that 280 products were frozen and that the value of these products was \$8 million. Did I hear you correctly?

• (1935)

Ms. Isabelle Jacques: Yes, approximately.

Mr. Arif Virani: Do you have any sense of how much in total was fundraised for illegal blockades in this country? I heard anecdotally that it was roughly in the order of \$20-odd million. Do you have any sense of that number?

Ms. Isabelle Jacques: I do not, but I can certainly turn to my colleague Julien Brazeau.

Mr. Julien Brazeau: No, for any broad figures, we're relying on media statements. The only numbers we received were of accounts frozen by the financial institutions themselves.

Mr. Arif Virani: Do you have any sense of how many people were donating to various illegal blockades around the country?

Ms. Isabelle Jacques: I do not have that number, no.

Mr. Arif Virani: Okay. Thank you.

In terms of the impact of these measures, can you give us a sense of your evaluation? There has been a lot of talk about the economic measures and how they were designed, etc. I also understood, I think, from your testimony today and from what I've read, that sim-

ply the threat of the possibility of some of these freezings occurring dissuaded people from participating in illegal activity. Is that a fair statement?

Ms. Isabelle Jacques: Yes, it is.

We heard—and again you'd have to verify this with the RCMP—that reports were made that certainly some people did not show up on the Hill because they did not want their accounts to be frozen. It did dissuade people. I think the other impact was that the frozen \$8 million then did not go towards illegal activities.

Mr. Arif Virani: In terms of the illegal activities, I was curious about one aspect. We've talked a bit about what Ontario did and what the City of Ottawa did, or attempted to do. One thing that Premier Ford attempted to do in this province was to address the Ontario-plated vehicles. He had jurisdiction over Ontario-plated vehicles.

I noted from my review of the economic measures order that, obviously, it's a national order and dealt with things like insurance provisions. Was that a tool that allowed the measures to be taken vis-à-vis insurance companies, such that if a car were registered in Alberta or B.C. or Saskatchewan, as the case may be, or whatever province other than Ontario it might be, economic repercussions could follow for the owner of that vehicle because it was registered and likely insured in a different province?

Ms. Isabelle Jacques: It could have occurred, certainly. Insurance companies were asked to cease providing services. It would be possible that under the order, insurance could have been suspended for those people participating in the illegal activities on the Hill, but I'm not aware of any such occurrence. I'm not aware of any insurance being suspended.

Mr. Arif Virani: Was the threat of insurance being suspended sufficient to dissuade some people with vehicles registered—

Ms. Isabelle Jacques: I think it did, because it's their livelihood. Some of the truckers on the Hill use their trucks for work. I think, certainly, that had a dissuasive effect.

Mr. Arif Virani: Thank you.

The Joint Chair (Mr. Matthew Green): Thank you very much, Mr. Virani.

We will now move on to Monsieur Fortin. You have five minutes.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Chair.

My question is for Ms. Jacques.

You've been asked the question several times, but I'm not sure I heard a clear answer. It was also put to Mr. MacKillop.

The order concerns designated persons. Who designated those persons? It's my understanding that it was the RCMP, but it's not clear in my mind.

Who prepared the list of accounts that would be seized or frozen?

Ms. Isabelle Jacques: I understand your question.

There was no list of designated persons. Consequently,...

The Joint Chair (Mr. Rhéal Fortin): How were they designated in this case?

How could a financial institution know that Rhéal Fortin, for example, was a designated person and that his bank account should be seized?

Ms. Isabelle Jacques: That's a good question.

The RCMP sent information to the financial institutions, which proceeded with the necessary checks based on that information.

The Joint Chair (Mr. Rhéal Fortin): Do you have the list of names that the RCMP submitted to the financial institutions?

Ms. Isabelle Jacques: No.

The Joint Chair (Mr. Rhéal Fortin): All right, thank you.

Now I'll go to Mr. MacKillop and ask him the same questions.

Mr. MacKillop, do you think the RCMP alone designated persons to the financial institutions for seizure purposes?

Mr. Barry MacKillop: Thank you for your question.

I think the RCMP played a coordination role. The act...

The Joint Chair (Mr. Rhéal Fortin): Pardon me for interrupting, Mr. MacKillop, but we don't have a lot of time.

Who do you think designated the persons?

Mr. Barry MacKillop: I think any police force could designate persons, but I think the RCMP coordinated the list that was given to the financial institutions.

I think you'd be better off asking the RCMP that question.

• (1940)

The Joint Chair (Mr. Rhéal Fortin): Thanks for the advice. That's what I'll do.

Do you have the list of designated persons whose bank accounts were to be seized or frozen?

Mr. Barry MacKillop: No, sir.

The Joint Chair (Mr. Rhéal Fortin): Thank you.

Now I'd like to go back to Ms. Jacques

Ms. Jacques, you said you regularly received lists from the financial institutions. No names appeared on those lists, but the amounts seized and other information did.

How many of those lists did you receive under the order?

Ms. Isabelle Jacques: I don't know.

Considering how few days were involved, I'd say there were perhaps six.

I'll be able to provide the committee with the exact answer once I've done my research.

The Joint Chair (Mr. Rhéal Fortin): I'd appreciate that, Ms. Jacques.

We can say there were approximately six because there was roughly one a day.

Ms. Isabelle Jacques: We didn't receive any lists in the first days. As I said, the list wasn't long, but it included the amounts seized and the account balances.

The Joint Chair (Mr. Rhéal Fortin): So the list included the money that was in the account and the amount frozen.

Ms. Isabelle Jacques: We were given the total amount, but not the total for each of the accounts. We had no idea of the value of each account. For example, we were told there were 13 accounts and a total of \$1 million.

The Joint Chair (Mr. Rhéal Fortin): Did each financial institution send you a report like that?

Ms. Isabelle Jacques: No, we received it through the Canadian Bankers Association.

The Joint Chair (Mr. Rhéal Fortin): Is Desjardins a member of that association?

Ms. Isabelle Jacques: No, but Desjardins also sent us information. I think it did so once, but I'll have to...

The Joint Chair (Mr. Rhéal Fortin): Would you please check that, Ms. Jacques?

Ms. Isabelle Jacques: Yes, because I don't want to give you any false information.

The Joint Chair (Mr. Rhéal Fortin): Thank you; that's good of you.

Ms. Jacques, what did you do with those reports?

Ms. Isabelle Jacques: The reports were definitely forwarded internally to the deputy minister. There was also aggregate data. However, I don't know if those reports were forwarded outside the department.

Mr. Brazeau, can you answer the question?

Mr. Julien Brazeau: Yes, aggregate data was forwarded to the Privy Council, which aggregated information based on what was happening with respect to the emergency measures.

The Joint Chair (Mr. Rhéal Fortin): If there were no names on the lists and no one knew how much money had been seized in each account, what was the point of aggregating data?

Mr. Julien Brazeau: It gave us an idea of the size of the amounts that had been frozen and of the total amounts in the accounts that had been frozen.

The Joint Chair (Mr. Rhéal Fortin): Ms. Jacques, who monitored the financial institutions to determine whether the seizures were warranted?

Ms. Isabelle Jacques: No verification was done. The financial institutions obviously acted in good faith.

The Joint Chair (Mr. Rhéal Fortin): How are you sure of that?

Ms. Isabelle Jacques: What I mean is that we didn't follow up to ensure that...

The Joint Chair (Mr. Rhéal Fortin): It wasn't important. You assumed that the banks...

Ms. Isabelle Jacques: No. I didn't say it wasn't important.

The Joint Chair (Mr. Rhéal Fortin): You didn't do it, at any event.

[English]

The Joint Chair (Mr. Matthew Green): Thank you.

I would now pass the chair on to Senator Boniface for my five-minute round.

The Joint Chair (Hon. Gwen Boniface): Mr. Green, you have five minutes. Please proceed.

Mr. Matthew Green: Thank you very much.

Madam Chair, through you back to Mr. MacKillop, I think all witnesses, in fact everybody tuning in tonight, can see where there's some confusion around the roles of the various actors within the invocation of this act.

We heard about “designated persons”, and we're trying to figure out who is responsible ultimately for designating these people. We're talking about the compilation of lists.

This is a very serious committee.

Through you, Madam Chair, to Mr. MacKillop, would you have been briefed on the charter breach analysis and the seriousness of the Emergencies Act under section 4 in the orders that were granted through that act onto FINTRAC?

Mr. Barry MacKillop: No, Madam Chair, we were not involved in any of those discussions.

Mr. Matthew Green: Mr. MacKillop, is it your testimony here tonight that for the first time in the country's history the government enacts the Emergencies Act, FINTRAC is named in it under section 4, and you had no legal parameters or briefings from the government as to the seriousness of this act, and to what the roles would be as outlined in section 4? Is that your testimony here tonight?

• (1945)

Mr. Barry MacKillop: That is correct, Madam Chair. I was made aware of it perhaps a day before it went public. We were briefed on this, but not in the development of this.

Mr. Matthew Green: Sure.

Madam Chair, I will state for the purpose of this committee that it has been my opinion and observation through the testimony of the witness that he has equated this to much of the regular transactions that go through FINTRAC.

I started to talk with specificity around section 4 of the order, which implements a reporting obligation for those entities with suspicious financial transactions. The order states that:

Those entities must also report to the Centre every financial transaction that occurs or that is attempted in the course of their activities in respect of which there are reasonable grounds to suspect that

(a) the transaction is related to the commission or the attempted commission of a money laundering offence by a designated person; or

(b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence by a designated person.

For clarity, under section 4, Mr. MacKillop, the “Centre” refers to FINTRAC. Is that correct?

Mr. Barry MacKillop: That is correct, Madam Chair. The reporting is with respect to money laundering and/or terrorist financing suspicions. That is the same level of suspicion on which report-

ing currently happens, and has happened historically. What it did was indicate that there are individuals at the RCMP...could have identified as “designated” with respect to this, in which case—

Mr. Matthew Green: Madam Chair, thank you. I'm going to reclaim my time.

Just for clarity, this is section 4 of the Emergency Economic Measures Order. This is not just pertaining to your mandate, which also talks about “to facilitate the detection, prevention and deterrence of money laundering”. This is the Emergency Economic Measures Order...which reporting would have had every transaction.

Where I'm stuck is in some of the contradictory testimony that we've heard today, and in previous testimony from the RCMP around who is reporting to whom. As I read this piece of legislation, Madam Chair, through you to the witness, I'm to understand that all the entities that have registered with FINTRAC would have reporting mechanisms on every financial transaction.

I have to state how unsettled I am, given the nature of this—because I believe there was a threat—that there doesn't appear to be any action taken by either departments on briefings or debriefings or reflections on the seriousness of these orders. There doesn't appear to be any testimony here tonight that FINTRAC actually knew, or was a part of, or understands that the reporting that came back to them for every financial transaction would have occurred there.

Mr. MacKillop, I'll give you the opportunity this last time. Did your centre provide any heightened level of care and consideration for the powers granted to you under the Emergencies Act order of this country respecting the transactions that were reported to you?

Mr. Barry MacKillop: Madam Chair, to be clear, our mandate with respect to the reporting—it's not every transaction that gets reported to FINTRAC. FINTRAC does not monitor every transaction in Canada. We don't monitor transactions.... Regardless, under the emergency measures, it did not increase our mandate. It increased people who would report to us, or entities such as crowdfunding platforms who could now report to us. They could still only report to us under—

The Joint Chair (Hon. Gwen Boniface): Mr. MacKillop, I'm going to have cut you off there. I've been generous with the time for Mr. Green.

The Joint Chair (Mr. Mathew Green): Senator Boniface, I appreciate your generosity.

We will now move on.

We're going to repeat the first round, so Senator Boniface, the floor is yours for five minutes.

Hon. Gwen Boniface: Thank you very much, Chair.

Mr. MacKillop, this may give you an opportunity to expand on what you were going to say. In response to Mr. Brock's final question, and I want to make sure I got the response correct, you indicated that the convoy wasn't used for money-laundering purposes, but you didn't mention the terrorism financing side of the equation.

Based on what you're able to tell the committee, and I understand that there are limitations, was there any indication of terrorism financing noticed in the roughly 9,000 reports sent to you from financial institutions during the invocation of the order?

Mr. Barry MacKillop: Out of the 9,000 STRs that we get in a week, there are often and always reports that would lead to suspicions of IMVE. However, I think there's a distinction between somebody who may be supportive of ideologically motivated violent extremism and the event itself. It wasn't that the event was funded in view of supporting IMVE activities. There may have been individuals who may have been involved who have those types of leanings and we would have received STRs on them regardless of whether or not the emergency measure orders were in place.

We don't, as I mentioned earlier, see all transactions. The reporting that we receive in STRs are reports that the institutions suspect would be relevant to money-laundering or terrorist-financing investigation. Once we get those reports, we do not simply disclose all of those STRs. We have to still meet our own threshold, which is different, because we have a different threshold as professional intelligence analysts. Once we meet our threshold to suspect that it would be relevant to a money-laundering or terrorist-financing investigation, that is when we would put together the financial intelligence to disclose it.

We do not see all individual transactions.

• (1950)

Hon. Gwen Boniface: For the purpose of the record, could you give me the term STR in its full form?

Mr. Barry MacKillop: I'm very sorry. It's a suspicious transaction report.

Hon. Gwen Boniface: Thank you. It's important for the record.

Could you take a moment to explain your threshold from an intelligence perspective, because it's different from an investigative threshold.

Mr. Barry MacKillop: Mr. Chair, our threshold is a level of suspicion, so it's reasonable grounds to suspect. It is much lower than investigation, much lower than court. What we provide to law enforcement or national security or CBSA or internationally is intelligence only; it is not evidence. It is intelligence, and it's based on our reasonable grounds to suspect that it would be relevant to a money-laundering or terrorist-financing investigation or threats to the security of Canada.

Hon. Gwen Boniface: Okay. Thank you.

My understanding—this is for both finance and FINTRAC—is that work on amendments is under way in the Department of Finance to close the crowdfunding gap.

Is there an anticipated timeline, and what are the particulars that you're hoping to get to?

Ms. Isabelle Jacques: Yes, that is accurate. Actually the gap has been.... The measures are now permanent. Regulations were in place as of April 27.

Hon. Gwen Boniface: Can you tell me what the advantages are? What are you attempting to close?

Ms. Isabelle Jacques: What was closed—I can turn to Julien to give more details—is that we added to the list crowdfunding platforms as well as payment service providers, which were not covered previously.

I'll turn to Julien to better explain it.

Mr. Julien Brazeau: Briefly, essentially the new regulations made permanent what was contained in the emergency measures, in terms of the obligations on crowdfunding platforms and payment service providers to register and to disclose suspicious transaction, and also put on them heightened responsibilities in terms of due diligence and verification of clients.

Hon. Gwen Boniface: Very quickly, can you tell me whether or not you or anyone within your department has had any discussion on an international basis to look at other countries and how they may have dealt with this issue similarly?

Mr. Julien Brazeau: We have looked at benchmarking what other countries are doing. Canada is one of the first in terms of the coverage of crowdfunding platforms; however, in regard to payment service providers, the European Union as well as Australia already cover those entities for purposes of anti-money laundering and anti-terrorist financing.

Hon. Gwen Boniface: Thank you very much.

The Joint Chair (Mr. Matthew Green): Thank you.

We will now move on to Senator Carignan.

Mr. Carignan, the floor is yours.

[Translation]

Hon. Claude Carignan: Thank you.

Ms. Jacques, if I understood correctly, earlier you said there were no consequences for the financial institutions if they decided not to freeze transactions involving designated persons.

Is that correct?

Ms. Isabelle Jacques: Yes, that's correct.

• (1955)

Hon. Claude Carignan: In that case, I'd like you to explain the meaning of section 7 concerning immunity:

*7 No proceedings under the *Emergencies Act* and no civil proceedings lie against an entity for complying with this Order.*

So there's immunity for those who comply with it, but those who don't won't be prosecuted either.

Ms. Isabelle Jacques: Yes, section 7 grants immunity to entities that have complied in good faith with the order.

Hon. Claude Carignan: Can I be prosecuted if I don't have that immunity and haven't complied with the order?

I refer you to subsection 10(2) of the Emergency Measures Regulations, which provides as follows:

(a) on summary conviction, to a fine not exceeding five hundred dollars...

(b) on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Ms. Isabelle Jacques: I didn't think that section applied to the order, but perhaps you can put that question to the Department of Justice.

Hon. Claude Carignan: Yes, of course.

I just want to go back to seizures. You said earlier that it wasn't a search. I just want to remind you that we're talking about a restraint order, even though it comes from the order, not from a judge. I would encourage you to read the judgment that the Supreme Court rendered in 2002 in *Quebec (Attorney General) v. Laroche*, in which it held that a restraint order is a seizure within the meaning of section 8 of the Charter.

Ms. Isabelle Jacques: The court didn't issue a restraint order in this case.

Hon. Claude Carignan: Really?

Isn't it an order when it comes from the Governor in Council?

Ms. Isabelle Jacques: It's an order, but this one says to cease doing business with designated persons and providing them with services. I don't think we agree on the definition.

Hon. Claude Carignan: No, I don't think we agree.

Ms. Isabelle Jacques: I view that as a conservation measure and a freeze.

For example, if a bank sees a transaction that it suspects is fraudulent and decides to freeze the account to ensure it's inaccessible, do you think that's a seizure?

Hon. Claude Carignan: I'm reading section 2, which refers to ceasing any transaction concerning property. The definition of "property" may be very broad. Property can be a vehicle, a house, real property or a business.

What's the benefit of making an order that requires a bank to cease all financial transactions and to stop making financial instruments available to a person who takes part in an illegal protest on Wellington Street?

Ms. Isabelle Jacques: First, it helped ensure that people stopped financing illegal activities. Second, it urged people to leave Parliament Hill by telling them that their accounts would be unfrozen if they did so, because...

Hon. Claude Carignan: So that was the objective.

Ms. Isabelle Jacques: ...illegal protests have significant financial consequences.

Hon. Claude Carignan: I see.

Have you ever seen any offences where the banks were used to deter people from committing criminal acts?

It's as though someone robbed a bank and, to deter him from committing another similar act, we seized all his financial activities rather than prosecute and punish him.

Ms. Isabelle Jacques: Listen, it was under the Emergencies Act. It was a rather extraordinary situation. It was the first time the Emergencies Act had been used. It was clearly not a normal situation.

Hon. Claude Carignan: Thank you.

[English]

The Joint Chair (Mr. Matthew Green): Thank you very much.

We will now move on to Senator Harder.

Senator Harder, you have five minutes. The floor is yours.

Hon. Peter Harder: Thank you, Chair.

Madame Jacques and Mr. MacKillop, I'd like to pursue the issue of non-Canadian source funding and the way in which you became both aware of that and what actions you took, if any, to try to bring in line that source of funding to the effort to stop the funding of illegal occupation in Canada.

For example, did you have discussions with your American counterparts? Do you see this as a gap in the existing framework that you put in place? How would you, going forward, ensure that Canadian actions that are foreign-sourced would not be a loophole in funding of illegal activity?

Madame Jacques first, please.

• (2000)

Ms. Isabelle Jacques: Thank you.

If you do not mind, I will turn the question over to Julien Brazeau.

Mr. Julien Brazeau: Sure.

In terms of sort of the international reach, we became aware through media reports of the fact that potential U.S. funds were being used.

In regard to the measures that were put in place for crowdfunding platforms and PSPs, they apply equally to firms that are domiciled outside the country. That being said, obviously from an enforcement perspective our ability to enforce against them is limited. I can say there were no conversations at the time with our U.S. counterparts, at least to my knowledge, in terms of a potential gap.

I'll maybe leave it to my colleagues at FINTRAC to speak more specifically to enforcement challenges they may see across the border, but essentially, the measures were meant to capture both domestic and international firms.

Hon. Peter Harder: Before we go to FINTRAC, I wonder if I could follow up. I don't know how much nuance to read in your comment "at the time". Have you had conversations with American authorities since?

Mr. Julien Brazeau: No.

I'm sorry. I shouldn't have given any sense of nuance to that—

Hon. Peter Harder: I know how to use words, absolutely—

Mr. Julien Brazeau: No, I haven't had any discussions with U.S. counterparts since.

Hon. Peter Harder: Mr. MacKillop, could you brief us in respect of the FINTRAC relationship?

Mr. Barry MacKillop: I'm sorry, relationships with whom...?

Hon. Peter Harder: With U.S. counterparts, if any.

Mr. Barry MacKillop: We have a very good relationship and an ongoing relationship with FinCEN, which is FINTRAC's counterpart in the U.S. They were well aware of what was going on in Canada. They also received suspicious activity reports from their entities, but I don't believe the crowdfunding platforms report to FinCEN, so it was more along discussions and what might happen going forward on covering crowdfunding platforms and the challenges that we would have.

I know that on our compliance side we do have an international supervisory forum, where information among the Five Eyes is shared in terms of challenges and successes with respect to compliance across the Five Eyes, which are the five countries, for those who don't know. I'm sure you're all well familiar with the Five Eyes. Those discussions are ongoing, and they take place on a regular basis.

Hon. Peter Harder: If I could pursue this a little further, you say you're having those discussions now. Do you expect that will lead to some institutional relationships to fill this gap or to otherwise be assured to each other that you will not become victims of offshore funding of illegal activities?

Mr. Barry MacKillop: I'm not sure. I would turn to Ms. Achimov with respect to the compliance side.

The opportunity to provide money from outside Canada into Canada will always exist, and these platforms are international, but I believe having the crowdfunding platforms now as reporting entities to FINTRAC and the due diligence required will enhance their ability to ensure their platforms are not used for nefarious purposes. But they are used by many people to raise funds for very good causes, and that money they raise could in fact come from outside Canada and would not be in any way looked upon badly.

Hon. Peter Harder: Thank you.

I appreciate the assurances you're providing.

The Joint Chair (Mr. Matthew Green): Thank you very much.

We will conclude this round with Senator White, after which time we will take a five-to-eight-minute break to allow people to take a breather and then we will come back and resume.

Senator White, the floor is yours for five minutes.

Hon. Vernon White: Thank you very much, Mr. Chair.

Thanks again to the witnesses.

If I may, Assistant Deputy Minister Jacques, just so we're clear, the list of people and organizations was provided to financial institutions. Financial institutions then sent information back in meta format.

On those specifics, do you know if the RCMP received information beyond metadata specific to the account holders, such as the amount in each account, where the money was derived, etc.?

• (2005)

Ms. Isabelle Jacques: I do not know if they did.

Hon. Vernon White: Have they ever discussed with you the fact that they had that information about specific account holders?

Ms. Isabelle Jacques: No.

Hon. Vernon White: Can you give me specifics on how long the accounts were inaccessible for the account holders?

Ms. Isabelle Jacques: Well, certainly, they were inaccessible for as long as they were involved in illegal activities. I know that they started unfreezing some of those accounts on the 21st and they were completely unfrozen by the 24th.

Hon. Vernon White: Do you know if all criminal investigations were completed by the time they were unfrozen?

Ms. Isabelle Jacques: I'm not aware of any criminal investigations. That's not information I have received at finance.

Hon. Vernon White: So for about a week and a half this large amount of money in 180, give or take, accounts was frozen. You're not sure if any criminal investigations were conducted, and none of the accounts continued to be frozen past that period.

Is that correct?

Ms. Isabelle Jacques: That is accurate. I think there were approximately 280 accounts.

Hon. Vernon White: Okay. Thank you for that.

Mr. MacKillop, were any of the—I will call them targets, only because I'm sure that's what the police would refer to them as—targets found on the list provided to FINTRAC to identify whether or not you had further information that could be provided to the banks or financial institutions?

Mr. Barry MacKillop: No. In fact, we cannot go back to financial institutions and provide them information on specific target information.

Hon. Vernon White: I'm sorry, Mr. MacKillop. I understand you couldn't go to those banks, but did any law enforcement agencies go to FINTRAC and ask FINTRAC to provide information that they could then provide to financial institutions?

Mr. Barry MacKillop: No, Mr. Chair.

If law enforcement and RCMP were to come to us, it would be in the context of their own investigations if there were investigations ongoing. It would only be for money laundering or terrorist financing, which means that we could not just give them information so they could go to the bank. That would be outside our mandate.

I believe there were media articles in Ottawa saying that there were ongoing investigations, and if those ongoing investigations had a money-laundering component, then I'm sure the RCMP or Ottawa Police or any other police force would come to FINTRAC to seek our financial intelligence at that point, but I don't know about specific ongoing investigations.

Hon. Vernon White: So you're saying that has not occurred. They have not come back and asked you for information specific to any of the entities.

Mr. Barry MacKillop: Are you referring to any of the individuals, sir?

Hon. Vernon White: Yes.

Mr. Barry MacKillop: Some of them would have come back with voluntary information records whereby they would be seeking information or intelligence from FINTRAC on individuals they were investigating. The reasons for the investigation might vary, but there would have to be at least the suspicion that anything I disclosed would be relevant to a money-laundering investigation.

Again, I do not know of the 280 or the list that was given to any of the banks, so that link is not necessarily there.

Hon. Vernon White: Thank you very much, Mr. Chair.

That's it.

The Joint Chair (Mr. Matthew Green): We will now suspend the meeting for five minutes.

• (2005) _____ (Pause) _____

• (2015)

Mr. Larry Brock: Mr. Chair, I'm just looking at the clock. We're roughly averaging about 40 minutes per round, at five minutes. That takes us to nine o'clock for the final round. That means that some members will not have an opportunity to ask a question. I have no difficulty dropping it to a four-minute round per individual. That should enable everyone to be asked a question.

The Joint Chair (Mr. Matthew Green): To the committee members, I think you heard Mr. Brock.

Some hon. members: No.

The Chair: Mr. Brock, could you repeat it?

Mr. Larry Brock: I'm just trying to ensure fairness for the final round. The final round would start at nine o'clock. If we went for five minutes, some committee members would not be afforded an opportunity to ask a final question. My proposal is to drop the final round to four minutes per person.

The Joint Chair (Mr. Matthew Green): We have until 9:30. I would also note that the time allocations originally were by parties and Senate. We always have the opportunity to split time.

I think we're going to end up being okay. We've had some of the members concede some of their final seconds.

If we get to what I will call the Fortin fire round of one-minute questions or two-minute questions, then we can do that at the end. Does that make sense?

Ms. Rachel Bendayan: Mr. Chair, to Mr. Brock's point, I would like an opportunity to ask a final question, so would there be two rounds left from now until 9:30?

The Joint Chair (Mr. Matthew Green): Well, the more we talk about it, the less likelihood there will be. We're going to push for it, and if there's some will at the end to have some leeway to ask some final questions in a round, then we're certainly open to that.

Does that make sense? I'm at your discretion.

Ms. Rachel Bendayan: I think we go back to the original time allocation at this point, which was slightly different.

Hon. Peter Harder: If it is helpful, I have no further questions.

Ms. Rachel Bendayan: That is, of course, very helpful.

The Joint Chair (Mr. Matthew Green): That's very helpful, and they were fine questions indeed, Senator Harder.

We're going to continue.

With that, we will go back to the top of the round, which is the Conservative Party.

Mr. Motz, you have the floor for five minutes.

Mr. Glen Motz: Thank you very much, Chair.

Thank you, witnesses, for hanging in with us.

Ms. Jacques, you've had a chance to recoup, and I'd like to ask you some more questions, please.

In the first round, you indicated, to some of the questions I asked, that you couldn't answer given lawyer-client privilege. I take it to mean that you were getting advice and you were considered the client. Would that be accurate?

Ms. Isabelle Jacques: Yes.

Mr. Glen Motz: With your background, you'd know that in Canadian law the client can waive lawyer-client privilege. Are you willing to waive that privilege?

Ms. Isabelle Jacques: No, I'm not, and I'm not in a position to do so. It would have to be an appropriate person, and I believe that would have to come from the Clerk.

• (2020)

Mr. Glen Motz: Okay. Thank you for that perspective.

Senator Harder and others—and Senator Boniface—asked some questions about the sequencing and when you knew and what you did about it. That's been helpful to give some perspective on timing.

However, Ms. Jacques, two times so far in your testimony today, you were given specifics about what your goals were. You said you had basically two goals for the account freezing: one was to stop funding of what became an illegal blockade or illegal protest after the Emergencies Act was enacted; and then two was to dissuade people from donating.

I find your use of “dissuade” to be an interesting choice of words. It could mean to intimidate, to ensure that people didn't continue to fund. At any time was it your intention to intimidate Canadians from donating?

Ms. Isabelle Jacques: No, absolutely not. It was dissuading people from staying on the Hill. The intent was to ensure that there would be no funding of illegal activities, and certainly to ensure that people would go back home and stop the illegal activities that were ongoing on the Hill.

Mr. Glen Motz: Okay. The illegal also became donations. That was also considered.

Ms. Isabelle Jacques: No, the illegal activities were—

Mr. Glen Motz: In retrospect, would the intimidation that Canadians felt be considered an intended action, or was that an oversight? Canadians did feel intimidated by the Emergencies Act and some of the economic measures order.

Ms. Isabelle Jacques: It's hard for me to speak to how Canadians felt. I know there are a lot of Canadians who felt relief that measures were put in place to help the situation, which was untenable—

Mr. Glen Motz: I can tell you that many Canadians have lost trust in government, and I can tell you that many Canadians have lost trust in the financial institutions. I can tell you directly that during the invocation of the Emergencies Act, a number of banks in my riding had to close their doors on some days because of the run on the banks. They had to shut their doors and wouldn't let anybody else in because everybody was trying to close their account.

I met with the advanced life underwriters yesterday. A group of them had a reception here, and I talked to a number of them who said that we would be shocked at the tens of millions of dollars that have left the banking system and have gone to them because people no longer trust the banks. The banks are left to wear the actions of the government here, and I find it rather disturbing that this is what's happened.

Were you at all aware or even attuned to the fact that the actions of the Emergencies Act had these unintended consequences?

Ms. Isabelle Jacques: I was made aware in one circumstance that people took their money out because they were concerned that because they gave \$10 or \$20, their bank account would be frozen.

One—

Mr. Glen Motz: I will tell you that yesterday my office received a phone call from a—

Mr. Arif Virani: Mr. Chair, could the witness perhaps be allowed to answer the questions? This is the second time Mr. Motz has interrupted her.

Mr. Glen Motz: It's my time, and I'd like to ask the last question. I have limited time.

The Joint Chair (Mr. Matthew Green): It is his time, and he can redirect his—

Mr. Glen Motz: Ms. Jacques, I will tell you that yesterday my office received a phone call from an elderly gentleman who we had helped deal with some pension issues. He and his wife have closed their bank accounts and have made it very clear to me that they have closed their bank accounts and they're pulling every investment dollar they had in a chartered bank because they do not trust this government and they do not trust the banking institutions any longer. Those are the unintended consequences of the actions of this government.

The Joint Chair (Mr. Matthew Green): We'll take that to be a concluding comment and not necessarily a question.

We will go now to Mr. Naqvi, who has five minutes.

Mr. Naqvi, the floor is yours.

Mr. Yasir Naqvi (Ottawa Centre, Lib.): Thank you very much, Mr. Chair.

I can tell you that what I think Canadians were feeling intimidated by was the illegal activities that were taking place by way of the occupation in Ottawa and the blockades that were happening around the country.

I am going to direct my question to both Ms. Jacques and Mr. MacKillop. I just want a few things clarified so that I can understand, just as I am sure Canadians want to understand what we are talking about.

Is it my clear understanding that the orders and the regulations under the Emergencies Act that we are discussing right now did not give the Department of Finance or the Government of Canada any power to freeze any bank accounts?

• (2025)

Ms. Isabelle Jacques: That is accurate.

Mr. Yasir Naqvi: Mr. MacKillop, I'll ask you the same question. Did the order or regulations we are discussing right now not give FINTRAC any powers to freeze any bank accounts?

Mr. Barry MacKillop: That is correct, Mr. Chair.

Mr. Yasir Naqvi: Okay.

Let me also ask you this. They also did not give any power to either of these organizations to direct banks to freeze certain bank accounts?

Ms. Isabelle Jacques: That is also accurate.

Mr. Yasir Naqvi: Mr. MacKillop.

Mr. Barry MacKillop: That is also accurate.

Mr. Yasir Naqvi: Am I also hearing correctly from both of you that you were not directing the RCMP or any police investigation in terms of any individuals or entities that might be involved in the illegal activities?

Ms. Jacques.

Ms. Isabelle Jacques: That is also true. We were not involved at all.

Mr. Yasir Naqvi: Mr. MacKillop.

Mr. Barry MacKillop: That is also correct.

Mr. Yasir Naqvi: The conversations that were taking place in terms of investigations and enforcement were solely between the RCMP and the financial institutions?

Ms. Isabelle Jacques: To the best of my knowledge, yes. We were not involved.

Mr. Yasir Naqvi: Mr. MacKillop.

Mr. Barry MacKillop: That's true to the best of my knowledge as well. I think the RCMP would be able to respond more directly in terms of the content of the discussions they had with the banks, but FINTRAC was not involved.

Mr. Yasir Naqvi: Ms. Jacques, as I have heard from you during this testimony, the purpose behind the orders and the regulations we're dealing with was to put an end to the illegal activities that were taking place.

Ms. Isabelle Jacques: That is correct. There was a hope that it would help achieve that purpose.

Mr. Yasir Naqvi: In your view, did it help?

Ms. Isabelle Jacques: I believe it did, based on some comments I received from the RCMP, but I am sure they would be able to answer that directly.

Mr. Yasir Naqvi: Mr. MacKillop, can you comment on that particular aspect from your perspective?

Mr. Barry MacKillop: Not particularly from my perspective, Mr. Chair. Because the accounts were frozen and the fundraising was essentially frozen at that point and ceased, we would not have seen any transactions. We don't monitor transactions anyway.

Whether or not it had the effect, it would appear—again, as Madame Jacques mentioned—that the RCMP or the Ottawa police would be best placed to inform the committee on whether or not the possibility of having your account frozen if you stayed on the Hill was in fact a significant motivation for people to leave when they finally left peacefully.

Mr. Yasir Naqvi: Okay. Great. Thank you.

The application of the order and the regulations...it was prospective in nature when it came into force. There was no application retroactively. Is that a correct understanding, Ms. Jacques?

Ms. Isabelle Jacques: That is also correct. The order was solely prospective. It was not retroactive in application.

Mr. Yasir Naqvi: Mr. MacKillop, is that your understanding as well?

Mr. Barry MacKillop: That is correct, sir.

Mr. Yasir Naqvi: Okay.

Ms. Jacques, it is your testimony that all the accounts, all the financial products that were frozen, have been unfrozen as of February 25, as I understand it.

Ms. Isabelle Jacques: The 24th, that's right.

Mr. Yasir Naqvi: Why is February 24th significant?

Ms. Isabelle Jacques: Because we received the final report saying that all accounts were unfrozen.

Mr. Yasir Naqvi: Okay. Thank you.

I know there was a bit of a discussion....

Can you quickly outline the privacy aspect that has been maintained in order to protect the privacy of individuals and entities involved, Ms. Jacques?

Ms. Isabelle Jacques: Yes. As you will have seen from my testimony, we received no specific information. There were dispositions in the order that allowed sharing of information between law enforcement and the financial institutions, but not otherwise, so we have not been privy to any specific information—just aggregate amounts, as I've reported.

Mr. Yasir Naqvi: Thank you very much.

The Joint Chair (Mr. Matthew Green): We'll now move on to Monsieur Fortin.

[*Translation*]

Mr. Fortin, you have the floor for five minutes.

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Chair.

My questions will be for Mr. MacKillop.

Mr. MacKillop, You said earlier in your testimony that you were regularly receiving about 9,000 suspicious transaction reports a week.

I further understood that it stayed at the same level during the eight days of the order. Is that right?

• (2030)

Mr. Barry MacKillop: Thank you for your question.

Yes, that's right. It was happening regularly, and we received around 9,000 during the week of the order.

The Joint Chair (Mr. Rhéal Fortin): Okay.

Am I to understand that these reports come from financial institutions?

Mr. Barry MacKillop: Partly, yes. Several sectors report to us.

The Joint Chair (Mr. Rhéal Fortin): When you receive these reports, are they checked to ensure that they really were suspicious transactions?

I would imagine that these reports are not necessarily all substantial or serious. Or are they all serious?

Mr. Barry MacKillop: They are all suspicious transaction reports that entities believe might be related to money laundering or financing terrorism.

But before disclosing the information to the police, the reports need to meet the reasonable doubt criteria that we apply before concluding that it really is money laundering or financing terrorism.

The Joint Chair (Mr. Rhéal Fortin): So if I have understood correctly, your office checks every single one of the 9,000 reports you receive each week. Is that right?

Mr. Barry MacKillop: Yes. Staff members check the reports, but we also use technology. It's difficult to verify everything physically, so we use technology for assistance. We begin by searching on keywords.

Before disclosing information based on a suspicious activity report, we also check our database to see if other transactions might corroborate our suspicions or broaden the network to identify other people involved in a scheme.

That's how we proceed before preparing and establishing a disclosure process that we then transmit to the police, or to national or international security agencies.

The Joint Chair (Mr. Rhéal Fortin): Could you give us an approximate percentage of the transactions you determine to have actually been suspicious after completing your review process?

Just give us an order of magnitude.

Mr. Barry MacKillop: That's very hard to say, but this year, there were over 2,000 disclosures to the police.

The Joint Chair (Mr. Rhéal Fortin): Out of a total of how many?

Mr. Barry MacKillop: That number is for the disclosures. But each disclosure might consist of anything from a single suspicious activity report to an amalgam of 1,000 or 2,000 reports that we have put together.

The Joint Chair (Mr. Rhéal Fortin): I'm sorry, I don't want to rush you Mr. MacKillop, but we're getting a little short of time.

You're telling me that there are approximately 9,000 a week. I haven't done the calculations by multiplying that number by 52 weeks, but that's clearly a large number.

Of these, I understand that you identified 2,000 as being serious. Is that right?

Mr. Barry MacKillop: No. No, that's not it at all.

These are 2,000 disclosures to our police forces, like the RCMP. Not just the RCMP of course, but all the police forces in Canada. But each disclosure may contain thousands of reports.

The Joint Chair (Mr. Rhéal Fortin): Right.

I have only a few seconds left.

Over the eight days when the order was in effect, were there more or fewer than usual?

Mr. Barry MacKillop: About the same as usual.

The Joint Chair (Mr. Rhéal Fortin): Thank you.

[*English*]

The Joint Chair (Mr. Matthew Green): Thank you.

I will now pass the chair over to Senator Boniface for my five-minute round.

The Joint Chair (Hon. Gwen Boniface): Mr. Green, you have five minutes.

Please proceed.

Mr. Matthew Green: Thank you very much.

Through you, Madam Chair, to Ms. Jacques, you've heard in my earlier lines of questioning that I feel a bit dismayed about what I would consider to be the lack of seriousness around the preparation, briefing and direction of both FINTRAC and the department. You provided in your testimony that you were made aware two days prior of the Emergencies Act.

Was there any activity that would have happened in your department, anticipating, recognizing that this might have been a possibility, that would have been preparing policy briefings for senior management and the minister?

• (2035)

Ms. Isabelle Jacques: There is no doubt that looking at the events unfolding, being the assistant deputy minister responsible for the financial policy sector, that we looked at those events and certainly started thinking what could be done if it needed to be

done. I found out that the Emergencies Act would be invoked solely that weekend.

Mr. Matthew Green: So in the lead-up—

Ms. Isabelle Jacques: I think the Saturday was the 12th, I believe. We had very little time.

Mr. Matthew Green: Yes, I appreciate that, and I would suggest to both that while at times it might be hostile, I feel like the pressure on this particular committee will be to provide recommendations to the House, to the Senate and to government, essentially, to hopefully provide clear parameters for all involved should this ever happen again: clear definitions, clear roles and responsibilities.

I feel like in the course of this particular meeting some of the responsibilities have been a little bit confusing at times, so I'll ask you, in your lead-up, in this policy briefing and analysis that you're doing recognizing the state of the country, how did your department assess the threat level posed by the financing of the occupation and the blockades, leading up to the emergency declaration, so prior to its consideration?

Ms. Isabelle Jacques: Certainly, I didn't do a threat assessment per se, but we were concerned to see that there was so much money that was being funded through the GoFundMe fund, I believe it's called. When we saw that they decided to freeze all activities and actually remit all money to donors, certainly it caused us some concerns. They were worried that the funds were being used for a purpose that they were not comfortable with, so certainly—

Mr. Matthew Green: Was your department involved in any of the economic impact assessments that would have been provided in briefings to either public safety or cabinet, or the PMO?

Ms. Isabelle Jacques: I was not involved in any of those. I cannot answer that question.

Mr. Matthew Green: Nothing around the national, economic or financial losses...? There would have been nothing coming from your department on that.

Ms. Isabelle Jacques: I did not receive at that time, certainly any numbers, concerning that.

Mr. Matthew Green: Given your fairly senior position within the department, how would you say those assessments would be made and by whom?

Ms. Isabelle Jacques: You mean with respect to the economic impact?

Mr. Matthew Green: Correct.

Ms. Isabelle Jacques: Well, I don't know who exactly in the group would have made those assessments, if anyone. I'm not aware. I don't have the answer to that question. I don't know if Julien can—

Mr. Matthew Green: I would state, through you, Madam Chair, that much of the invocation, at face value, highlights the economic impacts on the country as a part of the threat to national security. I find it interesting that your department wouldn't have had any type of policy analysis or submissions on that.

I'll go to my next question. Did your department, in its consideration of the state of the country in the lead-up to the invocation, have any tools prior to the invocation of the Emergencies Act that would have prevented the financing of the occupation of Ottawa and the border blockades?

Ms. Isabelle Jacques: We did not have any tools that would allow us to freeze those accounts, no.

Just if I may—

Mr. Matthew Green: Thank you. I appreciate that. I'm going to take my time back.

Mr. MacKillop, through you Madam Chair, did FINTRAC have any tools for interventions that might have been effective prior to the invocation of the Emergencies Act?

Mr. Barry MacKillop: Madam Chair, we would not have had any tools to stop the funding of anything. We cannot freeze accounts, stop funding or direct financial institutions or crowdfunding platforms.

Mr. Matthew Green: That's correct. I did hear that in your earlier testimony. Thank you.

The Joint Chair (Hon. Gwen Boniface): Mr. Green, your time's up.

The Joint Chair (Mr. Matthew Green): Thank you very much, Madam Chair.

I'm taking back the chair.

Senator Boniface, you have five minutes. The floor is now yours.

Hon. Gwen Boniface: I'd like to direct a question back to Madame Jacques.

I wonder if you'd just like to finish your answer to Mr. Green so we could have the benefit of the full answer.

Ms. Isabelle Jacques: Yes. Thank you.

I'll mention that I did not say that there was no information on the economic impact of the events that were ongoing. It was just that I was not privy to those discussions. I wanted to maybe ask Julien Brazeau if he could complete my response or add to it.

• (2040)

Mr. Julien Brazeau: Apologies.

I was just saying that, from a financial sector policy perspective, we weren't part of any discussions on the broader economic impacts of what was happening at the border. I would be speculating, but I would expect that discussions were taking place within the department in terms of getting a sense of what the economic impacts were.

Hon. Gwen Boniface: If I'm clear then from both of your answers, your sense is that there's something within the Department of Finance, but it doesn't fall within your particular area. Is that correct?

Ms. Isabelle Jacques: That is correct.

Hon. Gwen Boniface: Thank you.

I'd just like to go back to the questions on amendments that are under way. We spoke about those in my last line of questioning. I'm

wondering whether or not there is anything that is a duplicate of any provincial legislation that requires registration and reporting. I'm trying to figure out how the provincial legislation, if it exists, would interact with the federal legislation around registration and reporting.

Ms. Isabelle Jacques: To my knowledge there's no duplication, but again maybe Julien Brazeau may want to add something.

Mr. Julien Brazeau: Again, the reporting requirements are specific to the proceeds of crime, money laundering and terrorist financing, which is a federal regime. The registration requirement is with FINTRAC for purposes of PCMLTFA, so there is no overlap with any other registration requirements that may exist provincially.

Hon. Gwen Boniface: Madam Jacques, going back to the international....

Mr. Brazeau, you may want to speak on that. I'd like to have a little more information on which jurisdictions you look at. You mentioned the European Union and Australia. Could you just give us a little more detail around that? I'm particularly interested in New Zealand, given what they were dealing with almost concurrently with our situation.

Mr. Julien Brazeau: I can't speak specifically, necessarily, to what countries were facing at the time. I can say that Canada is part of what we call the Financial Action Task Force, which is the body that sets standards around anti-money laundering and anti-terrorist financing. That body has identified, in the past, crowdfunding platforms and payment service providers as representing certain levels of risk. As I said, some jurisdictions have already moved to ensure that payment service providers are subject to the types of disclosures and registration that our PSPs are now subject to.

With regard to crowdfunding platforms, we are the first jurisdiction that I know of to put these provisions in place.

Hon. Gwen Boniface: When you refer to the task force, I'm assuming that is a Five Eyes or something—a larger number of countries involved in that. Have they done any reports on crowdfunding particularly that would be helpful to this committee and that are public?

Mr. Julien Brazeau: I'll have to take a look and circle back to confirm whether they have a report that we can share.

Hon. Gwen Boniface: Okay. That would be helpful.

Can you tell me whether or not there are, or are intended to be, any conversations with our American colleagues in terms of issues around crowdfunding and how that may work going into the future, given the experience you had through this declaration of emergency?

Mr. Julien Brazeau: I might ask my colleagues at FINTRAC to speak directly to that, given that they oversee compliance on a going-forward basis.

Ms. Donna Achimov: We have an international supervisory forum where we share leading practices and experiences. It's still early days, so we will certainly continue to have dialogue to understand how other jurisdictions are making this work.

As my colleague Mr. Brazeau said, we are the first who are looking at crowdfunding. We are the ones who are experiencing some of this, and we will be sharing leading practices from a supervisory perspective. It's early days. The regulations came into force through the Canada Gazette on April 27. We're in the process of registering, providing information and doing outreach, so it's still very early days in the process. However, our conversations are based on sharing leading practices.

Hon. Gwen Boniface: Thank you.

The Joint Chair (Mr. Matthew Green): We will go to Senator Carignan.

• (2045)

[Translation]

Hon. Claude Carignan: Thank you.

My question is for Ms. Jacques.

I'm looking again at the order to cease dealings, a form of restraint order, and I'm trying to find a good or service that would not be covered.

It looks like people's mortgages are included, as well as life insurance, RRSPs, TFSA's and education savings accounts for children.

The only thing not included is insurance on vehicles that are not at the unlawful assembly site.

However, house insurance and business insurance are included. Is that correct?

Ms. Isabelle Jacques: It was very broad and it included vehicle insurance.

Hon. Claude Carignan: Okay.

What was the wording of this section based on?

Ordering a cessation of dealings in all economic aspects that affect a person's life seems to be a rather fanciful approach to deterring them from committing an offence.

Where did this source of law come from? What country might have inspired this? China, Russia?

Ms. Isabelle Jacques: We didn't base it on anything from other country.

The situation we were in was exceptional. The government decided to invoke the Emergencies Act, which had never been done before.

The measures were therefore targeted, short-term, and invoked for a specific reason.

Hon. Claude Carignan: So you thought that the criminal sentences people might be subject to were inadequate.

I requested the list of offences committed. There was mischief, charges were laid and the notices of violation were issued.

For mischief, the maximum sentence is 10 years in prison. Counselling others to commit an offence has a maximum sentence of two years in prison as does obstructing a police officer. A driving prohibition order can lead to 10 years in prison. Uttering threats is

punishable by a maximum of five years in prison. Possession of a weapon for dangerous purpose, 10 years. Dangerous driving of a motor vehicle, maximum 10 years.

You didn't think that was enough of a deterrent? All their economic activity had to be frozen to get people to leave Wellington Street?

Ms. Isabelle Jacques: The government wanted to take some measures.

It was an emergency. Some measures were introduced to try to deal with the situation. As we saw, that's what happened very quickly. I therefore believe that it had a positive impact.

Hon. Claude Carignan: Okay.

I have no further questions, Mr. Chair.

[English]

The Joint Chair (Mr. Matthew Green): Thank you very much.

We will have Mr. Brock for five minutes.

Mr. Larry Brock: Thank you, Mr. Chair.

Ms. Jacques, three days after the Emergencies Act was issued, on February 17, the Coastal GasLink northern B.C. work site came under attack, with heavy machinery smashed beyond repair, bulldozers smashed, security trucks pockmarked with holes made by axes, people in disguise attacking workers and leaving them severely assaulted and injured, and millions and millions of dollars in damage.

To what extent were those responsible for funding that illegal activity, directly or indirectly...did they have their accounts seized, frozen?

• (2050)

Ms. Isabelle Jacques: Unfortunately, I'm not able to answer that question. I do not have that information.

Mr. Larry Brock: You accept the fact that this particular order was applicable all through Canada, correct?

Ms. Isabelle Jacques: It was applicable throughout Canada, yes.

Mr. Larry Brock: Right, so can—

Ms. Isabelle Jacques: But I do not have details—

Mr. Larry Brock: —you undertake to the committee to make inquiries as to what steps the government took to address those illegal activities in B.C. under the auspices of the Emergencies Act?

Ms. Rachel Bendayan: I have a point of order, Mr. Chair.

The Joint Chair (Mr. Matthew Green): Please go ahead.

Ms. Rachel Bendayan: On relevance, I believe we agreed as a committee on the scope of our study, and this falls beyond the scope.

The Joint Chair (Mr. Matthew Green): Thank you for noting that.

Please continue with your questioning.

Mr. Larry Brock: Thank you.

Ms. Jacques, will you undertake to provide information to this committee from any source as to why the government did not instruct any financial institution to take steps to freeze the accounts of those who were involved in that illegal activity?

Ms. Isabelle Jacques: I'm unable to undertake to provide that information. The government did not specifically direct anybody or any financial institutions to freeze accounts. I do not have that information and—

Mr. Arif Virani: Mr. Chair—

Ms. Rachel Bendayan: Mr. Chair, I'm not sure there was a ruling on my point of order. I may have missed it.

The Joint Chair (Mr. Matthew Green): Yes. I've allowed him to continue the question. That was the ruling.

Mr. Brock, you may continue.

Mr. Larry Brock: Thank you.

You could not obtain that information. Is that what I'm hearing?

Ms. Isabelle Jacques: I would not be able to obtain that information.

Mr. Larry Brock: Okay.

Would you agree with this particular statement that “weaponizing the financial system to resolve domestic dissent or even criminal justice issues is a terrible precedent to set”? Do you agree or disagree with that?

Ms. Isabelle Jacques: As a witness to this committee, I do not believe it would be my role to answer such a question.

Mr. Larry Brock: The government has stated several times that they needed the Emergencies Act to shut off funding to organizations that were undertaking illegal activity in Canada. The issue we've discussed quite a bit already is that the Emergencies Act can be invoked only if there is a national security emergency that cannot be effectively dealt with under any other law in Canada.

Much has been said about how the GoFundMe was cancelled before the Emergencies Act was invoked. Can you say definitely that there were no other laws that could have been used to achieve the government's goal of depriving or choking off—as Minister Freeland often refers to—the funding of the convoy from those sources of funds?

Ms. Isabelle Jacques: I was not involved in any discussions leading to the decision to be made to trigger the Emergencies Act, and as such I cannot comment.

Mr. Larry Brock: The Minister of Justice and Attorney General of Canada appeared on national television and was asked who the economic measures, in other words freezing assets, would apply to. He was quoted as saying, “If you are [part] of a pro-Trump [organization]... you ought to be worried”. This seems to go beyond the stated intentions, and comes awfully close to the government signalling that it was willing to target political opponents.

Can you clarify whether Minister Lametti went too far in his remarks and what sort of scope the financial measures of the February 14 order in council had in terms of who should have been captured by those asset freezes?

Ms. Isabelle Jacques: I'm sure you will understand that I'm not in a position to comment on this statement.

Mr. Larry Brock: Of the 280 accounts that were identified and accounts frozen, how many particular individuals are we talking about?

The Joint Chair (Mr. Matthew Green): We need a brief answer, please.

Ms. Isabelle Jacques: I think this an answer that the RCMP would be able to provide.

The Joint Chair (Mr. Matthew Green): Thank you. That concludes the round.

We will now go to Ms. Bendayan for five minutes.

[*Translation*]

Ms. Rachel Bendayan: Thank you very much, Mr. Chair.

Ms. Jacques, some members of the committee still appear to be confused about the difference between the terms “seized” and “frozen”.

Could you give us definitions of these terms in writing so that we can all be on the same wavelength?

• (2055)

[*English*]

Is that accepted, Madam Jacques?

[*Translation*]

Ms. Isabelle Jacques: Could you provide us with these definitions and repeat what is contained in section 2?

[*English*]

Ms. Rachel Bendayan: To FINTRAC, I would like to similarly ask if you can table with this committee your working definitions of “money laundering” and “terrorism activity”.

Mr. Barry MacKillop: Absolutely.

Would you like that tabled with the committee, or would you like me to explain that right now?

Ms. Rachel Bendayan: I would like that tabled in writing with the committee, please. There seem to be some members who do not understand those terms.

I would also like to ask any witness who would be comfortable answering whether any financial measure was applied retroactively. In other words, to your knowledge, were any banks engaged in the seizure or freezing...or any other action during the protest, prior to the invocation of the Emergencies Act?

Ms. Isabelle Jacques: No. Nothing was done retroactively, certainly not based on the order under the Emergencies Act.

Ms. Rachel Bendayan: Thank you.

I'd like to cede the remaining time to my colleague, Mr. Virani.

Mr. Arif Virani: Thank you.

Madam Jacques, the economic measures order in subsection 3(k) talks about “virtual currency”. Is that a reflection or a reference to things like cryptocurrency?

Ms. Isabelle Jacques: Yes, it is.

Mr. Arif Virani: Prior to the advent of the Emergencies Act invocation and this order that I'm looking at, did the government have any tools for regulating the flow of cryptocurrency for illegal activities in this country?

Ms. Isabelle Jacques: Not per se, but they were dispositions with respect to FINTRAC's ability to report on that.

I can maybe ask either Mr. MacKillop or Donna Achimov to complete the answer.

Ms. Donna Achimov: Mr. Chair, we have the ability, as of last year, to regulate virtual currency.

Mr. Arif Virani: What additional tools did this Emergencies Act portion of subsections 3(k) and 3(l) give you in terms of addressing the illegal blockades and the funding of them via cryptocurrency? What was added by this invocation?

Ms. Donna Achimov: Mr. Chair, what was added was the fact that we had crowdfunding and payment service providers added as reporting entities.

Mr. Arif Virani: Okay, and that was through the invocation of the EA.

Can you give us a sense of the scale of cryptocurrency funding at the time of the invocation and that you're concerned about going forward? At the time of the blockades around the country, what was your sense of concern about cryptocurrency funding?

Ms. Donna Achimov: Mr. Chair, I don't believe we had necessarily a sense of cryptocurrency, per se. There were concerns about crowdfunding and payment service providers. Those were addressed as part of the Emergencies Act.

Mr. Arif Virani: Was that concern accelerated when GoFundMe froze and started to return donations, but another entity called GiveSendGo, based out of the United States, was accumulating funds and directing them towards illegal blockades in this country?

Ms. Donna Achimov: Mr. Chair, I'm not in the position to comment on that. I'm not aware of that. It was solely the whole issue surrounding the fact that there was a gap with payment service providers and crowdfunding. That was addressed as part of the act.

Mr. Arif Virani: The regulation that has since been enacted, after the invocation of declaration has ceased, regulates that situation on a go-forward basis. That's correct?

Ms. Donna Achimov: Mr. Chair, yes, that's correct. The Canada Gazette on April 27 added those business offerings of crowdfunding platforms and payment service providers as part of reporting entities, as well as businesses located in foreign jurisdictions that meet those criteria as set out in the act. They too have an obligation to register with FINTRAC as foreign money services businesses. That has been the case since June of 2020.

Mr. Arif Virani: Thank you.

The Joint Chair (Mr. Matthew Green): We will now move to Mr. Fortin for five minutes.

• (2100)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Chair.

Ms. Jacques, earlier, in response to questions from Mr. Motz, you gave two reasons that could justify declaring an emergency.

One of the two was to deter people from giving money to organizations intending to break the law, and the other was to prevent money being used to break the law. I may not have noted these down accurately. You answered in English, because the question had been in English. I therefore translated them from memory. Correct me if I got it wrong.

Are these indeed the two reasons you gave Mr. Motz?

Ms. Isabelle Jacques: I don't think that was a reason for invoking the Emergencies Act and the order.

Those are two things that help to deter people from continuing to give money for illegal purposes, and to continue to take part in illegal blockades.

The Joint Chair (Mr. Rhéal Fortin): Was it to justify the order?

Ms. Isabelle Jacques: No, it was not to justify the order.

Once the decision was made, as I was saying, we were not involved in the decision to...

The Joint Chair (Mr. Rhéal Fortin): No, I understand. Excuse me, but I just need to know whether I had noted down that these were, according to you, the two reasons.

I understand that's not the case. Okay.

Ms. Isabelle Jacques: What I want to say is that these measures were introduced because it's the usual practice, but not why the Emergencies Act was invoked.

The Joint Chair (Mr. Rhéal Fortin): All right. But it's the reason why the measures we're talking about were put in place, the measures that are in the order.

The other question I'd like to ask you is the following.

In response to my colleague Senator Carignan, who asked approximately the same question, you said that the seizures had been done to encourage people to leave Parliament Hill. Have I got that right?

Ms. Isabelle Jacques: Of course, if people had given funds and taken part in illegal activities, and these people decided to stop taking part in illegal activities, then the financial institutions would unfreeze the accounts.

The Joint Chair (Mr. Rhéal Fortin): Excuse me, Ms. Jacques. You're talking about the effect.

Here's what I want to say: the reason for the imposition of the conditions stated in the order was, according to what I've noted from your response to Senator Carignan, to encourage people to leave Parliament Hill. That's why their bank accounts were seized or frozen, let's say. I'm not looking for an argument here....

Ms. Isabelle Jacques: I think it was definitely a secondary effect.

The Joint Chair (Mr. Rhéal Fortin): An effect? You said earlier it was the reason. Are you no longer sticking to your previous answer?

Ms. Isabelle Jacques: What I want to say is that we took these measures and that the goal was certainly to try to deter people...

The Joint Chair (Mr. Rhéal Fortin): ... to deter them from coming and protesting...

Ms. Isabelle Jacques: ...and from financing illegal activities.

The Joint Chair (Mr. Rhéal Fortin): Thank you.

Having agreed on that Ms. Jacques, I'd like to ask you another question.

You heard Mr. MacKillop's answers to my questions in the previous round. He told me that there were approximately 9,000 suspicious transaction reports every week, among other things, from financial institutions, and that this applied year-round. I did the calculation, and that means 400,000 to 500,000 suspicious transaction reports per year.

Mr. MacKillop told us that of these transactions, approximately 2,000 per year were deemed to be serious and disclosed to the RCMP. He also confirmed that during the eight days the order was in effect, the rate was the same.

In light of that, am I to understand that there were not really any instances of suspected transactions used to finance illegal activities?

There really weren't any after the order came into force. That leaves the reason you gave, which was that it was to encourage people to leave the Hill. After hearing all the explanations, that seems to be the only possible reason.

Am I right?

Ms. Isabelle Jacques: I don't think we can draw those conclusions, first of all because just one of those 2,000 disclosures might contain several thousand suspicious activity reports, if I have properly understood what my colleague...

• (2105)

The Joint Chair (Mr. Rhéal Fortin): What I want to say is that it had the desired effect. The suspicious activities were all being reported.

Ms. Isabelle Jacques: They are reported, but there is not necessarily a link between the suspicious transaction that was reported and the freezing of a bank account.

So I don't see any link between the two.

The Joint Chair (Mr. Rhéal Fortin): Thank you, Ms. Jacques.

[English]

The Joint Chair (Mr. Matthew Green): I will now pass the chair over to Senator Boniface for my five-minute round.

The Joint Chair (Hon. Gwen Boniface): Mr. Green, you can proceed. You have five minutes.

Mr. Matthew Green: Thank you very much.

My first question is through you to Ms. Jacques.

Ms. Jacques, I believe I heard in your earlier testimony that your department was not conducting an internal review. Is that correct?

Ms. Isabelle Jacques: Of the activities? Not currently, no.

Mr. Matthew Green: Of the actions in relation to the temporary special measures, there's been no reflection, given the gravity of—

Ms. Isabelle Jacques: No, no, there's been reflection. I mean, as you heard, with respect to adding crowdfunding platforms and payment service providers, that situation has now been implemented permanently, as we announced previously. I mean, we have regulations in place—

Mr. Matthew Green: I heard in your testimony that you specifically did not provide economic impact...and I appreciate that. I want to make sure that my words are precise here. You may have alluded, based on Senator Boniface's questions, that other people in your department would have been providing this information.

Can you share with the committee today, based on your senior management position within the department, who that would have been to provide that information that would have led to the economic features within the emergency act order?

Ms. Isabelle Jacques: In all honesty, I will have to get back to you, because I have no knowledge of, at the time, the analysis that was ongoing, if any. I wouldn't be surprised if there was some analysis, but I'm not able to tell you who would have done any of this analysis at that time. Whether it was—

Mr. Matthew Green: I'll go further to comment, through you, Madam Chair, that I'm going to raise my concerns again.

What I'm hearing in testimony is my interpretation of what you've said, and so I'm not attributing to what you meant. I'm just telling you how I interpreted it. You were caught, two days' notice, without much briefing in terms of the Department of Justice or others as it relates to the charter.

In your position, when you're contemplating legislation, are you ever legislatively required to provide a charter breach analysis on the policies that you enact?

Ms. Isabelle Jacques: The Department of Justice provides all the advice and the analysis on whether it's constitutional, the charter impact, or the legality of the legislation being passed.

Mr. Matthew Green: Is that something that you're privy to, given your senior position within the department?

Ms. Isabelle Jacques: When we legislate, certainly if I'm responsible for a certain piece of legislation and we receive legal advice—

Mr. Matthew Green: Given this piece of legislation, through you, Madam Chair, would you have been provided with a charter breach analysis for contemplation?

Ms. Isabelle Jacques: I didn't receive a charter breach analysis, but opinions were provided by the Department of Justice.

Mr. Matthew Green: Okay. Thank you.

Again, I'm going to go back to what I think our guiding principle is as a committee, which is to be able to provide recommendations based on the special orders and how they were enacted given the current contemporary context.

Would you consider providing, given the discussions and the obvious confusion of very learned parliamentarians around the role of your department, a review within your department to help guide recommendations that might come out of a committee like this?

Ms. Isabelle Jacques: That the Department of Finance would do a review that would guide...?

Mr. Matthew Green: Future contemplation of the Emergencies Act using economic measures, yes.

Ms. Isabelle Jacques: Well, I mean, it's certainly something that could be considered—

Mr. Matthew Green: Do you not find it strange, given the rarity of this invocation, that this isn't something that's already been put into play by the minister?

It just seems to be to be an abrogation of leadership, given the seriousness of this, and by the way, I'm somebody who supported it, just for the record. We have a responsibility to report back to the public how, why, where, when and what we did, given the severity of the Emergencies Act, would you not agree?

Ms. Isabelle Jacques: I understand the role of the committee and that this is information you would like to provide.

Mr. Matthew Green: I would like to ask you this. If you were at this committee and you had recommendations to this committee, given the experience you have—the two days' notice, the lack of real briefings in terms of where you were going with it—what recommendations would you provide this committee to, hopefully, help to improve future processes for your successors, perhaps, in future instances of an emergency?

• (2110)

Ms. Isabelle Jacques: This is something I would have to give due consideration to. It's not an answer I can provide here during this testimony.

Mr. Matthew Green: I would like to ask you to do that—

Ms. Isabelle Jacques: It's broader than—

Mr. Matthew Green: Yes, it is very broad, as were the measures. I would like to ask you to please consider doing that.

In fact, just as an administrative piece, for all members looking to table, I have a reminder to table through the clerk so that it can be translated and distributed accordingly.

That's it. Thank you.

Ms. Rachel Bendayan: I have a point of order.

Madam Chair, I would just like to ask if it is relevant to ask an official who is not an elected member of Parliament or a legislature what their recommendations are, given they are a public servant.

The Joint Chair (Hon. Gwen Boniface): Mr. Green?

Mr. Matthew Green: On that point of order, I find that an interesting proposition.

Of course it's relevant. Of course we want to ask expert testimony to provide recommendations to this committee. It's something that occurs in every committee—at least that I've sat on—and I have a hard time finding how the honourable member would not see this as being relevant, given that we are, hopefully, going to be providing a fulsome report.

I'll go further on that point of order, Madam Chair, to state that I am still very concerned with the lack of systems and principles in place at the highest levels of management within government to provide adequate and clear answers to this committee, quite frankly, so I would argue that this is very relevant.

Ms. Rachel Bendayan: Madam Chair, if I could, I'll explain my point of order further if I was unclear. The beginning of the question was requesting that a member of the public service imagine themselves as an MP sitting in this committee. That is the nature of the inappropriateness, but I understand my colleague's response and his interest.

We are all interested in making recommendations that will be useful in this committee. That is our committee's work.

The Joint Chair (Hon. Gwen Boniface): Mr. Virani?

Mr. Arif Virani: If I could just point this out, I think it's an interesting point Mr. Green is raising, but where I might draw a qualitative difference is in the testimony of a departmental civil servant as compared to some of the other witnesses we're going to hear at this committee.

Certainly, external stakeholder groups on whatever side of the political spectrum are going to have views about this legislation, but asking a federal civil servant whose *raison d'être* is to provide neutral advice at all times to government and not to opine upon legislative reform I think that might be crossing a line.

I think that question would be onside vis-à-vis the Canadian Civil Liberties Association—picking something hypothetically—but not for a federal civil servant.

Mr. Matthew Green: Madam Chair, on this interesting contradiction of principles here, we did ask a member from the Department of Finance to provide legal definitions when we had the Department of Justice here that could have done the same.

I would hope that we would be provided with latitude within this committee, Madam Chair. I do appreciate you being the chair in this particularly awkward moment.

Thank you.

The Joint Chair (Hon. Gwen Boniface): Thank you.

Perhaps what we can do, as the witness has the request and the finance minister will be appearing, is that we can make a similar request through the Minister of Finance to get the material.

The Joint Chair (Mr. Matthew Green): We will now return.

Senator Boniface, you have the floor for five minutes.

Hon. Gwen Boniface: Thank you very much, Mr. Chair.

For your benefit, I may not take the full five minutes.

I'd like a little more clarity—I'm sorry I don't recall who responded—on the issues of cryptocurrency. How has that changed or may it change in the future? I'm thinking more about the future, not this incident particularly.

How might it change some of the considerations from a finance perspective, and how does the law sit with that?

I think it was led by Mr. Fortin's question.

Perhaps we can go to FINTRAC.

Mr. Julien Brazeau: Yes. My colleague at FINTRAC can speak to the specifics of their oversight, and we can speak to the higher level crypto policy going forward.

• (2115)

Ms. Donna Achimov: Monitoring virtual currencies is part of what we do in the compliance function and ensuring that we have oversight. It's relatively new. It came into force in June 2020, so we are conducting some examinations to take a look at how reporting entities comply and how they report on crypto and virtual currencies.

Mr. Julien Brazeau: I'll add briefly, in terms of policy going forward, you might have noted in budget 2022 that the government announced it would be undertaking a financial sector policy review. Part of that policy review is going to be targeted at the future of money and looking at crypto, specifically, what the policy issues are that could arise in the context of crypto and what position the Government of Canada should take in that regard.

Ms. Isabelle Jacques: I would also add that the event that occurred leads us to wonder how those cryptocurrencies are used to fund illegal activities. That's something that became clear during these events.

Hon. Gwen Boniface: I'm almost loath to open this subject again, but in terms of internal reviews, from FINTRAC's perspective, how would you normally do an internal review of a particular week of unusual activity or such?

I'll give you the context. In policing—that's my background—if you're generally involved in an incident, you would have an automatic review that would take place to look at all the steps that were taken and what may or may not work in the future.

Would you normally build that in? I fully appreciate that some of these ongoing processes may inhibit the willingness to do that.

Mr. Barry MacKillop: The review is simply, for us, how agile we can be, how we can move quickly and reallocate resources

quickly, how we can adapt our technology to search for particular keywords, for example, in suspicious transactions and those kinds of things. Yes, it was almost like a unicorn event, but it wasn't so new for us in intelligence that we'd have to focus on something.

We had the same thing with sanctions. We've had the same things with other events that have happened in the past, where we simply moved the resources and if we needed to, we would go 24-7, depending on what the event was. If it were terrorist financing or a terrorist event taking place, either in Canada, somewhere in one of our neighbouring countries or a Five Eyes country, we would end up going 24-7.

We have done this before and there wasn't an official review. We simply adapted processes and approaches that we had used in the past that had proven to be very successful, and I'm sure will continue to be successful in the future as we move forward.

In terms of the suspicious transaction reporting, it was essentially the same type of analysis and review, albeit we would have to make sure that we were applying our threshold appropriately and ensuring that there's no simply defensive reporting being filed, but we do that on a regular basis anyway. We'll continue to do that going forward.

Hon. Gwen Boniface: Thank you.

Thank you, Mr. Chair.

The Joint Chair (Mr. Matthew Green): Before we go on to the next round, I'll ask Monsieur Fortin to take the chair for this last round. Otherwise, Senator Boniface can. I need to step out for a minute.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Okay. I'll take it from here.

Who have we got to?

Senator Carignan, you have the floor.

Hon. Claude Carignan: Thank you, dear colleague from the barreau des Laurentides.

My question is for Ms. Jacques.

Ms. Jacques, I'd like you to tell us a little about the reaction of the banks.

Our sources are friends from the banking community, who tell us that they weren't very happy and that the instructions, or the application thereof, were not clear. Discussions with the government were needed to try and get some guidance with respect to enforcing the freeze order.

Can you tell us anything about this?

• (2120)

Ms. Isabelle Jacques: I know that the situation took some people by surprise, because no one knew anything about this order until they were able to read it.

That's why we very proactively contacted various financial institutions to answer any questions they had, to ensure that they properly understood the implementation process, and also to see whether we could answer some of their questions.

As the financial institutions are legally responsible for implementing the order, we did not issue guidelines, but did everything possible to try and answer their questions. We regularly held discussions with many of them.

Some of our colleagues truly appreciated our discussions to try to help them, to the best of our ability, while understanding that there were limitations, because we were not responsible for implementing the order.

Hon. Claude Carignan: What were the main questions? What were the most important subjects, or those raised most often by the banks?

Ms. Isabelle Jacques: I believe the banks were initially trying to understand the information, which might possibly be shared with the RCMP. I know they held discussions with them, but we were not involved.

The banks also wanted reassurance about the fact that there would be no negative repercussions. They were going to do whatever they could to try and carry out the review.

They definitely wanted to make sure that they complied with the order, as written, and ensure that it was implemented.

Hon. Claude Carignan: What sorts of negative repercussions were they afraid of?

Ms. Isabelle Jacques: We told them that they would have to carry out and submit their risk assessment, and that we did not expect them to be able to find absolutely everyone identified, and that if they were missing a few people when they did their assessment, there would not be any negative repercussions. We said that it was up to them to perform the assessment on the basis of the information they were receiving and on information they might be able to find using their own software.

Hon. Claude Carignan: Beyond the guidelines, of which there were none, according to what you're saying, were there any written exchanges with the banks?

Ms. Isabelle Jacques: There were no guidelines, but the bank certainly submitted reports, as I mentioned earlier.

Apart from that, I don't think there were any. I could ask my colleague...

Hon. Claude Carignan: Can you check whether there were any written exchanges...

Ms. Isabelle Jacques: Yes, I can look into that.

Hon. Claude Carignan: ...with the institutions subject to the order, and could you send us a copy of these exchanges?

Ms. Isabelle Jacques: Yes, and I'm going to Mr. Brazeau now.

Mr. Julien Brazeau: Apart from the information about the number of accounts that were frozen and discussions concerning requests for meetings, there were no other written exchanges of information.

Hon. Claude Carignan: Were notes taken at these meetings?

Mr. Julien Brazeau: We can look into whether any notes were taken, but most were just everyday discussions.

Hon. Claude Carignan: Okay. If any notes were taken, can we have a copy?

Mr. Julien Brazeau: We can look to see what we have and work with the Privy Council about giving you any of the documents...

Hon. Claude Carignan: At the moment, I'm talking about the finance department, not the Privy Council.

Mr. Julien Brazeau: As it's a matter of disclosure, we will have to comply with the processes established with the committees to provide this information.

Hon. Claude Carignan: Thank you.

[*English*]

The Joint Chair (Mr. Matthew Green): Thank you very much, Senator Carignan. I'll take back the chair.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): I'm giving the chair back to you, Mr. Chair.

[*English*]

The Joint Chair (Mr. Matthew Green): Thank you very much for so graciously covering me there.

We have now concluded that round. We have five minutes left.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Mr. Chair, I have a point of order before we release the witnesses.

[*English*]

The Joint Chair (Mr. Matthew Green): I would certainly be willing to—

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Mr. Chair, I know that Senator Carignan also asked a question about this, but I simply wanted to remind Ms. Jacques of what I had asked her for, which was to send me a copy of the reports in question. She told us that she had received about six from financial institutions and that she was going to check whether she was authorized to do so.

If Ms. Jacques can't send us the reports, let's say by next week, I would ask her to confirm in writing that she was not authorized to do so and tell us, if that turns out to be the case, who refused the authorization, so that we can decide whether or not to follow up on this matter.

• (2125)

[*English*]

The Joint Chair (Mr. Matthew Green): Okay. I believe Ms. Jacques heard that. I'm unclear in terms of where to put it as a point of order. It's direction that you provided in your testimony. They will do with it as they ought to do.

At this point, that concludes the round of questioning for the witnesses.

We will now, to the best of our ability, try to deal with where we left off at the last meeting, which was a motion that directed us to have this meeting with these witnesses. However, despite our debate, what was actually passed at the last meeting was not a full schedule and commitment because there was still the question around committee business.

I guess what we're contemplating now is the scheduling for our next meeting and of any other witnesses.

I will recognize Senator Boniface.

Hon. Gwen Boniface: I understand that we may have some potential witnesses for next week. I'm wondering if the clerk can confirm their availability.

I'm wondering if it would be best to hear those witnesses and then set aside the following week, because with those witnesses, some of the testimony attaches back to what we heard from the two ministers. It's just a suggestion.

The Joint Chair (Mr. Matthew Green): The suggestion is noted.

For the purpose and the clarity of the committee, I'll ask, Madam Clerk, if you could indicate if there's any potential availability.

Hon. Gwen Boniface: Out of courtesy, maybe we can release the witnesses who are here.

The Joint Chair (Mr. Matthew Green): Certainly.

Thank you very much to the witnesses.

Again, please don't mistake some of our terseness as anything personal. We appreciate your being here before us tonight and certainly look forward to working with you in the future. Thank you.

Ms. Isabelle Jacques: Thank you. Have a good evening.

[*Translation*]

Ms. Donna Achimov: Thank you. Good evening.

[*English*]

Mr. Barry MacKillop: Have a good evening.

The Joint Chair (Mr. Matthew Green): Madam Clerk, could you comment on the availability of potential witnesses for the next meeting?

The Joint Clerk of the Committee (Ms. Miriam Burke): Thank you, Mr. Chair.

I can't comment with full certitude on availability, but I believe that within the groupings you discussed last week, we could find at least one of those groups of the two or three organizations to make themselves available for next week.

The Joint Chair (Mr. Matthew Green): I'm going to recognize the speakers list as Motz, Bendayan and Brock.

First of all, Senator Boniface, does that satisfy your question?

Hon. Gwen Boniface: I wonder if we can clarify what groups we're talking about. I believe one of them is the RCMP. If I'm wrong, please correct me.

Mr. Larry Brock: That was my question.

The Clerk: Yes, it is.

The Joint Chair (Mr. Matthew Green): We will now go on to Mr. Motz.

Mr. Glen Motz: Thank you very much, Chair.

I have a couple of things.

First, Madam Clerk, we don't have clarity on who is going to be here. No one has committed to next week yet, have they?

The Joint Clerk (Ms. Miriam Burke): That's correct, but only because we haven't confirmed anybody for next week.

Mr. Glen Motz: Right.

For this week, we had the finance department, and Mr. Green, I think that you alluded to it. These individuals obviously were financial sector policy branch. The finance department writes our budgets, for Pete's sake. They were not the relevant witnesses to answer the questions related to the economic impact. In fairness to Ms. Jacques, that is not their forte. That's not their area.

We obviously need additional witnesses from finance—clearly we do. We also need some clarity around....

The clerk who was trying to get witnesses for this week obviously contacted as many as he could, and when he found a stream who were able to attend, I'm sure he pursued them with a bit more vigour. We really don't know who's available next week, if anyone.

As a committee, we should keep in mind that we still have a number of issues of committee business that we need to deal with. As much as we'd like to get at the witnesses, we also need to finish some other issues. If we can't find any witnesses for next week, save maybe one organization for the hour and a half, I would suggest that we set aside the other portion of the committee for committee business.

• (2130)

The Joint Chair (Mr. Matthew Green): For the general information of the committee, I just want to reference the work plan that was submitted to us by the analysts. It does provide a framework that is reflective of our conversations, so I don't want to negate that. I just want to put that out there. I appreciate them for that work.

Mr. Motz, have you concluded your comments?

Ms. Bendayan.

Ms. Rachel Bendayan: Thank you, Mr. Chair.

It is my understanding that officials from justice, the RCMP and CSIS have confirmed and relayed their availability, and perhaps it was to the estimable clerk Cardegna, but that is my understanding. I think that was also reflected in the work plan.

I would like at this time to move a motion. I move that the committee invite the Department of Justice, the Royal Canadian Mounted Police and the Canadian Security Intelligence Service to appear at the committee next week, and I believe the date is May 10.

The Joint Chair (Mr. Matthew Green): We have a motion that has been put on the floor. That being said, we still have a speakers list of Mr. Brock, and now I see Senator White as well.

Ms. Bodayan, does that conclude your remarks or do you want to speak to that in any way?

Ms. Rachel Bodayan: I would just clarify that as usual and given that these will be our witnesses, I would add to the motion or simply note that they should come for a period of three hours.

That does conclude my comments. I would just refer committee members back to our lengthy discussion about the necessity of these witnesses. I don't think there is any merit in returning to the arguments made at that time.

The Joint Chair (Mr. Matthew Green): Thank you.

We'll have Mr. Brock.

Mr. Larry Brock: Thank you, Mr. Chair.

To my colleague Ms. Bodayan's remarks, I wanted clarity as to which groups we were looking at, so through the clerk responding to Senator Boniface and Ms. Bodayan's clarification, that answered that question.

I have some serious concerns about that particular group. That is a very heavy group. The RCMP, in my view, should be looking at a block of an hour and a half or possibly all three hours. The RCMP is intertwined throughout the invocation of the act, the execution of the act and the consequences that flowed from that act.

To do this committee justice, to ensure that all of our questions are responded to appropriately, that would be my suggestion, and I would be seeking an amendment to Ms. Bodayan's motion along those lines.

The Joint Chair (Mr. Matthew Green): Respectfully, Mr. Brock, can you please articulate what those lines exactly are?

Mr. Larry Brock: That if the RCMP agrees to attend next week, officials from the RCMP be the only witnesses to appear for a full three hours.

The Joint Chair (Mr. Matthew Green): We have a speakers list including Senator White. We'll follow up with Mr. Virani, and then we'll go to Mr. Fortin.

Senator White, the floor is yours.

Hon. Vernon White: Thank you very much.

Respectfully, my perspective on the RCMP is that having the RCMP without CSIS at the same time will find us wavering on responses that we will be trying to pursue. If we're going to do this, I would like to see us with both those agencies at the same time. For the full three hours, I'm fine with that.

The second piece is that I'm more concerned about the who, not the what organization. I don't want to see an assistant commissioner or a chief superintendent floating in here. The commissioner, the deputy commissioner responsible for federal services.... I want to see high-level officials. I don't think it's fair to the witnesses that they are unable to necessarily respond to some of the questions that we're going to ask. I don't want to be bringing them back a third and fourth time because we had the wrong people.

It's great to invite them, but I think we should be very clear on the level we expect to see as well, Mr. Chair.

The Joint Chair (Mr. Matthew Green): Procedurally, just so I'm clear, because there are no friendly amendments, are you moving a—

Hon. Vernon White: Honestly, I would like to suggest, and it can be formal if you wish, my perspective is that to have the RCMP without CSIS in relation to this, we will miss pieces. I don't want to find us missing pieces. That's all. For me, the full three hours, we will eat it up with both of them and I think it will be helpful to all of us to have both here answering questions.

• (2135)

The Joint Chair (Mr. Matthew Green): In procedural fairness, Mr. Brock, are you okay with withdrawing your amendment?

Mr. Larry Brock: I'm okay withdrawing my amendment as it relates to the RCMP's appearing as the only witness for three hours, in light of Senator White's comments.

The Joint Chair (Mr. Matthew Green): Just so that it's clear, Madam Clerk, does it require us to have an amendment with specificity to ensure that it's the commissioner's and—

Hon. Vernon White: My perspective is that the clerk needs to make it very clear that the witnesses presented are at the highest level—the deputy commissioner, commissioner, CSIS director, deputy director—not finding us—

The Joint Chair (Mr. Matthew Green): Hence, my question to the clerk was does that require an amendment?

So there is now an amendment on the floor moved by Senator White, as he's just expressed. Do we have any dissenting voices to that amendment?

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Mr. Chair, I'd like to make an informal suggestion.

I understand Senator White's concern. I had exactly that same concern.

What we could perhaps do, when calling witnesses, is simply to indicate in the notice that the person who would be coming here to represent the RCMP should first have the authorizations required to answer all our questions and to produce the documents we might ask for.

I think it would be possible for the motion to include the fact that the person would have to be authorized to answer questions and produce the documents.

[*English*]

Mr. Arif Virani: I believe I was on your speaking list, Mr. Chair?

The Joint Chair (Mr. Matthew Green): You were certainly on the speakers list, and I would state my apologies.

Mr. Arif Virani: It's okay. I'm being patient here, but Ms. Bendayan actually jokingly said I should grab my earlier piece of paper.

This is the original thing we talked about three weeks ago and these are my annotations where we grouped these groups intentionally and deliberately. Then I read them very slowly for the clerk so that these could be recorded. Ergo, lo and behold, they appear in the work plan. So the notion that we're revisiting instructions we've already given to the fine people assisting us on this committee is, I think, probably frustrating for them but they're too polite to say so, and I think frustrating for me, at least, because we've already decided this.

The groupings you have on the sheet, independent of the fact that the dates have been inverted on one or two of them, are such that we've already agreed to them. I have no problem with what Mr. White and what I think what Monsieur Fortin are saying about ensuring that these are high enough calibre individuals to provide responses and to take things under advisement or undertake to provide answers, etc. But the notion of revisiting the groupings is probably inefficient—and I'm being polite in my choice of language there. I think we should just stick with what we've already decided. We can play with who arrives on which date, perhaps, but let's stick with the groupings with the proviso that Senator White has suggested, that we don't have low-level officials from various groupings, but have the most senior person possible.

The Joint Chair (Mr. Matthew Green): Thank you for providing that direction. I will state that I was referencing the blues and what was actually recorded in the blues as a result of our discussion, which led to this conversation's being opened up. So while your notes are good, they're certainly not the blues, and I do appreciate that.

Mr. Arif Virani: They're in blue pen.

Voices: Oh, oh!

The Joint Chair (Mr. Matthew Green): Fair enough.

We're going to go to Mr. Motz and then back to Senator White.

Mr. Glen Motz: Thank you, Chair.

With all due respect to Mr. Virani, a committee can change its instructions at any time. I think we would be foolish as a committee to disregard the evidence we have heard to date and suggest that our shooting in the dark three weeks ago or a month ago, developing what we thought were reasonable silos of witnesses at the time, was the wisest choice. It has become very clear now that it may not have been the wisest choice.

We have an opportunity now to be prudent and efficient along the way. Having witnesses come here, three blocks of them, who

may not be able to answer questions as fully as we need.... The RCMP are going to be a day by themselves at least, and then because we have to bring them back two or three times, I'm not satisfied that, if it were only the RCMP and CSIS by themselves in one three-hour sitting, we're going to have enough time to deal with everything, as Mr. Green indicated previously.

We have a work plan; we haven't accepted it. We made a decision to do this three weeks or a month ago; we've got new information. We need to act and be nimble and flexible accordingly, and away we go.

• (2140)

The Joint Chair (Mr. Matthew Green): It seems like we're actually debating something that we might have agreement on anyway. I'll go to Senator White and look to his collective wisdom to get us through this.

Hon. Vernon White: I wish it were that easy.

Thank you, Mr. Chair, though.

The reality is that we ask at the highest level. They will bring an entourage with them who we may or may not have responses. I'm not worried about their not having the operational responses. Commissioner Lucki will bring one or two deputies, and maybe an aide will come with her. I'm sure that between them they will figure out what we're asking and the responses we're looking for.

My perspective is just to get two people at the highest level on the books so that we're not finding ourselves.... I felt a little bit tonight that the witnesses we had here, with the exception of the ADM, were a little lower level officials than I anticipated seeing from these groups. That's all.

The Joint Chair (Mr. Matthew Green): Thank you very much.

I appreciate everybody's insight. I want to make sure I'm reading the room right, that we are going to have an agreement to have both the RCMP and CSIS at the next meeting and to ask for the highest level of commissioners and officers available.

Monsieur Fortin.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): I had asked for the floor.

I'd like to comment before we come to a decision on next week.

[*English*]

The Joint Chair (Mr. Matthew Green): Yes. My apologies. In skipping Mr. Virani, I thought your intervention had already occurred.

C'est bon. The floor is yours.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): It was simply to collaborate with Mr. Motz.

Thank you, Mr. Chair.

Here's what I wanted to say, and I'm not happy about it. If we continue in this vein, I don't know when we'll be able to ask the government to produce the documents we want. In all likelihood, we would receive them in the middle of the summer when we're all on holiday. It should have been done today, in my view. I don't see why we couldn't do it right now.

Last week, we decided that we should hear witnesses today and that it was urgent. As it turned out, they couldn't come. We therefore heard other witnesses. Now we're putting off until next week the appearance of those it was urgent to invite last week. We keep putting things off and getting nowhere.

We need to come to a decision on the motions that were suspended. We could toss them out. I'll give my opinion on the motions when we are debating them, but as to whether we are going to reject them or adopt them, I think we should do it now.

We had a problem earlier. Witnesses were telling us that they couldn't answer certain questions or commit to producing documents. If the legal counsel we need to hire had been with us we would have been able to deal quickly with these matters.

Whether to reject or adopt these motions, I think we should do so now.

I suggest that next week, our priority should be to debate the suspended motions and then look at which witnesses we should be hearing and when.

[English]

The Joint Chair (Mr. Matthew Green): Thank you for that.

We now have Ms. Bendayan.

[Translation]

Ms. Rachel Bendayan: Thank you, Mr. Chair.

I think we are now debating the proposed amendment. On that subject, I'd like to say that we are in agreement.

Mr. Chair, I think that you could ask my colleagues whether there is consensus.

I understand that there might be concerns and that some of my colleagues would like to have only two witnesses for a period of three hours next week. We would agree to that.

[English]

The Joint Chair (Mr. Matthew Green): There was a motion on the floor that kind of floated around. I think we have heard the urgency of dealing with other committee business at the appropriate time. I don't know that this is the appropriate time for that particular debate given the hour. It is fairly late.

Ms. Rachel Bendayan: Mr. Chair, at the very least, my motion is on the floor and is still the subject matter of this debate.

The Joint Chair (Mr. Matthew Green): Your motion is duly put.

I'm sorry, I just wanted to reference the comments by Mr. Fortin and the issue of our opening up the debate on when we're going to have the committee business.

Ms. Rachel Bendayan: Mr. Chair, I could amend my own motion if that would be easier, if the amendment wasn't properly moved.

I am removing justice from my motion.

The Joint Chair (Mr. Matthew Green): Let's call the vote.

Mr. Rhéal Fortin: What's the motion exactly?

The Joint Chair (Mr. Matthew Green): Order for a moment.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): The motion is about hearing them next week, right?

• (2145)

[English]

The Joint Chair (Mr. Matthew Green): Mr. Fortin, order, please. Let's get to the heart of the matter.

Madam Bendayan, could you please repeat your motion.

Ms. Rachel Bendayan: I move that the committee invite the Royal Canadian Mounted Police and the Canadian Security Intelligence Service to appear at the committee's next meeting for a period of three hours.

The Joint Chair (Mr. Matthew Green): We've heard the motion. I do want to reflect on this. I'm not trying to over-complicate things.

Before we move the motion in its entirety, do we need direction that it is the officers of the highest responsibility?

Hon. Vernon White: My perspective is that it's not part of the motion. That's part of the clerk's direction. That's right.

The Joint Chair (Mr. Matthew Green): Okay, so there is a motion that's on the floor. It is open for debate procedurally. There is no calling the question, so if anybody does have input, now is the time.

Mr. Motz, followed by Mr. Brock.

Mr. Glen Motz: I agree with the amendment. Thank you, Rachel.

I want to go back to Mr. Fortin's point on the need to deal with committee business. I can agree to next week having three hours for these witnesses as the motion indicates, but we have to set aside at least half of a meeting the following week, please, to deal with committee business. Please, we have to.

The Joint Chair (Mr. Matthew Green): I think we have consensus around the table on that informally. That's great. Thank you, committee.

We do have Mr. Brock, if he wants to speak.

Mr. Larry Brock: Yes, I just need some clarity here.

We talked very early on in the process that if witnesses were going to be relying upon any written documentation or statements that we would try to ensure fairness for committee members by not scrambling at the last minute. We talked about potentially up to 72 hours, so through you, Mr. Chair, as a direction to the clerk, wherever possible if those witnesses will be relying upon written documentation, we should perhaps give them a gentle reminder to get it to us perhaps by the close of business this Friday, as opposed to the day before. That would be much appreciated.

The Joint Chair (Mr. Matthew Green): That has been duly noted.

I want to make sure that everybody understands at this moment that there is a motion on the floor that has been duly put. We are debating the motion.

Are there any other speakers—

A voice: It is a motion as amended.

The Joint Chair (Mr. Matthew Green): It is a motion as amended. Are there any other speakers on the motion as amended?

[Translation]

Ms. Rachel Bendayan: Mr. Chair, I'd like to request a clarification.

I might have meant missed something in the amendment. How long would be for? Would it involve adding another three hours next week?

[English]

Mr. Arif Virani: You mentioned, Glen, with respect to two weeks later—

Mr. Glen Motz: After the week [Inaudible—Editor] we need to set time aside for the committee.

Mr. Arif Virani: Are you proposing all three hours?

Mr. Glen Motz: No, I think half.

An hon. member: Is that part of this motion?

The Joint Chair (Mr. Matthew Green): It's not this meeting; it's the one after that.

An hon. member: Could we vote on this motion?

The Joint Chair (Mr. Matthew Green): If people want to speak, they can speak.

Mr. Fortin.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): I just wanted to say that I would have liked it to be in the same motion. What I understand out of all this is that we are preparing to vote in favour of a meeting with these witnesses next week. The reason we have given for this is for us to settle the housekeeping motions.

I respect that point of view, but don't want to be cornered. I want to make sure that it's clear for everyone, unless I've misunderstood.

But if that's the agreement, then I think the motion should reflect it and state immediately that next week, we will be hearing two witnesses, the RCMP and CSIS, and the week after that, the housekeeping motions.

[English]

The Joint Chair (Mr. Matthew Green): Mr. Fortin, I would like to—

[Translation]

The Joint Chair (Mr. Rhéal Fortin): That would take as much time as is needed. We could put them on the Order Paper for the May 17 meeting, which is not the next meeting, but the one after that. If, the following week, we were to conclude that we could deal with this matter in an hour or two, then we could add the witnesses. However, this question is a priority; it has to be dealt with before hearing other witnesses. Otherwise, as I was saying earlier, will be putting things off and will only receive documents in July, and nobody will be happy about that.

[English]

The Joint Chair (Mr. Matthew Green): Monsieur Fortin, I want to make sure there is procedural fairness around the committee. We've heard your request and I'm going to ask you to clarify it. Are you moving an amendment?

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Yes, Mr. Chair.

[English]

The Joint Chair (Mr. Matthew Green): Okay, there is now an amendment on the floor that in the following week we set aside time for committee business. Does anybody want to speak to the amendment on the floor?

The date is May 17. We will now call the vote, unless there is any other input on that.

Madam Clerk, could we please call the vote?

The Clerk: No, everyone agrees—

The Joint Chair (Mr. Matthew Green): Everybody agrees. Oh, hallelujah.

(Amendment agreed to [See Minutes of Proceedings])

We will now go to the motion as amended.

Some hon. members: Agreed.

(Motion as amended agreed to [See Minutes of Proceedings])

The Joint Chair (Mr. Matthew Green): It is agreed unanimously.

• (2150)

Ms. Rachel Bendayan: I move that we adjourn, Mr. Chair.

The Joint Chair (Mr. Matthew Green): The meeting is adjourned.

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