

Canada officially declares the “Proud Boys” a terrorist group

February 9, 2021

Background

On February 3, 2021, Canada **formally** designated the Proud Boys as a terrorist group under the ***Criminal Code’s Entity List*** (Entity List). Canada’s designation is a step toward denouncing and combatting ideologically motivated extremist group by being the first nation to label the Proud Boys as a terrorist entity.

The Proud Boys joins several other terrorist groups on the Entity List, which includes terrorist organizations such as al-Qaeda, ISIS and al-Shabab. In addition to the Proud Boys, the Government of Canada added an additional 12 other entities.

Proud Boys is a far-right, all male organization established in 2016. Since then, it has opened many chapters across Canada, the US and internationally. At protests, members of the Proud Boys often carry the red ensign, a flag containing the Union Jack in one corner that was Canada’s official banner until it adopted its maple leaf flag in 1965. The Government of Canada has **labelled them as follows**:

“neo-fascist organization that engages in political violence. Members of the group espouse misogynistic, Islamophobic, anti-Semitic, anti-immigrant, and/or white supremacist ideologies and associate with white supremacist groups. The Proud Boys consists of semi-autonomous chapters located in the United States (U.S.), Canada, and internationally. The group and its members have openly encouraged, planned, and conducted violent activities against those they perceive to be opposed to their ideology and political beliefs. The group regularly attends Black Lives Matter (BLM) protests as counter-protesters, often engaging in violence targeting BLM supporters. On January 6, 2021, the Proud Boys played a pivotal role in the insurrection at the U.S. Capitol. Leaders of the group planned their participation by setting out objectives, issuing instructions, and directing members during the insurrection. The leader of the Proud Boys was arrested two days before the insurrection as part of a stated effort by U.S. law enforcement to apprehend individuals who were planning to travel to the D.C. area with intentions to cause violence.”

What does this mean?

Practically, the decision to designate the Proud Boys as a terrorist group brings on a range of significant legal and financial implications for businesses and individuals alike who participate in or are otherwise affiliated with the Proud Boys or any other entity on the list.

Section 83.08(1) of the Code prohibits all persons in Canada and Canadians outside of Canada from, among other prohibitions:

- a. Knowingly dealing directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group;

- b. Entering into or facilitating, directly or indirectly, any transaction in respect of property referred to in (a); or
- c. Providing any financial or other related services in respect of property referred to in (a) to, for the benefit of or at the direction of a terrorist group.

Additionally, section 83.1 of the Code requires that every person in Canada and every Canadian outside of Canada disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service:

- a. The existence of property in their possession or control that they know is owned or controlled by or on behalf of a terrorist group; and
- b. Information about a transaction or proposed transaction in respect of property referred to in (a).

Further, entities such as banks, insurance companies, cooperative credit societies and other financial service organizations, must determine on a continuing basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity.

Any business or individual that contravenes any of the requirements above could lead to (a) imprisonment for a term of not more than 10 years, if it is a conviction on indictment; or (b) a fine of not more than \$100,000 or to imprisonment for a term of not more than two years less a day, or to both, if it is a summary conviction.

There are immediate consequences for members of the Proud Boys and others who do business with them. The Criminal Code requires an immediate disassociation from the Proud Boys, making it more difficult for the Proud Boys to carry out any activities, and disclosure to the RCMP or CSIS of information relating to property or transactions of the organization. On a practical level, compliance screening becomes particularly difficult as there is no published list or members of the Proud Boys organization, which operates as a diffuse network of individuals, rather than a corporate or formally organized entity. While companies should adjust compliance screening for key and publically known members of the Proud Boys, given the potential consequence for facilitating the actions of Proud Boys, and their known presence in Canada, businesses need to exercise continued diligence. For example, under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, a financial institution must submit a report without delay to the Financial Transactions and Reports Analysis Centre of Canada. Consequently, to the extent that an organization or financial institution realizes it has inadvertent dealings with a member of the Proud Boys they should immediately cease all activities with that individual, contact legal counsel and the relevant authorities.

The required dissociation would include ceasing simple transactions such as purchasing any Proud Boys merchandise from the group but also ceasing any other type of financial contribution to the group. Additionally, anyone associated with the Proud Boys and looking to enter Canada may be prohibited from doing so. Under the **Canadian Passport Order**, the Minister of Public Safety has the power to revoke the passport of anyone deemed to pose a threat to travel. Finally, it is likely that the Entity List designation will prompt the suspension of social media accounts and the removal of content associated with the activities of the group.

The Dentons International Trade team keeps abreast of leading global developments. If you have any questions, please feel free to reach out to **Paul Lalonde, Sean Stephenson, or Daniela Acevedo** with any inquiries.

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