



Advancing Standards™

March 16, 2023

Director General
Financial Crimes and Security Division
Financial Sector Policy Branch
Department of Finance
90 Elgin Street
Ottawa, ON K1A 0G5

Delivered via Email: fin.fc-cf.fin@canada.ca

Dear Sirs and Mesdames:

Re: Regulations Amending Certain Regulations Made Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*

Overview

The Portfolio Management Association of Canada (**PMAC**) is pleased to have the opportunity to provide the Department of Finance Canada (**Finance**) with comments on the consultation paper titled, Regulations Amending Certain Regulations Made Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the **Consultation**).

General Comments

As background, PMAC represents over [310 investment management firms](#) that collectively manage over \$3 trillion in assets under management, all of whom are registered as portfolio managers with one or more of the Canadian Securities Administrators (**CSA**). PMAC members manage investment portfolios for private individuals, institutions, foundations, universities and pension plans¹.

PMAC's members are financial entities that generally fall under the definition of "securities dealers" and are required to comply with specific obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)*, including anti-money laundering and anti-terrorist financing (**AML**)-specific know your client identification requirements, training staff on AML issues, implementing and maintaining an AML compliance program, and maintaining records in connection therewith.

Support for the Consultation

PMAC is supportive of Finance's focus on reviewing Canada's AML laws to ensure that they remain responsive to emerging risks and evolving international standards, including the Financial Action Task Force's (**FATF**)

https://pmac.org/firms/?all_firms=true

standards as well as the findings and the recommendations made in the final report by the Cullen commission (the **Cullen Report**). PMAC believes that meeting the FATF standards improves Canada's international reputation and improves the global AML framework. We also support the Consultation's stated goal of creating regulatory efficiencies to facilitate smoother international operation by Canadian companies and ease of compliance.

We do not have any specific comments on the aspects of the Consultation that pertain to issues such as bringing armoured car companies and mortgage lending entities into scope of the PCMLTFA, additional diligence in respect of the money services business registration framework, increasing the fines for cross-border currency reporting penalties to be more proportionate and dissuasive, and appropriate management of correspondent banking relationships. PMAC is supportive of the regulatory burden reducing measures to modernize the service of administrative monetary penalties (**AMPs**) documentation to reporting entities through allowing for the electronic delivery of such documents.

PMAC applauds Finance for endeavouring to keep the AML regime effective, and able to bring new sectors into scope where there is risk. We believe that maintaining a clear focus on any changes to the AML regime striking a balance between regulatory burden and adopting an appropriate risk-based approach is critical.

Subject to confirmation of our comments below on how this formula will impact securities dealers, PMAC believes that the cost recovery scheme proposed in the Consultation is an appropriate and proportionate approach to recovering FINTRAC's compliance-related costs.

Proposed Cost Recovery Scheme

PMAC supports the implementation of regulations that will allow FINTRAC to recover the compliance-related costs of its mandate in a way that establishes stable long-term funding for FINTRAC alongside a transparent and predictable formula to give effect to the cost recovery.

Our understanding of the Consultation is that securities dealers would be advised of the fees owed by each securities dealer shortly after December 31st of each year. The quantum of the fees owed will be based on the volume of large cash transaction reports (**LCTRs**), large virtual currency transaction reports (**LVCTRs**) and/or electronic transfer reports (**ETRs**) and this will be supported by transparent and detailed disclosure from FINTRAC. Securities dealers that submit a prescribed volume of LCTRs, LVCTRs and/or ETRs in a fiscal year will pay an assessment amount. No costs will be recovered from securities dealers based on their assets under management – unlike with other reporting entities – nor will any costs be recovered as a result of FINTRAC conducting AML audits in respect of securities dealers. If this is the case, we are supportive of this cost recovery scheme for our members.

We are particularly pleased to hear that FINTRAC has information about these metrics on-hand and that FINTRAC will publish guidance and provide transparency about the quantum of fees which will be discussed with stakeholders.

We believe that implementing the cost recovery scheme for 2024 onwards will not pose any administrative or operational issues for securities dealers, though we encourage FINTRAC to ensure that the methods of payment are modern, secure and easily accessible by firms.

Portfolio Managers and the AML regime

PMAC's 2022 Compliance Benchmarking Survey (which had an over 50% response rate from our 310 member firms) reports that only 1% of firms have reported a suspicious transaction or an attempted suspicious

transaction related to the commission or attempted commission of a money laundering offense or a terrorist activity financing offense. The in-depth know-your-client requirements that securities dealers are subject to under securities legislation mean that portfolio managers are required to ask about and document a wide range of information about each client, resulting in portfolio managers generally knowing their clients very well and in the on-boarding process being risky for anybody attempting to commit a money-laundering and/or terrorist activity financing offense.

Conclusion

Thank you for the opportunity to participate in this consultation. We would be pleased to continue the dialogue on this important issue and discuss the recommendations included in this submission in more detail.

If you have any questions regarding this submission, please do not hesitate to contact Katie Walmsley (kwalmsley@pmac.org) at (416) 504-7018.

Yours truly,

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