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September 2, 2015

Lisa Pezzack, Director
Financial Systems Division
Financial Sector Policy Branch
Department of Finance
90 Elgin Street
Ottawa, Ontario K1A 0G5

Submitted by Email: fcs-scf@fin.gc.ca

Dear Ms. Pezzack:

Subject: **Consultation on Draft Regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act***

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to submit our comments on the draft Regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA).

IFB is a national professional association representing approximately 4,000 licensed financial advisors. Our members are self-employed, often sole proprietors, who operate small and medium businesses in their local community. They are independent in that they are able to offer clients financial advice and products related to more than one provider. The majority are licensed as life/health insurance brokers and/or mutual fund registrants, although many hold complementary licenses such as in securities, other types of insurance, mortgages and as deposit brokers.

IFB supports the professional proficiency of the financial community by providing high quality educational opportunities at various times of the year and in locations across Canada. Many of these events have included sessions on compliance with the PCMLTFA and keeping financial advisors current on the latest regulatory changes affecting their business and dealings with clients. While all our members have a requirement to understand their reporting requirements under the PCMLTFA, some operate under the Compliance Regime of their mutual fund/securities dealer, some are reporting entities in their own right (independent life/health insurance brokers), and some operate as mandatories (deposit brokers).

It is important for financial institutions globally, and within Canada, to detect and deter attempts to launder money, finance terrorism and other types of criminal activities. Such measures protect the stability of the Canadian economy. Our comments in this consultation, as in the past, seek to find a balance between appropriate, risk-based regulation and regulation which adds to the compliance burden with no corresponding enhancement in deterring or detecting illegal financial transactions. The impact of over-regulation is particularly difficult for small financial entities, like our members' businesses, to absorb, and unduly inconveniences the vast majority of law-abiding citizens conducting low risk financial transactions.

Below are our comments on the specific amendments to the Regulations.

Identity Verification

In general, IFB supports the greater flexibility proposed in the draft amendments, specifically those that ease and streamline the verification of a client's identity in non-face-to-face situations. Conducting business online and over the phone is a modern reality, and changes to permit electronic signatures, and more options to verify an account holder's identity, provide much needed relief.

We note, however, that while there appears to be greater flexibility to rely on identity that is verified by more sources, there is no definition of a "reliable source" at this time. FINTRAC will need to provide regulated entities with clear direction on this.

i) Credit file

The proposal to be able to rely on a Canadian credit file that has been in existence for 3 years, in order to verify identity, will disadvantage some individuals who have not had a credit file for that long. The Financial Action Task Force's review of Canada's anti-money laundering/terrorist financing regime suggests using a Canadian credit history (not file) of at least 6 month's duration.[1] Six months is a more reasonable length of time, and we urge the Department of Finance to adopt this approach.

ii) Use of identity information other than an identity document

The proposed regulations indicate the identity document must be "original, valid and current" and must not "include an electronic image". Further clarification will be required as to what constitutes "current" information. There is an added requirement to provide "the place it was issued and its expiry date, if available". This will require new tracking mechanisms for most reporting entities.

The prohibition on using an electronic image of the identity information seems unduly restrictive and counter-productive to the flexibility otherwise provided to enable e-commerce transactions. We seek clarification on this limitation, and its intent.

iii) Identity verification through an agent

We are pleased with the amendment clarifying that a reporting entity can rely on an agent (e.g. a deposit broker) to verify a client's identity on its behalf, and can use identification measures that were previously undertaken by that agent on behalf of another reporting entity or itself with respect to the same client.

[1] Financial Action Task Force, 6TH FOLLOW-UP REPORT Mutual Evaluation of Canada February 2014, http://www.fatf-gafi.org/media/fatf/documents/reports/mer/FUR-Canada-2014.pdf

We are unclear as to the expectation that the identification document must "remain unexpired and valid" to be relied on. The current regulations permit a client who was previously identified to not require further identification if the agent, or deposit broker, recognizes that client to be the same person. The new requirement seems to run counter to the objective to reduce the duplication that exists in the current regulations.

Training and Policy/Procedure updates

The proposed amendment includes a new requirement for reporting entities to develop and maintain a compliance training program for those authorized to act on their behalf. Independent life insurance brokers act on behalf of an insurer or multiple insurers. Both the broker and the insurer are reporting entities under the Act, and are required to develop and maintain their own training programs. If the training program is intended to apply to life insurance companies who contract with independent life insurance brokers, it will be duplicative. Alternatively, independent life insurance brokers will need relief from including a training program under their own Compliance Regime.

Deposit brokers are not reporting entities under the Act. Under this amendment, it appears financial institutions will be required to implement an ongoing training program for them. Deposit brokers who belong to the Registered Deposit Brokers Association are already required to take annual training on their anti-money laundering/terrorist financing obligations. The proposed requirement would be duplicative, represent an added training cost to financial institutions, and may become a disincentive from using the services of a deposit broker. We suggest the Department of Finance consider an equivalency exemption for training provided through the RDBA, or some other relief that will not inadvertently disadvantage competition in the marketplace.

Domestic Politically Exposed Persons (PEPs)

We appreciate the increased time to determine whether an account holder is a PEP (from 14 to 30 days), and that enhanced monitoring of domestic PEPs, heads of international organizations, their family and close associates is limited to high risk individuals. Nevertheless, the expanded requirement to determine if the account holder is a domestic PEP, and to screen for all PEPs, not just high risk PEPs, on a periodic basis does represent an added compliance burden. Reporting entities will need direction on who qualifies as a "close associate" of a domestic PEP as no definition is provided.

Suspicious transactions

The wording change from "constituting reasonable grounds" to "reasonably expected to raise reasonable grounds" will increase the reporting of suspicious transactions and, we believe, will significantly add to the over-reporting which exists today. Canada's Privacy Commissioner appeared before Parliament, and in the results of a Fintrac audit conducted in 2013, expressed concern over the over-reporting that exists under today's regulation[2]. In particular, the Commissioner was critical of the reporting of individual Canadians' personal information, despite the transaction not meeting the threshold of 'suspicious'.

[2] Audit Report of the Privacy Commissioner of Canada: Financial Transactions and Reports Centre of Canada, 2013. https://www.priv.gc.ca/information/pub/ar-vr/ar-vr_fintrac_2013_e.pdf

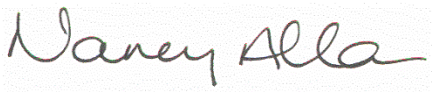
Suspicious transaction reporting should be limited to instances of risk that are reasonable in nature, and do not exceed the requirements under the PCMLTFA. We recommend keeping the existing language.

In conclusion, IFB looks forward to receiving greater clarity on a number of the outstanding definitions and interpretations, and we trust that any guidance will continue to reduce unnecessary duplication. Equally important will be to explore simplified processes to identify clients so as not to hinder the ability of financial advisors to promptly serve the needs of their clients without incurring transactional delays, which may negatively affect a client's investments.

In addition, since many of our members are reporting entities under the Act, or are mandatories (e.g. deposit brokers), solutions should be sought that will not result in financial institutions terminating (or de-risking) their relationships with advisors and mandatories (such as deposit brokers), who are otherwise regulated. This would give rise to reduced competition in the marketplace, negatively impact the ability of independent financial advisors to provide service to clients, and ultimately result in a decline in access to professional financial advice for Canadians.

Thank you for the opportunity to provide our comments. Should you wish to discuss our comments further, please contact me, or Susan Allemang, Director Policy & Regulatory Affairs, (email:sallemang@ifbc.ca).

Yours truly,



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