April 27, 2018

**BY EMAIL**

Director General
Financial Systems Division
Financial Sector Policy Branch
Department of Finance Canada
James Michael Flaherty Building
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Ottawa, ON K1A 0G5
Email: fin.fc-cf.fin@canada.ca

Dear Sirs/Mesdames:

**Re: Discussion Paper on the Review of Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime (the "Discussion Paper")**

The Canadian Advocacy Council[1] for Canadian CFA Institute[2] Societies (the CAC) appreciates the opportunity to comment on the Discussion Paper. The CAC recognizes that combatting money laundering and terrorist financing is an important objective due to the risks and threats that such activities pose to the financial markets and Canada as a whole.

We are supportive of measures designed to increase corporate transparency, given that corporate vehicles can be used for money laundering and terrorist financing by concealing the true identity of the beneficial owners of assets. Accordingly, the CAC supports identifying and reporting beneficial owners of corporate entities to the level of a natural person for reporting entities that include financial entities, securities dealers, money service businesses and life insurance companies. However, we query whether the reporting entities are currently feasibly able to collect this information to satisfy their regulatory obligations,

[1]The CAC represents more than 15,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at http://www.cfasociety.org/cac. Our Code of Ethics and Standards of Professional Conduct can be found at http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx.

[2] CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 155,000 members in 165 countries, including more than 148,900 CFA charterholders and 149 member societies. For more information, visit www.cfainstitute.org.

as the beneficial ownership information is not readily available from third party (independent) sources due to the multiplicity of corporate registries across Canadian jurisdictions and wide variance in information collection and availability. In addition, it is not always clear in a complex multi-layered corporate structure which individuals actually control the corporate entities due to differences in share class voting rights. Further it is not clear what it means in practice to utilize "reasonable efforts" to confirm the accuracy of beneficial ownership information. The process is made more difficult if non-residents are involved. We support the establishment of a robust national registry at the federal level whereby all corporate entities are required to report and keep up to date their beneficial ownership to the level of natural persons. Further, we take the view that beneficial ownership is important information and the obligation to report should be extended to all reporting entities including designated non-financial businesses and professions which include accountants and accounting firms, real estate brokers, sales representatives, real estate developers, casinos, dealers in precious metals and stones, dealers in other high-value goods such as art, etc.

We support the requirement for financial entities, securities dealers, money service businesses and life insurance companies to take reasonable measures to determine whether a client is a foreign or domestic politically exposed person, a head of an international organization or a prescribed family member or close associate of the same (collectively, the PEPs). While the CAC appreciates the flexibility of a standard such as "reasonable measures", we query whether simply asking a client whether they are PEPs using the prescribed definitions is sufficient for the purpose of the legislation given that a client may conceal that information to the reporting entity and additional guidance (principally relating to suggested tools and independent information sources) may be warranted, including as it relates to the ability to search for an unknown subset of family members and close associates of a PEP.

We query whether amendments to the regime regarding enhancement and strengthening of identification methods is reflective of today's markets and rapidly evolving technologies, especially those relating to identity verification and ownership information.

A recent study by CFA Institute of more than 3,000 individual investors and 800 institutional investors across 12 markets, including 501 retail investors and 36 institutional investors in Canada, identified that technology enhances investor trust. Investors of all ages and from all regions want more technology applied to investing, and trust in technology is generally high. Moreover, the effective use of technology increases trust in a financial adviser or firm, and new blockchain technology holds the promise of creating more trust in the system[3].

[3] CFA Institute, The Next Generation of Trust: A Global Survey on the State of Investor Trust, online https://nextgentrust.cfainstitute.org/wp-content/uploads/2018/03/CFAITrust-Global-Report.pdf.

The Discussion Paper notes certain amendments to the requirements for identification which now makes it possible to identify a client using a credit file query. However, such a method may be costly for entities and may generate confusion for clients relating to concerns about credit file impact or 'hits'. Furthermore, the current regime is not responsive to platforms that allow for client onboarding online including know your client information, digital IDs, and leveraging new technologies using biometrics and facial recognition without requiring original and government issued identification. It is important that the current regime is sufficiently flexible to allow for these technologies and transactions, including for example in the context of digital currency, in order to bring legitimacy, attract investors and promote economic activity. It is important to legitimize these technological innovations with strong regulation (particularly as it relates to anti-money laundering and combatting terrorist financing), as we understand certain market participants (e.g. many Canadian banks) will not participate in investments such as digital currency in the absence of a consistent regulatory regime.

With respect to cryptocurrency exchanges, there have been some industry stakeholders who are actively working to address some of the issues that have been identified by Canadian securities regulators. For example, Japanese regulators have recently announced that the world's top crypto-exchange, Binance, will require a licence to operate in the country. We understand that a top U.S. exchange, Coinbase, is sharing some customer data with the IRS. Some of the issues relating to trading cryptocurrencies, including money laundering concerns, could be addressed if there were licensing requirements for cryptocurrency exchanges in each jurisdiction in which they operate. The focus of such requirements could be on consumer protection measures, KYC/AML, and compliance.

We recognize the significance of mandatory reporting with respect to suspicious transactions, large cash transactions, cross-border currency transfers, etc. Similar to the United States and Australia, we support the consideration of making it an offence for an entity or individual to structure transactions in order to avoid reporting (i.e. requirement to report cash transactions of more than $10,000 within a 24-hour period). In addition, we recognize the threat that large cash transactions pose and support the requirement to maintain detailed records including how the cash was received, the name, date of birth and address of the person, date of transaction, etc. Further, we support bringing into the regime entities that routinely transact with large amounts of cash including dealers of high-value goods (luxury goods, boats, yachts, etc.) who are currently excluded from the anti-money laundering regime.

Lastly, it is important to recognize that each entity must be afforded the freedom to assess the risk and mitigate such risk proportionately, cognizant of the regime's objectives. While there is always a compliance burden for mandatory reporting requirements, any change to the current regime ought to provide sufficient flexibility for entities to proportionately mitigate anti-money laundering and terrorist financing risk, tailored

towards their business practices. We welcome further consultation with industry participants to assist with refining the regime. For example, it could be helpful to speak with a particular sub-set of registered advisers, whom, while subject to the regime, do not themselves have access to any client funds directly.

**Concluding Remarks**

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future. We consent to the disclosure of this letter publicly.

(Signed) *The Canadian Advocacy Council for Canadian CFA Institute Societies*

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