

## Data Sheet

## Pre-Reading #6

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Committee / Study Group:	Public Practice Committee	Date:	September 4, 2020
Meeting Date(s):	September 11, 2020		
From:	Lisa Eng-Liu, CPA, CA, CPA (Illinois) Vice-President, Public Practice Regulation		
Re:	Approach to Anti-Money Laundering Initiatives		

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### Key Issue

CPABC has included anti-money laundering initiatives as one of its key areas of focus. As the practice review program covers over 2,700 licensed firms and 1,000 annual inspections, an analysis was performed to determine if the program was able to support provincial and federal anti-money laundering initiatives, particularly related to the Beneficial Ownership Registry requirements, as part of the inspection of firms within the existing regulatory framework.

### Action Requested

Provide feedback on CPABC's proposed approach to anti-money laundering initiatives.

### Background

On May 15, 2019, Premier John Horgan announced the launch of the Commission of Inquiry into Money Laundering in British Columbia on May 15, 2019 ("the Inquiry"). The Inquiry is being conducted as an independent Commission, led by Mr. Justice Austin F. Cullen, Supreme Court of British Columbia, and will look into the connected issues of gambling, real estate, financial institutions and the corporate and professional sectors. CPABC has been working closely with the Inquiry over the last year by providing documents and information, and assisting with queries regarding a CPAs' role in Canada's AML regime. We will continue to liaise with the Inquiry into the fall as hearings recommence.

On August 25, 2020, Staff held a meeting with a Sub-Working Group (WG) of the Committee to explore the possible areas where CPABC can place more emphasis or focus around AML and the new Beneficial Ownership Register requirements. The WG was provided background around the AML issues as summarized in Appendix A, as well as an analysis of the how the Beneficial Ownership Register requirements may be considered in the Practice Review Program in Appendix B.

### Discussion & Support

The Committee reviewed the Beneficial Ownership Registry requirements against the CPA Canada Handbook standards to determine if compliance with these requirements could be inspected within the current practice review program. Given that the Transparency Register is something that an organization is required to maintain, it is possible that a firm may enquire as to their client's compliance with this requirement as part of an audit or review engagement whereby a practitioner would enquire about the company's compliance with laws and regulations. Depending on the level of enquiry, as there are many laws and regulations that a particular organization may be subject to, such as WCB or even requirements around COVID-19, the extent of discussion with the client and their level of documentation can vary significantly between clients and even firms. It is possible that documentation of the discussion would not be directly apparent in the file and inspection comments would only arise if there is documentation that management indicated that they are not in compliance.



The Committee also discussed whether we should include compliance with the Anti-Money Laundering legislation and FINTRAC reporting requirements. These requirements have been in place for many years, but as the reporting to FINTRAC seems low, perhaps our members do not have a strong understanding of the legislation. It was considered whether we should be asking our practitioners whether they have an AML process in place to ensure suspicious transactions are appropriately reported, and whether we should review their processes. The Committee felt that ensuring this compliance as part of our practice review program would be getting into the management and internal processes of a firm, whereas our inspections have always focused on Handbook standards. Furthermore, compliance with AML legislation/regulations is overseen by FINTRAC and firms are subject to FINTRAC compliance reviews so CPABC may not want to overstep our authority.

Overall conclusion from discussions with the Committee sub-working group was that the focus of CPABC should be more on educating our members, both in public practice and in industry, on the new Beneficial Registry Requirements and reminding them of their responsibilities in respect of Canada's Anti-Money Laundering Regime. CPABC was encouraged to develop eNews articles, host webinars and PD sessions and create guidance around exercising professional skepticism, identifying suspicious transactions and other areas of that our members may find challenging.

## Appendix A: Canada' Anti-Money Laundering Regime and BC CPAs

By: Jessica McKeachie, Senior Advisor, Public Interest

### 1. What is Money Laundering?

Money laundering is the process used to disguise the source of money or assets derived from criminal activity. In 2018-2019 the two most common predicate offences related to case disclosures to FINTRAC were drugs and fraud. There are three recognized stages in the money laundering process:

- Placement involves placing the proceeds of crime in the financial system.
- Layering involves converting the proceeds of crime into another form and creating complex layers of financial transactions to disguise the trail and the source and ownership of funds. This stage may involve transactions such as the buying and selling of stocks, commodities or property.
- Integration involves placing the laundered proceeds back into the economy to create the perception of legitimacy.

The money laundering process is continuous, with new 'dirty' money constantly being introduced into the financial system. CPAs may come across laundering during any of the three stages.

Some of indicators of money laundering seen by accountants include:

- Client makes statements about involvement in criminal activities.
- Evidence of untruthfulness on behalf of the client (e.g. providing false or misleading information).
- Client exhibits nervous behaviour.
- The client refuses to provide information when required, or is reluctant to provide information.
- The transactional activity far exceeds the projected activity at the beginning of the relationship.
- The transactional activity (level or volume) is inconsistent with the client's apparent financial standing, their usual pattern of activities or occupational information (e.g. student, unemployed, social assistance, etc.).
- The transactional activity is inconsistent with what is expected from a declared business (e.g. business account has no normal business-related activities, such as the payment of payrolls or invoices).
- Client appears to be living beyond their means.
- Large and/or rapid movement of funds not commensurate with the client's financial profile.
- Rounded sum transactions atypical of what would be expected from the client.
- Holding multiple accounts at several financial institutions for no apparent reason.
- Suspected use of a personal account for business purposes, or vice-versa.
- Client appears to have recently established a series of new relationships with different financial entities.
- A product and/or service opened on behalf of a person or entity that is inconsistent based on what you know about that client.
- Accounts used for pass-through activities (e.g. to receive and subsequently send funds to beneficiaries).
- A series of complicated transfers of funds that seems to be an attempt to hide the source and intended use of the funds.
- Transactions displaying financial connections between individuals or businesses that are not usually connected (e.g. a food importer dealing with an automobile parts exporter).
- Transaction is unnecessarily complex for its stated purpose.

- Client presents notes or financial instruments that are packed, transported or wrapped in an uncommon way.

Money laundering indicators like the ones above are examples that should be considered to guide the development of your own process to determine when you have reasonable grounds to suspect a transaction is related to the commission or attempted commission of a money laundering offence. These indicators are only one piece of the puzzle and designed to complement a CPA or firm's own compliance program.

## 2. Canada's AML Regime

Accountants and accounting firms must fulfill specific obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and associated Regulations to help combat money laundering and terrorist financing in Canada.

This means that you have obligations if you are a chartered accountant, a certified general accountant or a certified management accountant. The regulations defining accountants are currently being updated to better recognize amalgamation of the legacy bodies. In addition, accounting firm also have obligations under the Canada's AML regime. Accounting Firms are defined as an entity engaged in the business of providing accounting services to the public that has at least one partner, employee or administrator that is an accountant (i.e. CPA).

## 3. Triggering Activities

Accountants and accounting firms are subject to the PCMLTFA when they engage in any of the following activities on behalf of any individual or entity, or give instructions on behalf of any individual or entity in respect of:

- receiving or paying funds;
- purchasing or selling securities, real properties or business assets or entities; or
- transferring funds or securities by any means.

You are subject to the requirements described further below when you engage in these activities, regardless of whether you receive fees or have a formal letter of engagement to do so. In other words, even if you carry out these activities on a voluntary basis, you are subject to the requirements of the PCMLTFA.

### *Giving Instructions vs. Providing Advice*

When you give instructions for any of the triggering activities, it means that you actually direct the movement of funds and *will* be subject to reporting requirements. By contrast, when you provide advice to your clients, it means that you make recommendations or suggestions to them and are *not* subject to reporting requirements. Providing advice is not considered to be giving instructions.

- Example of giving instructions: "Based on my client's instructions, I request that you transfer \$15,000 from my client's account, account number XXX, to account number YYY at Bank X in Country Z."
- Example of providing advice: "For tax purposes, we recommend that you transfer your money into a certain investment vehicle."

### *Exemptions*

There are a number of activities and situations that are exempted from the reporting requirements. These include:

- When all Triggering Activities are performed on behalf of an employer.

- In the case of an Accountant or an Accounting firm, where all Triggering Activities are performed in respect of an audit, review or compilation engagement.
- In the case of an Accountant or Accounting firm acting solely in the capacity of a Trustee in Bankruptcy.

#### 4. Reporting Requirements and Record Keeping

Accountants and accounting firms are required to maintain certain records and complete reports about certain transactions and property and submit them to FINTRAC.

As an accountant or accounting firm, you must verify the identity of clients for certain activities and transactions according to the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR).

Financial transaction reports are critical to FINTRAC's ability to analyze transactions in order to develop financial intelligence that is disclosed to law enforcement and partner agencies. The quality of reports will be reviewed by FINTRAC in examinations.

*Suspicious transactions:* You must submit a suspicious transaction report (STR) as soon as practicable after completing the measures required to establish reasonable grounds to suspect that a transaction is related to the commission or the attempted commission of a money laundering/terrorist activity financing offence.

*Terrorist property:* When you know that property in your possession or under your control is owned, controlled by or on behalf of a terrorist or a terrorist group, you must submit a report without delay. You must also submit a report to the Royal Canadian Mounted Police (RCMP) and the Canadian Security Intelligence Service (CSIS).

*Large cash transactions:* When you receive \$10,000 CAD or more in cash (including taxes or other fees) either in a single transaction or in multiple transactions within a 24-hour period, you must submit a report within 15 calendar days.

##### *Record Keeping*

Accountants and accounting firms are responsible for keeping certain transaction and client identification records. These records are to be kept in such a way that they can be provided to FINTRAC within 30 days if required to do so.

#### 5. BC's New Beneficial Ownership Register

In 2017, provincial finance ministers and the federal government signed the "Agreement to Strengthen Beneficial Ownership." The new requirements are part of the provincial and federal efforts to combat money laundering, tax evasion, and terrorist financing.

In BC, the provincial government passed legislation creating land and corporate registries for beneficial owners. The following highlights changes to the disclosure regime for corporate transparency.

##### *What's New*

In 2019, the provincial government passed amendments to the British Columbia Business Corporations Act ("BCBCA") that imposed new obligations on private BCBCA companies. These changes included:

- As of October 1, 2020 (per April 6, 2020 Order in Council 169), BCBCA private companies are required to prepare and regularly update a Transparency Register. For each person who is a significant individual the following information must be reported:
  - The significant individual's name, birthdate, address, citizenship, and tax jurisdiction;
  - A description of how the individual is a significant individual; and
  - The date on which the individual became or ceased to be a significant individual.
- New tests determine who a significant individual is, as well as exemptions.
- Subsidiaries of public companies must also maintain a Transparency Register
- Access to the Transparency Register is restricted.
- Failure to comply with Transparency Register requirements could result in the company being liable for fines up to \$100,000, and individuals who fail to comply with the requirements can be liable for fines up to \$50,000.

## 6. Sources and Resources

Below is a list of some of the more relevant and recent resources regarding CPA obligations under Canada's AML as well as information about BC's beneficial ownership registry and the provincial inquiry into money laundering.

If there are any questions, please contact Jessica McKeachie at: [jmckeachie@bccpa.ca](mailto:jmckeachie@bccpa.ca)

- Support for reporting entities during COVID (last updated July 2020) <https://www.fintrac-canafe.gc.ca/covid19/covid19-eng>
- Money laundering and terrorist financing indicators – Accountants (January 2019) [https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/indicators-indicateurs/accts\\_mltf-eng](https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/indicators-indicateurs/accts_mltf-eng)
- Know your Client FINTRAC guidance for accountants (June 2017) <https://www.fintrac-canafe.gc.ca/guidance-directives/client-clientele/client/acc-eng>
- What is a suspicious transaction report? (April 2020) <https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/Guide2/2-eng>
- Reporting suspicious transactions to FINTRAC (April 2020) <https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/Guide3/str-eng>
- FINTRAC interim reporting guidance (July 2020) <https://www.fintrac-canafe.gc.ca/covid19/interim-guidance-eng>
- Terrorist Property Reports (January 2019) <https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/Guide5/5-eng>
- Submitting Large Cash Transactions Reports Electronically (August 2019) <https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/Guide7A/lctr-eng>
- Record Keeping (June 2017) <https://www.fintrac-canafe.gc.ca/guidance-directives/recordkeeping-document/record/acc-eng>
- Non-compliance penalties (updated June 2019) <https://www.fintrac-canafe.gc.ca/pen/1-eng>
- BC Beneficial Ownership Registry - <https://www2.gov.bc.ca/gov/content/employment-business/bc-companies/bearer-share-certificate-transparency-register/significant-individual>
- CPABC Beneficial Ownership Registry Information - <https://www.bccpa.ca/member-services/resources-and-tools/anti-money-laundering/bc-corporate-beneficial-ownership-registry-general-information/>
- Commission of Inquiry into Money Laundering in British Columbia: <http://cullencommission.ca>

## **Appendix B: Transparency Register Requirements and Practice Review Impact**

By: Alexandra Lea, Director, Practice Review

### **Summary**

The transparency register requirements will require companies to disclose additional information regarding significant individuals, defined as those who hold 25% or more of a company's total shares or votes at a general meeting. These registers are to be held by the companies and to be available for inspection by federal and provincial tax authorities, law enforcement and regulatory bodies.

The legislation does not require that these registers have any type of inspection and related certification on their accuracy from CPAs or other professionals. Further, audit and review standards do not require that practitioners inspect these registers as part of performing these engagements. Instead, they are typically only required to perform more limited procedures to determine their client's compliance with laws and regulations and would only delve deeper if something arose during these limited procedures or as part of the regular assurance procedures that would indicate their client is not in compliance with the registry requirements.

From a regulation perspective, the practice review program can ensure that firms continue to meet standards with regards to appropriate procedures on their client's compliance with laws and regulations, recognizing that these standards would only result in "fatal flaw" exceptions where management states that they are not in compliance. Further, the program can continue to ensure that firms meet standards in the specific assurances areas that are aligned with appropriately completing the beneficial ownership registry: understanding clients and their corporate structure and performing procedures specific to share capital. If they were required to provide further assurance on the accuracy of the information, there would need to be a change in the transparency registry legislation to require any type of certification from CPAs. If certification was required, it could be potentially provided by many firms performing assurance as the information required to support the registry requirements would be available in the course of performing sufficient appropriate procedures to meet standards.

CPAs can provide education to their clients on the nature and extent of information they will need to have available to meet the transparency registry requirements.

From an educational perspective, we can provide resources to firms on the beneficial registry requirements and best practices in assisting their clients to comply with these requirements, while also raising awareness of additional potential scenarios that may indicate a risk of money laundering.

### **Background**

In 2019, the provincial government passed amendments to the British Columbia *Business Corporations Act* ("BCBCA") that imposed new obligations on private BCBCA companies. This amendment flowed from a 2017 meeting of all of the provincial finance ministers who agreed to develop beneficial ownership registries. These changes included:

- As of October 1, 2020 (per April 6, 2020 Order in Council 169), BCBCA private companies are required to prepare and regularly update a Transparency Register. For each person who is a significant individual the following information must be reported:
  - The significant individual's name, birthdate, address, citizenship, and tax jurisdiction;
  - A description of how the individual is a significant individual; and
  - The date on which the individual became or ceased to be a significant individual.

- New tests determine who a significant individual is, as well as exemptions.
- Subsidiaries of public companies must also maintain a Transparency Register
- Access to the Transparency Register is restricted.
- Failure to comply with Transparency Register requirements could result in the company being liable for fines up to \$100,000, and individuals who fail to comply with the requirements can be liable for fines up to \$50,000.
- The Transparency Register must be kept at the company's records office or be accessible from the records office by electronic means. Under the legislation as of October 1, 2020 the Transparency Register may be inspected by federal and provincial tax, law enforcement and regulatory authorities.

### **Practice Review Implications for Audits**

Generally, there are two corporate records that will provide the most relevant information for determining who significant individuals for the company are:

1. The articles of the company.
2. The central securities register.

#### *Identifying and Assessing Risks of Material Misstatement - CAS 315*

- CAS 315 requires the auditor to perform risk assessment procedures to obtain an understanding of aspects of the entity and its environment, which includes the entity's organizational structure, ownership and governance and, in particular, the complexity of the entity's structure (paras 19 & A56). The articles of a company and the central securities register are two potential documents that could be used to support this understanding.

#### *Related Parties – CAS 550*

- Although used in the context of ensuring fair presentation of the financial statements, CAS 550 para 4 requires an auditor to obtain an understanding of the entity's related party relationships and transactions sufficient to be able to conclude whether the financial statements, insofar as they are affected by those relationships and transactions are fairly presented and not misleading and whether fraud risk factors are present.
- Paragraph 10, in its definition of related parties, makes reference to an entity that has control or defines related parties as a person or other entity that has control or significant influence, directly or indirectly through one or more intermediaries, over the reporting entity.
- A significant individual is defined under the Transparency Register requirements as one holding, directly or indirectly, 25% or more of an entity's shares. While this CAS 550 doesn't further define significant influence or an ownership threshold, depending on the financial reporting framework, GAAP frameworks also require both a qualitative and quantitative consideration of ownership to determine significant influence. As a result, the procedures required under CAS 550 to identify related parties could also apply to the determination of beneficial ownership.

#### *Compliance with Laws and Regulations – CAS 250*

- The Transparency Register requirements would not have a direct determination on material amounts in the financial statements, rather, they require companies to keep potential additional support on an already-existing share capital financial statement balance and carry significant fines for companies and individuals who do not comply.
- As a result, they would be considered under CAS 250(6)(b) as other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the financial statements, but compliance with which may be fundamental to the operating aspects of the business. The auditor's responsibility would then be limited to undertaking specified audit procedures to help identify non-compliance with those laws and regulations that may have a material effect on the financial statements.



(para 7) but to remain alert to the possibility that other audit procedures applied for the purpose of forming an opinion on financial statements may bring instances of non-compliance to the auditor's attention (para 8).

- The specified audit procedures expected to be performed would include inquiring of management and those charged with governance and inspecting correspondence, if any, with the relevant licensing or regulatory authorities. (para 15) However, the standard further states that audit procedures applied to form an opinion on the financial statements may bring instances of non-compliance or suspected non-compliance with laws and regulations to the auditor's attention and may include:
  - Reading minutes;
  - Inquiring of the entity's management and in-house legal counsel or external legal counsel concerning litigation, claims and assessments; and
  - Performing substantive tests of details of classes of transactions, account balances or disclosures. (para A15)
- Consequently, along with the required specified procedures performed to assess compliance with the Transparency Register requirements, substantive audit procedures performed on the share capital section and in identifying related parties may result in noting instances of non-compliance or suspected non-compliance with the laws and regulations. If there is any identified or suspected non-compliance, the practitioner would need to determine whether law, regulation or ethical requirements require reporting to an appropriate authority (para 29).

### **Practice Review Approach for Audit Engagements**

The registry requirements apply to private BCBCA companies as of October 1, 2020. As a result, we will continue to expect firms comply with the following standards and the practice review program will provide education to firms on their implications with beneficial registry compliance:

- CAS 315: work performed on an understanding of an entity's organization structure and ownership include the requirements of the Transparency Register, particularly for entities with a complex organizational structure.
- CAS 550: documentation of procedures performed to determine entities with significant influence, as currently required under the standard.
- CAS 250: consideration of the Transparency Register requirements which may include performance of specified audit procedures and being aware to possible instances of non-compliance in conjunction with substantive procedures performed on the equity section. If, performing audit procedures as required, the practitioner has identified or suspected of non-compliance with the Transparency Register requirements, they would need to determine whether they are required by law, regulation or CPABC's Code of Conduct to report to the appropriate authority.

### **Practice Review Implications for Review Engagements**

#### Level of work performed

Many firms include a company's articles of incorporation, central securities register, and other share related documents in clients' permanent or current year files. As review procedures are intended to provide limited assurance obtained primarily through inquiry and analytical procedures (para 12), these documents would only be required if the practitioner becomes aware of a matter that causes them to believe the financial statements may be materially misstated (para 57) so that analysis and inquiry alone did not provide sufficient appropriate evidence and the practitioner had to perform further procedures (para 74, A126).

*Understanding the entity and its ownership (para 44 and A88)* requires the practitioner to obtain an understanding of the entity's ownership and governance and the way it is structured and financed sufficient for the practitioner to be able to identify areas in the financial statements where material misstatements are



likely to arise, to inform the practitioner's approach to designing and performing procedures to address those areas.

*Related Parties (para 49 – 50)* requires that the practitioner is alert to related party relationships of transactions that management has not previously identified or disclosed, which would further require procedures related to understanding the entity's ownership.

*Compliance with Laws and Regulations (paragraph 51)* requires that, should there be an indication that non-compliance or suspected non-compliance with laws or regulations occurred that the practitioner communication with senior management, those charged with governance and determine if the practitioner would need to report to an appropriate authority outside the entity. As a result, if, during the performance of the review engagement procedures, it was determined the company may not be compliant with their Transparency Register reporting requirements, the practitioner would need to document their communication of the matter to those within the entity and consideration of reporting to an outside authority.

#### **Practice Review Approach for Review Engagements**

For review engagements performed on or after October 1, 2020, we will continue to expect firms comply with the following standards and the practice review program will provide education to firms on their implications with beneficial registry compliance:

- CSRE 2400.44 & A88: analysis and inquiry performed on an understanding of an entity's organization structure and ownership, which would include the requirements of the Transparency Register, particularly for entities with a complex organizational structure.
- CSRE 2400.49 & .50: documentation of procedures performed to determine if there have been unidentified or undisclosed related party relationships.
- CSRE 2400. 51: if, during analysis and inquiry in performing review procedures as required, the practitioner became aware of non-compliance with the Transparency Register requirements, the practitioner would need to document their communication with those within the entity and considerations of reporting to an outside authority.