

CPABC Review of the Report on Accountants, Money Laundering, and Anti-Money Laundering

CPABC has reviewed the updated report prepared by Mr. Matthew McGuire, FCPA, FCA, dated December 31, 2020 (the “McGuire Report”) and has noted several areas that require comment, discussed herein.

The review contained in this document does not represent a comprehensive comment on all issues and areas addressed by the McGuire Report. For example, CPABC has only briefly commented on the ten cases referenced in paragraph 30 of the McGuire Report.

This document is divided into two charts. The first chart sets out CPABC’s position in regard to certain factual assertions, assumptions and analysis in the McGuire Report as they relate to professional accountants (CPAs) in British Columbia (i.e., members of CPABC). A second chart sets out CPABC’s position in regard to the McGuire Report’s proposed recommendations as they relate to professional accountants in British Columbia.

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Para 11	“We have adopted a broad definition of accountant and accounting services. Our definition focuses on the activities performed by the individual or their firm, rather than their training or designations here or abroad.”	The 2016 Census indicates that there are approximately 89,000 people working in accounting roles in British Columbia. At that time, only about one-third of those individuals (approximately 31,000) were CPAs. By adopting a broad definition of accountants and failing to make any distinction between CPAs and unregulated accountants throughout the analysis, the McGuire Report disregards: <ul style="list-style-type: none"> • the extensive education and training of CPAs; • that CPAs are the only accountants in British Columbia subject to regulatory oversight, including CPABC’s ethical and professional standards; and

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		<ul style="list-style-type: none"> the fact that only CPAs are subject to Canada's anti-money laundering regime and that unregulated accountants are not.
Part 6.1 (opening paragraph) and para 81	<p>"Accountants know the international financial systems, can create nominee (or shell) companies to receive the proceeds of money laundering and create a labyrinth of misleading audit trails." (Sika & Willmott, 1998)</p> <p>"Nor do [AML regulations] cover all the qualifying activities which should be subject to identification and monitoring and record-keeping and suspicious transaction reporting, notably: the organization of contributions for the creation, operation or management of companies; and, the creation, operation or management of legal persons or arrangements. As explained in the reply to the first question, those activities are critical to the most prevalent money laundering schemes in Canada and internationally."</p>	<p>All accountants in British Columbia, whether professional accountants or unregulated accountants, are limited in the scope of work they are permitted to undertake.</p> <p>For example, in British Columbia, incorporating companies, establishing trusts, and preparing and maintaining corporate records are considered to be the "practice of law" under the British Columbia <i>Legal Profession Act</i>, and therefore accountants (whether professional accountants or unregulated accountants) are not permitted to provide these services.</p> <p>See for example: https://www.lawsociety.bc.ca/custodianships-unauthorized-practice/unauthorized-practice-of-law/what-is-unauthorized-practice-of-law/; <i>Law Society of BC v. Siegel</i>, <u>2000 BCSC 875</u>, pars. 24-29.</p>
Para 19	<p>"In its recent risk based approach guidance for accountants, the FATF identified these accounting functions as being the most susceptible to the potential money launderer:</p> <ol style="list-style-type: none"> Financial and tax advice Company and trust formation Buying or selling of property Performing financial transactions 	<p>Many of the services listed in this paragraph cannot be performed by professional accountants in British Columbia. For example, CPAs are not permitted to form a company or establish a trust (such services are considered to be the "practice of law" under the British Columbia <i>Legal Profession Act</i>), or buy or sell real property (either considered to be the "practice of law" under the British</p>

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	<p>e) Gaining introductions to financial institutions</p> <p>f) Maintenance of incomplete records by clients.</p> <p>g) Preparation, review and auditing of financial statements.”</p> <p>(Financial Action Task Force, 2019)</p>	<p>Columbia <i>Legal Profession Act</i> or requires a real estate license).</p> <p>Further, many of the services listed by FATF are not unique to CPAs and may also be provided by unregulated accountants, or for that matter anyone else, whether or not they are, or describe themselves as, accountants.</p>
Para 20	<p>“The most prevalent international schemes for money laundering line up well with the skills of accountants, particularly:</p> <p>a) Exploitation of the opacity of beneficial ownership (including the management {and} formation of companies and trusts, and acting as nominee, particularly in the service of corruption and securities fraud);</p> <p>b) Trade based money laundering (including accountancy services for falsified accounts and tax evasion, misuse of client accounts and of insolvency services); and,</p> <p>c) Alternate payment methods.”</p> <p>(Murray, 2018) (Financial Action Task Force, 2019) (United States Department of State: Bureau for International Narcotics and Law Enforcement Affairs, 2020)</p>	<p>Financial skills and knowledge are not unique to CPAs.</p> <p>CPAs are professional accountants who are held to rigorous standards of education, training, ethics and regulation. CPABC is not aware of any information that would suggest that CPAs in British Columbia are engaged in money laundering through any of the types of activity described in this paragraph. CPAs are also specifically prohibited from associating with any activity that they know or should know is unlawful (Rule 213).</p> <p>As noted above, CPAs in British Columbia are also not permitted to engage in the formation of companies or establishment of trusts.</p>
Para 25	<p>“Of particular concern to law enforcement are OCGs and criminals that launder funds by engaging PMLs who offer their services for a fee. PMLs coordinate operations for Organized Crime Groups (“OCGs”),</p>	<p>CPAs in British Columbia are governed by a rigorous regulatory process and Code of Professional Conduct.</p>

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	<p>individual criminals, and also themselves. <i>This type of criminal can include corrupt and dishonest professionals such as accountants, bankers, and lawyers [emphasis added], as well as owners or affiliates of money services business and trading (import/export) companies. PMLs sell their services to OCGs and other criminals, but are often not part of the criminal activities that generate the proceeds of crime they launder."</i></p>	<p>There is no evidence that has come to CPABC's attention to suggest that CPAs in British Columbia are engaged in or helping to facilitate money laundering or terrorist financing.</p> <p>CPABC has no knowledge of whether unregulated accountants in British Columbia are engaged in or helping to facilitate money laundering or terrorist financing.</p>
<p>Para 26</p>	<p>"FINTRAC's research also points out that 'in some cases, professional money launderers occupy positions such as accountants, bankers, lawyers and MSB owners, and use their occupation, business infrastructure and knowledge to facilitate money laundering for criminal clients, providing a veneer of legitimacy to criminals and criminal organizations.'" (Financial Transactions and Reports Analysis Centre of Canada, 2015)</p>	<p>This paragraph is apparently quoting a general statement from a FINTRAC Intelligence Report dated June 2015 (included in Exhibit #194). However, beyond this general statement, the FINTRAC Intelligence Report does not provide evidence of any research conducted by FINTRAC regarding accountants specifically; nor does this general statement recognize that such positions may be occupied by unregulated accountants who are not subject to CPABC's regulatory oversight.</p>
<p>Para 27</p>	<p>"My fifth point is that again over the last five years we've seen the rise of the terrorist accountant. It sounds like a contradiction in terms. Accountants are supposed to be terribly dull people and terribly worthy, but accountants are now very important in assessing businesses for the tax or extortion they're going to pay to the terrorist organization. We need to remember that not just banks lend money, but also accountancy firms and firms of solicitors. We</p>	<p>CPABC is not aware of any evidence to suggest that its members are engaged in or helping to facilitate terrorist financing or any other type of terrorist activity.</p> <p>To CPABC's knowledge, instances of CPAs engaged in public practice lending money to clients are infrequent.</p> <p>CPABC's Code of Professional Conduct also sets out rules and guidance for CPABC members in relation to lending money to assurance clients (in particular, Rules 204.4(10),</p>

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	need to pay more attention to the accountancy profession." (Tupman, 2015)	(11), (12), and paragraph 31 of the guidance on Rules 204.1 to 204.3). CPAs' conduct is also governed by fundamental principles of ethics, including objectivity. CPABC's Code of Professional Conduct states that CPAs are not to allow their "professional or business judgement to be compromised by bias, conflict of interest or undue influence of others." (CPABC Code Preamble)
Para 30	"Our research included searching the Canadian Legal Information Institute for reported criminal cases that referenced the criminal code section. Specifically, we searched for cases related to laundering the proceeds of crime and accountant, filtered to exclude those where references were made to those tasked with summarizing or providing opinion on accounting records for court purposes."	<p>Given that para 30 of the McGuire Report covers a 28-year period, CPABC observes that there are relatively few cases listed in that paragraph.</p> <p>Moreover, of the ten cases that are listed in para 30, most appear to involve only unregulated accountants, or others, and not professional accountants.</p> <p>These listed cases do not provide credible support for the assertion that there is a systemic problem – or any problem – relating to professional accountants in British Columbia or Canada being engaged in or helping to facilitate money laundering or terrorist financing.</p>
Para 38	"The <i>Chartered Professional Accountants Act of British Columbia</i> does not define accounting services. It does define professional accounting, which is regulated by CPA BC."	The analysis in the McGuire Report regarding purported differences in how professional accountants are regulated in different provinces is irrelevant to the scope of application of Canada's anti-money laundering regime under the <i>PCMLTFA</i> , and misconstrues British Columbia's regulatory framework for CPAs under the <i>CPA Act</i> and CPABC's Bylaws.

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		<p>In particular, the McGuire Report appears to reflect a fundamental misunderstanding of the scope of CPABC’s regulatory authority over its members under the <i>CPA Act</i> and Bylaws, and the lack of relevance of the definition of “practice of professional accounting” in section 47 of the <i>CPA Act</i> to this issue.</p> <p>The definition of the “practice of professional accounting” in section 47 of the <i>CPA Act</i> does not in any way limit the scope of CPABC’s regulatory authority over its own members. That definition merely describes a subset of accounting services that may only be performed by CPAs, and which non-members are prohibited from performing (subject to specified exceptions).</p> <p>In fact, CPABC has authority under section 3(c) of the <i>CPA Act</i> “to regulate all matters, including competency, fitness and professional conduct, relating to the practice of accounting by members, students, professional accounting corporations and registered firms.” This authority is not limited by section 47, and extends to the full range of services provided by members, whether in public practice or working in industry.</p> <p>While only certain services are reviewed through CPABC’s practice review program, all services provided by and conduct engaged in by members of CPABC are subject to CPABC’s investigative and disciplinary authority, and all</p>

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		<p>members are held to the rigorous standards of CPABC’s Code of Professional Conduct across the full range of services they provide. Further, all members are subject to other regulatory requirements, for example, mandatory professional development.</p>
<p>Para 39</p>	<p>“Public practice” is defined by CPABC as meaning “providing or offering to provide public accounting services or other regulated services to the public”. That definition seems to segregate public accounting services and regulated services, the former would ostensibly fall into the category of “providing accounting services to the public” for the purpose of Canada’s anti-money laundering legislation, and the latter would be excluded. “Other regulated services” are defined to include:</p> <ul style="list-style-type: none"> a) Providing an accounting service involving summarization, analysis, advice, counsel or interpretation, other than an accounting service that is part of but incidental to the provider’s primary occupation which is not accounting; b) Providing a forensic accounting, financial investigation, or financial litigation support service; c) Providing advice, counsel or interpretation with respect to taxation matters; d) Preparing a tax return or other statutory information filing; 	<p>The McGuire Report appears to suggest that the differentiation in CPABC’s Bylaws between the definitions of “public accounting services” and “other regulated services” results in only the former being subject to the federal anti-money laundering regime under the <i>PCMLTFA</i>, because only the former constitute “providing accounting services to the public” under the definition of “accounting firm” in the PCMLTF Regulations.</p> <p>There is no basis for this assertion. All of these services are included in “public practice” as defined in CPABC’s Bylaws, and they all constitute “providing accounting services to the public”. The differentiation between “public accounting services” and “other regulated services” is relevant only to CPABC’s licensing regime for CPAs in public practice, and has no relevance to Canada’s anti-money laundering regime or the definition of “accounting firm” in the PCMLTF Regulations.</p>

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	e) Any other services described in the regulations.”	
Para 42	<p>“The uneven – and sometimes absent – definitions of ‘providing accounting services to the public’ from one province to another makes it difficult to ascertain, missing specification in the anti-money laundering legislation or in FINTRAC guidance. Firms are subject to the anti-money laundering legislation. More problematic is that self-regulation does not apply to the same spectrum of activities across the country, and therefore cannot be relied upon to ensure the fitness of participants in those activities, nor their adherence to anti-money laundering expectations.”</p>	<p>The analysis regarding the regulation of accountants in different provincial legislation is irrelevant to the examination of anti-money laundering regulation. If there are any questions regarding what services are included in Canada’s anti-money laundering regime, that is for the federal government to address in the federal legislation and regulations.</p> <p>As noted in CPABC’s response to para 38 above, CPABC has regulatory authority over all services provided by its members. The definition of “practice of professional accounting” in section 47 of the <i>CPA Act</i> has a different purpose, and does not in any way limit the scope of CPABC’s regulatory oversight over its own members. This is completely irrelevant to anti-money laundering concerns, or the scope of application of the <i>PCMLTFA</i>.</p> <p>While CPABC’s Bylaws only require members to obtain a licence to perform certain services (as described in the definitions of “public accounting services” and “other regulated services” in CPABC Bylaw 100), CPABC’s regulatory authority extends beyond those public practice services to cover all services provided by its members.</p> <p>There is no basis for the assertion in the McGuire Report that self-regulation does not apply to the same spectrum of</p>

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		activities across Canada. CPABC is not aware of any material difference between British Columbia and Alberta, Ontario, or other Canadian jurisdictions with respect to the scope of regulatory oversight that CPA bodies have over their own members.
Fn 13	“While we understand that the creation or management of legal persons or arrangements may constitute the practice of law, preparation for such transactions falls within the scope of qualifying activities of the FATF recommendations, and such activity is routinely conducted by accountants.”	<p>As noted above (in CPABC’s comment on the opening paragraph of Part 6.1 and para 81), the Law Society of British Columbia has taken an expansive view of what constitutes the “practice of law” under the British Columbia <i>Legal Profession Act</i>. CPAs in British Columbia are restricted as to their involvement in even the preparation of such transactions.</p> <p>CPABC periodically provides members with information regarding services that may be considered to be the practice of law under the British Columbia <i>Legal Profession Act</i>. The most recent example was in October 2020 regarding CPAs and BC’s corporate transparency registry.</p>
Para 49	“Perhaps because of the wording of Canada’s legislation, the FATF mutual evaluations of Canada with respect to the accounting sector have historically focused on the role of professional accounting bodies as self-regulatory organizations. That analysis does not completely cover the sector because, as explained, not all accounting services are subject to supervision. This is due to the parameters of each province’s CPA legislation, by-laws and regulations.”	As noted above in CPABC’s responses to paras 38 and 42, the McGuire Report misconstrues the scope of CPABC’s regulatory authority over all services provided by its own members. The provisions of British Columbia’s CPA legislation, bylaws and bylaw regulations do not limit the scope of CPABC’s regulatory oversight over the full range of services provided by CPABC members; CPABC has regulatory authority over all services provided by its members. In addition, these provisions do not have any

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		relevance to the scope of the definition of "accounting firm" in the PCMLTF Regulations.
Para 60	"...while provincial supervisors had tools at their disposal for effective oversight, there was 'no evidence that these are dissuasive, effective and proportionate, since no data or statistics regarding sanctions taken by these regulators on the ground of AML/CFT non-compliance issues have been made available to the assessment team.'" (Financial Action Task Force, 2008)	CPABC has not been made aware of any instances, systemic or otherwise, of its members being engaged in or helping to facilitate money laundering or terrorist financing. Further, CPABC has not had to take disciplinary action against any member or firm in relation to money laundering or terrorist financing because no such allegation has ever been made to CPABC against a member or firm. In particular, CPABC has not previously received any report or information from FINTRAC or any other agency or person regarding a CPABC member or firm being engaged in activities related to money laundering or terrorist financing.
Para 62	"Based on the outcomes of that review, and the authors' personal knowledge, practice inspections of ... Chartered Professional Accountants of British Columbia do not include anti-money laundering in their scope."	<p>This statement is true. FINTRAC has regulatory authority over anti-money laundering, and CPABC expects all of its members engaged in public practice and registered firms to comply with FINTRAC's requirements.</p> <p>The purpose of the practice review program (which includes practice inspection) is to ensure that firms are meeting professional standards; the program does not involve "audits" into any and all potential breaches of law. Practice inspections provide an opportunity for CPABC to engage with and educate its members and firms about enhancing their compliance with professional standards.</p> <p>If CPABC became aware of any type of unlawful activity (including a concern with money laundering or terrorist</p>

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		financing) during the course of a practice inspection or otherwise, CPABC would take any action considered necessary or appropriate within its regulatory mandate.
Para 62	<p>“Paragraph 102.1 of the Chartered Professional Accountants of British Columbia’s Code of Professional Conduct imposes an obligation to promptly notify their registrar upon being found guilty or pleading guilty to a criminal offence or the violation of the provisions of any securities legislation in effect in any jurisdiction, and even disciplinary process of other professional regulatory bodies. ... Rule 102.4 requires notification to the CPABC by a registrant of being found guilty of a failure to comply with the requirements or a regulatory body, or having entered into a settlement agreement in respect of compliance lapses. Guidance paragraph 2 for rule 102 holds that such offences might include money laundering or financing terrorism.”</p>	<p>Rule 102.1(a) of the CPABC Code lists a number of criminal offences, specifically including money-laundering and financing terrorism. If convicted of a criminal offence, a registrant (which includes CPABC members and firms) is required to notify CPABC after having been convicted, in any jurisdiction, of a criminal offence (paragraph 2 of the Guidance for Rule 102 includes specific reference to convictions for money-laundering and financing terrorism as requiring a report to be made to CPABC).</p> <p>CPABC Bylaw 511 requires a member to immediately notify the Registrar in writing upon being found guilty or pleading guilty to a criminal offence or a violation of the provisions of any securities legislation in effect in any jurisdiction.</p> <p>CPABC has not been made aware of any instances of any of its members having been convicted, charged, or otherwise involved in money laundering or terrorist financing.</p> <p>Rule 102.4 also imposes a general requirement for members to self-report findings of guilt for failing to comply with requirements of other regulatory bodies that are not covered by Rules 102.2 (other provincial CPA bodies) or 102.3 (other professional regulatory bodies). CPABC interprets this requirement broadly.</p>

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		<p>The guidance portion of the Rules provides the following definition of a regulatory body: “a body that has power to compel a person to appear and answer to charges relating to compliance with its requirements. In this context, such a regulatory body’s requirements include legislation that it is empowered to enforce, whether against its own members or the public generally, codes of ethics, bylaws, regulations, professional or practice requirements and similar standards. Examples of regulatory bodies include, but are not limited to, bodies that regulate competition, elections, gaming, human rights, environmental protection and health and occupational safety.”</p> <p>Further, the words “guilt” and “guilty” include findings by a regulatory body of a contravention, breach, violation, infringement and other similar term in relation to failures to comply with its requirements. Additionally, the imposition of a requirement or restriction on a registrant by a regulatory body is equivalent to “guilt”.</p>
Fn 19	<p>“Rule 201 reminds those subject to the rules that they ‘should be cognizant of and comply with the provisions of any legislative requirements pertaining to any of the registrant’s professional services’, although it could be interpreted to apply only {to} licensing related legislation based on the wording of section 201.1.”</p>	<p>This footnote refers to the guidance under Rule 201, which is rooted in the broad requirement in Rule 201.1 that “[a] registrant shall act at all times with courtesy and respect and in a manner which will maintain the good reputation of the profession and service the public interest”, coupled with the rebuttable presumptions in Rules 201.2 and 201.3. There is no valid basis to interpret this guidance as being</p>

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		confined to licensing related legislation, and CPABC does not interpret the guidance as being so limited.
Para 64	"To the extent that they cover accounting services, the provincial accountant acts, regulations, by-laws, and codes of professional conduct contain measures to <i>discourage</i> criminal involvement in regulated firms and by regulated individuals in the sector."	<p>As noted above in CPABC's responses to paras 38 and 42, CPABC has regulatory authority over all services provided by its members.</p> <p>The McGuire Report appears to minimize the language of Rule 213 of the CPABC Code of Professional Conduct, which states that the "[a] registrant <i>shall not</i> associate with any activity that the registrant knows, or should know, to be unlawful" [emphasis added].</p> <p>The Rule clearly states that members are barred from associating with any activity they know or should know to be unlawful. This is a mandatory prohibition, not merely "discouragement".</p>
Para 65	"There are some gaps in the Chartered Professional Accountants of British Columbia Code of Conduct when compared against the Handbook of the International Code of Ethics for Professional Accountants published by the International Ethics Standards Board for Accountants of the International Federation of Accountants (IFAC) (the "IFAC Handbook") ... The main divergence relevant to money laundering related to the subject referred to in the Chartered Accountants of British Columbia Code of Professional Conduct Rule 212: Handling the property of others, and the IFAC Handbook's Section	CPA Canada (and therefore, CPABC) is a member of IFAC and is required to comply with Statements of Membership Obligations (SMOs). This includes having ethical standards that are at least as stringent as the IESBA's International Code of Ethics for Professional Accountants (including International Independence Standards) (the IESBA Code) unless there are legal, regulatory or public interest reasons to differ. CPA Canada, together with provincial CPA bodies, takes the necessary steps for the Canadian CPA profession to comply with the SMOs as required for IFAC membership.

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	<p>350: Custody of Client Assets. While the former is silent on anti-money laundering measures, the latter provides that:</p> <p style="padding-left: 40px;">350.4 As part of client and engagement acceptance procedures related to assuming custody of client money or assets, a professional accountant shall:</p> <p style="padding-left: 80px;">(a) Make inquiries about the source of the assets; and</p> <p style="padding-left: 80px;">(b) Consider related legal and regulatory obligations.</p> <p>350.4 Inquiries about the source of client assets might reveal, for example, that the assets were derived from illegal activities, such as money laundering. In such circumstances, a threat would be created and the provisions of Section 360 would apply.</p> <p>(International Federation of Accountants, 2018)”</p>	<p>CPABC maintains its own Code of Professional Conduct which, through a national process, is reconciled with the IESBA Code. Following recent structural changes to the IESBA Code, CPA Canada has undertaken a detailed mapping analysis of the revised IESBA Code to ensure compliance or identify any possible gaps for consideration. Rule 212 was identified through this process and is under consideration.</p> <p>Concurrently, the CPA profession is also reviewing the IESBA Code, in its entirety, as a more principles-based code for possible adoption in Canada.</p>
<p>Para 73(a)</p>	<p>“Professionals face some difficulties to clearly determine which firms or individuals are subject to the requirement and what should be reported. The difficulty in that determination was the motivation for an entire Chapter over ten pages titled ‘Determining if the Obligations Are Applicable’ in CPA Canada’s Guide to Comply with Canada’s Anti-Money Laundering Legislation. (McGuire, 2014). The same issue was raised by the FATF in their fourth mutual evaluation in which they wrote ‘The</p>	<p>CPABC ensures that members have access to information regarding their obligations under the <i>PCMLTFA</i> and avoiding any involvement in money laundering or terrorist financing generally.</p> <p>There were over ten CPA Canada and CPABC professional development courses and seminars directly focused on money laundering between 2017 and 2020, many of which had multiple offerings and/or are available on demand and further courses are planned in the future. There were</p>

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	<p>accountants' level of awareness of AML/CTF obligations is low. The competent professional association underlined that, in the absence of guidance and outreach efforts, accountants are often unclear as to when they are subject to the AML/CFT regime." (Financial Action Task Force, 2016)"</p>	<p>additional courses offered in that period that may have contained information regarding money laundering and terrorist financing.</p> <p>Since amalgamation, CPABC has provided members with information regarding the federal anti-money laundering regime and continues to do so through its various publications. Also, CPABC has a page on its website that is dedicated to the requirements of the federal anti-money laundering regime.</p> <p>In addition, CPABC included a presentation on the avoidance of money laundering and CPAs' obligations under the <i>PCMLTFA</i> in its 2020 Member Engagement Tour. The Member Engagement Tour is an opportunity for all members to engage with CPABC's senior leadership on an annual basis.</p>
<p>Para 73(b)</p>	<p>"There is currently no explicit provision requiring that accountants pay attention to all complex, unusual large transactions that have no apparent or visible economic or lawful purpose, and it does not cover the full range of monitoring situations as stipulated in the recommendations."</p>	<p>CPAs have extensive education, training, and experience that inform their work and requires professional skepticism regarding all services provided, including complex transactions. Members are also explicitly barred from associating with any activity that they know or should know is unlawful (Rule 213).</p> <p>While there is no specific provision of the CPABC Code of Professional Conduct explicitly requiring CPAs to analyze complex transactions, CPAs undergo extensive education and training regarding professional standards and ethical</p>

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		obligations. Further, CPABC requires that its members continue their education throughout their professional career through professional development requirements. CPABC's professional development requirements include mandatory education regarding ethical obligations.
Para 76	<p>"Subsequent to the initial release of this report, the Commission provided updated reporting statistics from FINTRAC. According to those statistics, there was a single suspicious transaction filed in 2015 (presumably calculated by calendar year, given the disparity with the FATF statistics), three in 2016, one in 2017, and one in 2018. The Commission's statistics include large cash transaction reports filed by accountants, including one in 2014, fourteen in 2015, four in 2016, none in 2017, and one in 2018."</p> <p>(Financial Transactions and Reports Analysis Centre of Canada, 2020)</p>	As CPABC has not received any information from FINTRAC about these reports and as FINTRAC has not raised any concern with CPABC regarding this level of reporting, CPABC is unable to comment on these statistics.
Para 79	<p>"Indeed, credible research has pointed to accountant involvement in money laundering since it was criminalized. ... The concern here is no[t] just the use of professional expertise to arrange such a transaction, but that accounting firms' accounts or trust accounts would be used for this purpose, as a lawyer's trust account would be in a similar situation."</p>	<p>The research cited in the McGuire Report generally does not distinguish between CPAs and unregulated accountants. CPABC disputes any assertion that there is "credible research" pointing to the involvement of British Columbia CPAs in money laundering or terrorist financing.</p> <p>In particular, to CPABC's knowledge, the use of trust accounts by CPAs in public practice and their firms is infrequent.</p>
Para 80	<p>"Canada's current anti-money laundering regulations and self-regulatory practices are not effective in</p>	<p>This sweeping generalization is not supported by evidence. It does not appear to be based on fact as there is no</p>

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	<p>addressing the threat caused by accountant involvement in money laundering in British Columbia and Canada.”</p>	<p>evidence of a systemic problem or any instances of CPAs in British Columbia being engaged in or helping to facilitate money laundering or terrorist financing.</p> <p>CPABC has a number of tools at its disposal to ensure that its registrants are not engaged in and do not help to facilitate money laundering, terrorist financing, or any other unlawful activity. For example, Rule 213 prohibits members from associating with any activity that a registrant knows, or should know, is unlawful.</p> <p>CPABC is well positioned with strong regulatory oversight, control, and sanctions to manage this type of objectionable conduct. For example, if CPABC was made aware of an allegation that a registrant is or was engaged in money laundering or terrorist financing, it would undertake appropriate investigation and if necessary discipline. However, CPABC does not have any evidence to suggest this is occurring.</p> <p>CPABC only regulates its own members, who make up approximately one-third of those persons working in the accounting sector. CPABC is unaware of any systemic problems related to its registrants being engaged in money laundering or terrorist financing, but is unable to speak to unregulated accountants who are not under CPABC's or FINTRAC's regulatory authority.</p>

CPABC Comments on Recommendations in the McGuire Report

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Para 83	“The effectiveness of the regime related to the accounting sector is compromised even for those individuals and entities who do fall in scope. This is because of their lack of understanding of the application of the requirements, the historically low rate of FINTRAC examinations, the failings in risk-based approach guidance, and the limited involvement of professional accounting bodies in anti-money laundering compliance and education.”	CPABC does not agree with this statement. Through ongoing communications and education programs, CPABC provides its members and firms with resources, guidance, and support in relation to anti-money laundering and CPAs’ obligations under the federal anti-money laundering regime. This includes professional development courses, articles, and news alerts regarding legislative and regulatory updates, as well as a page on CPABC’s website that is dedicated to the requirements of the federal anti-money laundering regime.
Para 86	“The definition of accountant should be amended to include all those who perform the FATF-specified accounting service, rather than being focused on only those with professional designations.”	In principle, CPABC would support the extension of the existing federal anti-money laundering regime to unregulated accountants, while recognizing that effective implementation may be challenging. However, CPABC does not support the extension of the regime to all FATF-specified accounting services (see response to paras 87 and 88 below).
Para 87	“The scope of specified activities for client identification, client monitoring, record-keeping, and suspicious transaction reporting should be expanded to align with the specified activities of the FATF recommendations. That scope should also include preparation for those activities, rather than just their execution.”	CPABC does not support the expansion of the federal anti-money laundering regime to all FATF-specified accounting services. CPABC understands that Canada’s anti-money laundering regime as it relates to CPAs has been designed to address risk and protect the financial system, and is focused on interactions and transactions with the financial system.
Para 88	“All FATF-specified accounting services should be subject to suspicious transaction reporting, including, for instance, auditing.”	As noted above, CPABC does not support the extension of the existing federal anti-money laundering regime to all FATF-specified accounting services.

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Report Reference	Report Recommendation	CPABC Response
		<p>The FATF-specified accounting services include services which do not interact with the financial system, such as an audit and assurance services. With respect to the McGuire Report's reference to audit engagements specifically, we note that those engagements are highly regulated in Canada.</p>
Para 89	<p>"Specified activities should be subject to ongoing sanctions list screening."</p>	<p>CPABC's preliminary view is that sanctions list screening may be appropriate for triggering activities. However, CPABC would require further information before being able to endorse this recommendation.</p>
Para 90	<p>"Consideration should be given to a registry of those performing FATF-specified accounting services outside of the supervision of a self-regulatory organization, accompanied by background screening of owners, managers and key employees."</p>	<p>In principle, CPABC would be in favour of such a registry, which would apply to unregulated accountants and others providing accounting services.</p>
Para 91	<p>"Self-regulatory organizations should consider entering into formal agreements with FINTRAC to share intelligence and compliance-related information, particularly related to member discipline."</p>	<p>CPABC has not identified any impediment to FINTRAC providing information to CPABC about a member or firm of CPABC, even though to date this has not happened. If information were provided to CPABC from FINTRAC regarding the conduct of any CPABC member or firm, CPABC would review such information very carefully and take any action considered necessary or appropriate in accordance with CPABC's own regulatory mandate.</p> <p>It is unclear what, if any, information CPABC would have in its possession that would assist FINTRAC in its work. Further,</p>

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Report Reference	Report Recommendation	CPABC Response
		<p>any potential disclosure of client information in CPABC’s possession, including information obtained through practice inspections or investigations, would be subject to CPABC’s statutory confidentiality obligations in section 69 of the <i>CPA Act</i>. If systematic disclosure of information in CPABC’s possession is thought to be necessary, the <i>CPA Act</i> would need to be amended to permit such disclosure.</p> <p>It should be further noted that disclosing <u>client information</u> in CPABC’s possession would be incompatible with CPABC’s role, which is confined to regulating CPAs, not their clients. Further, disclosure of client information to FINTRAC could be harmful to CPABC’s ability to carry out its various regulatory functions, which depend on registrants providing CPABC with confidential client information when relevant in both practice inspections and investigations, on the understanding that CPABC will be required to maintain the confidentiality of that information.</p>
Para 92	“Self-regulatory organizations should include modules within their practice inspections for compliance with anti-money laundering standards, which should at least consider the most recent documented biennial effectiveness review, and a review of bank account activity.”	<p>CPABC has a robust practice review program that is designed to ensure members are meeting professional standards. As noted above, CPABC’s practice review program does not involve “audits” into any and all potential breaches of law.</p> <p>FINTRAC, with its extensive experience, expertise and knowledge regarding Canada’s anti-money laundering regime and the related issues, is the anti-money laundering oversight and compliance body for CPAs in British Columbia.</p>

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Report Reference	Report Recommendation	CPABC Response
		<p>CPABC believes that its public protection mandate is best served by having its practice review program continue to focus on evolving professional standards, while supporting FINTRAC’s work through increased awareness and education activities for its membership. CPABC sees no need to duplicate FINTRAC’s regulatory compliance program regarding anti-money laundering.</p> <p>Further, it is critically important to note that there is no evidence to suggest that there is a problem, systemic or otherwise, with CPAs in British Columbia being engaged in money laundering or terrorist financing.</p>
Para 93	<p>“Self-regulatory organizations should update their annual declaration forms to inquire about member involvement in specified activities, for the purpose of informing risk sensitive practice inspections and other inquiries.”</p>	<p>CPABC does not agree with the recommendation to pursue risk sensitive practice inspections aimed at detecting money laundering or terrorist financing. To do so would be inconsistent with CPABC’s current practice review program, which is nationally harmonized.</p> <p>If it would be helpful to FINTRAC, CPABC could review its ability to provide FINTRAC with regular access to a list of CPABC’s registered firms, to assist FINTRAC to inform its own risk sensitive inquiries.</p>
Para 94	<p>“Self-regulatory organizations should consider amending their standards to:</p> <ul style="list-style-type: none"> a. Require member self-reporting of FINTRAC-cited deficiencies which are rated by FINTRAC as serious or very serious, and 	<ul style="list-style-type: none"> a. Rule 102.4 of the CPABC Code of Professional Conduct already establishes a broad requirement for

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Report Reference	Report Recommendation	CPABC Response
	<p>consider pursuing disciplinary measures as a matter of integrity and reputation.</p> <p>b. Include anti-money laundering guidance with standards relating to handling the property of others.</p> <p>c. Include anti-money laundering guidance or references in their practice materials, including the Practitioner’s Toolkit.</p> <p>d. Prohibit the acceptance of significant volumes of cash.”</p>	<p>members to report regulatory breaches to CPABC. This would include FINTRAC-cited deficiencies.</p> <p>b. CPABC will be considering updating its guidance in relation to handling the property of others.</p> <p>c. CPABC understands that CPA Canada is currently updating the CPA Guide to Complying with Canada’s Anti-Money Laundering Regime for publication in spring 2021, following which an educational and communication effort will be undertaken by CPA Canada. CPABC understands that CPA Canada will also be reviewing other resources and considering potential updates. These resources should further enhance the ability of CPABC members and firms to meet their obligations under Canada’s anti-money laundering regime.</p> <p>d. CPABC will be considering the potential adoption of new Rules of Professional Conduct that would limit the amount of cash that members and firms engaged in public practice may receive.</p>
Para 95	<p>“FINTRAC</p> <p>a. Should upgrade its risk-based approach guidance for accountants to align with the</p>	<p>a. CPABC agrees that it would be appropriate for the FINTRAC guidance for accountants to be updated, as there are a number of regulatory changes coming</p>

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Report Reference	Report Recommendation	CPABC Response
	<p>expectations articulated in the FATF risk-based approach guideline of 2019.</p> <p>b. Should be required to include self-regulatory organizations as disclosure recipients in instances where FINTRAC has reasonable grounds to suspect that designated information relates to a current or past regulated member’s involvement in a money laundering offence or a terrorist financing offence.</p> <p>c. Should expand its examination and outreach to the sector, ideally in cooperation with the self-regulatory organizations.”</p>	<p>into effect in June, 2021. CPABC would support including the FATF risk-based approach guidelines, where relevant to the Canadian regime, in the new guidance.</p> <p>b. CPABC agrees with this recommendation, particularly for current members of CPABC. If FINTRAC identifies a concern with respect to a current member, CPABC would take appropriate steps within its regulatory mandate. With respect to former members, this type of information may be relevant for CPABC in the event of a future application by the former member for reinstatement of their membership.</p> <p>c. CPABC understands that FINTRAC has the requisite authority to examine professional accounting firms when it deems necessary.</p> <p>If FINTRAC wishes to seek greater outreach to members for educational purposes, CPABC would be willing to help facilitate this. However, if the cooperation of self-regulatory organizations is being contemplated for a purpose other than education, more clarification would be needed.</p>