

From: [REDACTED]
To: [Nordin, Christian FIN:EX](#)
Cc: [Primeau, Joseph FIN:EX](#); [REDACTED]
Subject: 391180 RE: Call with BC Ministry of Finance on potentially developing new regulatory framework for MSBs / current framework
Date: April 29, 2020 1:36:12 PM
Attachments: [MSB MOF Inquiry FINAL 2020 04 29.pdf](#)

Hi Christian;

Thanks for reaching out, we actually just finalized the response today, please see attached.

With respect to having members of the association on a call, I believe you have already talked with Mike Cox and that he has provided some other contacts for you to follow up.

Are you looking for others, as at this time, we have not heard back from any of our other members beyond that.

This is typical, in many cases when we ask these types of consultation of these sorts.

If you like, we can send out an email again asking and perhaps attached the PDF we just sent you, maybe that will work to spur them up.

Please do let me know if you wish to have a copy of the attached mailed as well.

Sincerely

Joseph Iuso
Executive Director
Canadian MSB Association
[REDACTED]

From: Nordin, Christian FIN:EX [REDACTED]
Sent: April 29, 2020 1:23 PM
To: [REDACTED]
Cc: Primeau, Joseph FIN:EX [REDACTED]
Subject: RE: Call with BC Ministry of Finance on potentially developing new regulatory framework for MSBs / current framework

Hi Joseph,

Just wanted to confirm if the CMSBA was still planning on sending a submission before the consultation deadline this Thursday?

We would really appreciate it if we could also have an opportunity to speak with you/CMSBA to get a better understanding of the industry and your membership's needs in BC. We're interested in any

feedback or suggestions the CMSBA or its membership has. If there are any specific CMSBA members we should also follow-up with, please let me know.

Thank you,

Christian

From: Nordin, Christian FIN:EX [REDACTED]
Sent: April 2, 2020 10:55 AM
To: [REDACTED]
Subject: RE: Call with BC Ministry of Finance on potentially developing new regulatory framework for MSBs

Hi Joseph,

Thanks for the update. Is there any chance that you (and any other CMSBA representatives if you like) would be available for a call in the next week or two? We are just trying to get some initial feedback before the deadline.

Thanks,

Christian

From: [REDACTED]
Sent: March 27, 2020 9:06 AM
To: Nordin, Christian FIN:EX [REDACTED]
Subject: RE: Call with BC Ministry of Finance on potentially developing new regulatory framework for MSBs

Hi Christian;

Thanks for the follow up, yes, we have received this and also replied to one of the other emails. It has been noted and we do intent to provide a response as part of the CMSBA

Sincerely,
Joseph

From: Nordin, Christian FIN:EX [REDACTED]
Sent: March 27, 2020 12:00 PM
To: [REDACTED]
Subject: Call with BC Ministry of Finance on potentially developing new regulatory framework for MSBs

Hi Joseph,

Not sure if you received the email below, but we were hoping to have a call with yourself and any other CMSBA representatives before the close of the consultation (the deadline has been extended to April 30th). I completely understand if you're too busy under the current circumstances, but please let me know if you think you may be available to give any initial thoughts on the consultation before the deadline.

Thank you,

Christian

Christian Nordin
Policy and Legislative Analyst
Policy and Legislation Division
Ministry of Finance
[REDACTED]

From: Nordin, Christian FIN:EX

Sent: March 16, 2020 1:47 PM

To: [REDACTED]

Subject: Call with BC Ministry of Finance on potentially developing new regulatory framework for MSBs

Dear Joseph,

As you know, the BC Ministry of Finance is conducting a public consultation to potentially develop a new regulatory framework for money services businesses in British Columbia and protect the people who depend on their services.

The MSB Review is part of the response to the Expert Panel on Money Laundering in BC Real Estate recommendation to develop a regulatory regime for money services businesses in the province.

The news release [<https://news.gov.bc.ca/releases/2020FIN0012-000399>] and consultation paper [<https://engage.gov.bc.ca/app/uploads/sites/121/2020/03/MSB-Consultation-Paper.pdf>] provide more information.

We were hoping to have an opportunity to speak with yourself and any other Canadian Money Services Business Association (CMSBA) representatives you feel would be appropriate via teleconference before the feedback deadline of April 17th.

Would you be available in the next few weeks to provide CMSBA's initial thoughts/feedback prior to any formal submission?

Thank you,

Christian Nordin
Policy and Legislative Analyst
Policy and Legislation Division
Ministry of Finance





204-370 Main St E
Hamilton On L8N 1J6

MSB Consultation
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W 9V1
Attn: Policy & Legislation Division

April 29, 2020

Re: Ministry of Finance Inquiry into Regulating Money Service Businesses in BC: Request for Input from the Canadian Money Service Business Association

Dear Policy & Legislation Division,

The Canadian Money Service Business Association (CMSBA) is pleased to provide a response to the request for review of the consultation paper put out by your department.

There are approximately 1000 Money Service Businesses (MSBs) registered with FINTRAC. MSBs include Foreign exchange dealing, Remitting or transmitting funds, Issuing or deeming money order or similar negotiable instruments, and Dealing in virtual currency. They play a critical role for Canadian families and businesses. MSBs serve Canadians of diverse origins who need the ability to send funds to and receive funds from family members in foreign countries, and sometimes higher risk countries. MSBs also serve Canadian businesses that compete in a global world by providing them with the ability to pay suppliers or receive payments from clients across the planet, including some higher risk countries. Finally, MSBs also serve Canadian charities that provide aid globally, sometimes in higher risk countries and countries that are not well-served by the banking sector.

MSBs provide services to jurisdictions that are underserved by institutions like banks and credit unions. Their services are generally provided at more affordable prices. MSBs are a fundamental part of the Canadian economy and culture.

Below are the original questions in bold from the "Consultation Paper" and our response in regular text.

1) How would you describe the current state of the MSB industry in BC? Are the trends presented here representative of the BC marketplace?

Generally, the CMSBA views regulation as something that needs to be minimized rather than increased when it comes to the vast majority of MSBs who comply with the existing PCMLTF Act and Regulations (PCMLTFA/R). That being said, we do not see a conflict with a licensing regime in BC that is similar to Quebec's when it comes to scrutinizing the suitability of a new MSB to operate in BC. Many of the new MSBs that have operated in BC and are newly registered at FINTRAC are able to operate for up to 2 years or more before being identified as not in conformance with the PCMLTF Act and Regulations. Therefore, closing the gap in the registration process and the up to 2 years (or more) before FINTRAC does its first



examination, would be welcomed, as it would weed out most of the non-compliant entities in the beginning of the registration process.

The approach employed in Quebec today seems to resolve this gap.

2) Are there any other trends, challenges or industry developments in BC outside of what is presented here? Is de-risking a concern for MSBs operating in the province?

In today's environment it is very difficult for MSBs to obtain and keep a bank account. As part of any provincial implementation, Financial Institutions in British Columbia should be required to remove MSB's that are both provincially and federally registered from their high-risk category if they have no history of material non-compliance. This would enable the creation of a better account opening process to offer banking services to MSB's thereby generating a more competitive environment for BC residents.

The current challenge is that Financial Institutions are not compelled by the Canadian Banking Regulator (OSFI) or the Bank Act to provide banking services to MSBs, regardless of their standing or compliance with the PCMLTF Act and Regulations.

Finally, we agree with the studies that are referenced in the consultation paper that there should be some "suitable course of redress" and feel that an Ombudsman without any powers is an exercise in futility given it has not worked to date with any degree of success.

3) If BC were to regulate MSBs, what kind of customer identification, record keeping, transaction reporting and other compliance requirements should a provincial regulatory regime have?

The main concern the CMSBA has with an additional licensing regime, and thus further regulations, is that it may generate additional burden on existing MSBs that are in good standing and meeting their obligations under the PCMLTF Act and Regulations. We believe that once an MSB has passed the 2-year or more mark with its first FINTRAC exam, it is likely the MSB will remain in good standing.

As some MSBs operate in multiple jurisdictions, they already a heavy cost burden to implement their AML regime. Another regulator with similar requirements would put these MSB enterprises at a disadvantage to those that only operate in one or two jurisdictions. The CMSBA is also concerned that a future B.C regulatory body may drive MSB businesses away from the province, as we have seen Quebec, because the cost burden would be quite high for smaller MSB's presently operating in the province. This would have the effect of reducing the number of operational MSBs, thereby making MSB services less competitive in the province and driving up consumer costs

4) If BC were to regulate MSBs, which entity should be the provincial regulator and why?

Generally, the CMSBA views regulation as something that needs to be minimized rather than increased when it comes to the vast majority of MSBs who comply with the existing PCMLTF Act and Regulations. That being said, we do not see a conflict with a licensing regime in BC that is similar to Quebec's when it comes to scrutinizing the suitability of a new MSB to operate in BC.

The vast majority of MSB's in this country are fully compliant with the PCMLTF Act and Regulations and are run by law-abiding Canadian citizens.



i) The creation of a specialized, multidisciplinary financial investigation unit that could make effective use of the available information and provide the basis for the use of administrative sanctions and prosecution of provincial and criminal offences;

The CMSBA understands that in the last federal budget there was an allocation of funds to create ACE (Anti-money laundering action and co-ordination) groups across Canada to accomplish these goals. We feel that any specialized unit that would be able to effectively and efficiently investigate, prosecute, and shut down unlicensed MSBs would be welcomed. We are aware that some ACE groups have started, and others are still in the works. It may be worthwhile for B.C. to align with this initiative to deal with unlicensed MSBs across Canada.

It would also be most helpful if a dedicated whistle-blowing information outlet was created to easily report unregistered MSBs operating in the jurisdiction while protecting the whistle-blowers' anonymity. Such a whistle-blower program may also alleviate reprisal from any type of "tipping-off" offence related to the PCMLTF Act and Regulations.

Finally, the CMSBA is not averse to a similar program that the US has implemented as outlined in the consultation paper, however, it should be a balanced approach to ensure duplication of examinations and other activities that FINTRAC undertakes today doesn't cause undue burden for MSBs.

5) Should agents and mandataries have to report in a potential provincial MSB regulatory regime?

The CMSBA believes that regulations involving a regulated entity's agents and mandataries should mirror the requirement under Part C of Schedule 1 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations which includes that an MSB must provide FINTRAC Registration information on all of its agents, mandataries and branches. In particular, the MSB must provide:

- Trade names, operating names and legal names of every agent or mandatary
- Business address, business telephone number and, if applicable, business e-mail address and website of every agent, mandatary or branch
- Activity or activities referred to in item 9 of Part A that are carried out by agent, mandatary or branch
- Where agent or mandatary is not a person or entity to which Part 1 of the Act applies, address of all locations where the activity or activities referred to in item 9 of Part A are carried out
- Relationship to applicant (whether agent, mandatary, branch or other).

Therefore, we believe that if this information is coordinated and shared between FINTRAC and the proposed B.C regulator, much like in the US model, duplication of effort, and thus costs/resource burden for MSBs would be manageable.

6) Should WLATMs be included in a provincial definition of MSBs? Are there any other businesses or activities that should be included or excluded beyond FINTRAC's definition?

WLATM is largely beyond the scope of a Money Service Business regulation as not much of it would apply. To the best of our knowledge Quebec licensing/regulations of the WLATM businesses has not really seen any effectiveness in combating Money Laundering or Terrorist Financing despite the consultations paper



assertion to the contrary. We believe licensing will not prevent the obfuscation related to nominees and other law enforcement concerns.

We acknowledge that dealing in cash-related money laundering and predicate offences is already a criminal offence and that if the intent is to stop this type of activity, then all other cash-intense business should be considered for some sort of licensing regime. These would include restaurants, resorts, and many other businesses that are just as vulnerable to risk emanating from the use of cash.

7) Should AML be the primary or only focus of a provincial MSB regulatory regime? Why or why not?

The vast majority of MSB's in this country are fully compliant with the PCMLTFA/R and are run by law-abiding Canadian citizens. It is the sincere hope of the CMSBA that the B.C Government recognizes this fact and does not place disproportionate and unnecessary regulation and oversight on an industry that is already regulated by the PCMLTFA/R. To be clear, the CMSBA's main concerns are with unlicensed MSBs operating without any oversight and in the shadows skirting existing laws and regulations. Further regulations will not solve this.

8) Should consumer protection and market conduct be part of a potential provincial MSB regulatory regime? Are there other more effective ways to ensure consumer protection, especially for vulnerable groups?

The CMSBA strongly encourages future provincial legislation establishing a way to confirm evidence of compliance with the legislation as soon as the MSB becomes registered. There is currently a considerable delay in verification which ultimately undermines the authority of the regulations and leaves the consumer falsely believing they are dealing with a compliant, regulated entity. This is especially important to consumer protection for vulnerable groups.

9) Should prudential and financial stability regulation be part of a potential MSB provincial regulatory regime? If so, what types of measures should it include? Are there specific types of MSBs that have a greater solvency and/or stability risk?

The CMSBA submits that additional prudential and financial stability regulations implemented by any regulatory body must encourage and enable fair banking access for MSBs that operate within the existing PCMLTFA/R. Therefore, the CMSBA is not averse to further prudential and financial stability regulations as long as this is taken into account. Otherwise, additional regulation is likely to become an impediment to fair banking, and to generate more reasons for Banks and Credit Unions to refuse banking services to MSBs.

10) What steps should be taken to avoid regulatory overlap with FINTRAC and other regulators/entities with a provincial MSB regulatory regime?

Generally, the CMSBA views regulation as something that needs to be minimized rather than increased when it comes to the vast majority of MSBs who comply with the existing PCMLTF Act and Regulations.

That being said, we do not see a conflict with a licensing regime in BC that is similar to Quebec's when it comes to scrutinizing the suitability of a new MSB to operate in BC. Many of the new MSBs that have operated in BC and are newly registered at FINTRAC are able to operate for up to 2 years or more before



being identified as not in conformance with the PCMLTF Act and Regulations. Therefore, closing the gap in the registration process and the up to 2 years (or more) before FINTRAC does its first examination, would be welcomed, as it would weed out most of the non-compliant entities in the beginning of the registration process. The approach employed in Quebec today seems to resolve this gap.

11) What measures could BC take to minimize regulatory costs and burden for MSBs in a provincial regime? How can BC ensure that competition and access to MSBs are not adversely impacted by a potential regulatory regime?

The CMSBA feels regulations implemented by another regulatory regime would put further burden on MSB's which would drive up their costs of compliance with the PCMLTFA/R if not done in a coordinated manner with FINTRAC to eliminate duplication of requirements between the two.

12) Are there alternatives to direct regulation of MSBs that would be more efficient and/or more effective?

At this time, the consultation paper has provided many aspects to various alternatives and given the above responses, there is nothing further to add to this question's response.

13) Are there any other implications or unintended consequences of a provincial MSB regulatory regime? What measures could mitigate these?

At this time, the consultation paper has provided many aspects to various implications and given the above responses, there is nothing further to add to this question's response.

Sincerely,

Joseph Iuso
Executive Director
Canadian MSB Association