

Chapter 1

Notices

1.1 Notices

1.1.1 Notice of Memorandum of Understanding for Information Sharing Between the Ontario Securities Commission and the Financial Transactions and Reports Analysis Centre of Canada

Notice of Memorandum of Understanding for Information Sharing Between the Ontario Securities Commission and the Financial Transactions and Reports Analysis Centre of Canada

The Ontario Securities Commission has recently entered into a Memorandum of Understanding with the Financial Transactions and Reports Analysis Centre of Canada concerning information sharing related to compliance oversight of firms registered with the OSC and who are subject to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the “MOU”). The MOU provides a framework for information-sharing in order to assist the OSC to meet its mandate and to co-operatively rationalize the compliance burden placed on OSC registrants.

The MOU is being published today in the Bulletin in accordance with section 143.10 of the *Securities Act* (Ontario). This MOU was delivered to the Ontario Minister of Finance on November 19, 2020 and is subject to Ministerial approval.

Questions may be referred to:

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Deputy Director – Registrant Conduct
Compliance and Registrant Regulation
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Compliance and Registrant Regulation
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MEMORANDUM OF UNDERSTANDING

BETWEEN: THE FINANCIAL TRANSACTIONS AND REPORTS ANALYSIS CENTRE OF CANADA

represented by the Chief Compliance Officer of FINTRAC and herein referred to as "FINTRAC"

AND: THE ONTARIO SECURITIES COMMISSION

represented by the Acting Chair and Chief Executive Officer and herein referred to as the "OSC",

hereinafter individually a "Party" and collectively referred to as the "Parties".

WHEREAS the Parties wish to establish a framework for sharing information between FINTRAC and the OSC in order to assist them in meeting their respective mandates, and to cooperatively ensure rationalization and reconciliation of the compliance burden placed on OSC registrants of their respective activities in this regard.

The Parties have reached the following understanding:

1 INTRODUCTION

1.1 This Memorandum of Understanding (the "**MOU**") addresses exchanges of information between the Parties.

1.2 FINTRAC is Canada's financial intelligence unit. Its mandate is to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities, while ensuring the protection of personal information under its control. FINTRAC was established by, and operates within the ambit of, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the "**PCMLTFA**") and its Regulations.

1.3 The OSC is an independent Crown corporation that is responsible for regulating the capital markets in Ontario. The OSC's statutory mandate is to provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets, and to contribute to the stability of the financial system and the reduction of systemic risk. The OSC's powers are derived from the *Securities Act* (Ontario), the *Commodity Futures Act* (Ontario), and certain provisions of the *Business Corporations Act*.

1.4 Notwithstanding anything herein, FINTRAC will use any information received pursuant to this MOU solely for the purpose of ensuring compliance with Parts 1 and 1.1 of the *PCMLTFA* (such as record-keeping, client identification, policies and procedures, training, risk assessments and program review).

2 OFFICIALS

2.1 The following officials, for the Parties, and as may be amended from time to time, have overall administrative responsibility for this MOU:

For FINTRAC:

Regional Director
Financial Transactions and Reports Analysis Centre of Canada
655 Bay Street – Suite #304
Toronto ON M5G 2K4

Telephone: 416-952-0116

Fax: 416-952-0134

For the OSC:

Director, Compliance and Registrant Regulation
20 Queen Street West – 20th Floor
Toronto ON, M5H 3S8

Telephone: 416-593-8101

2.2 The Parties may name other officials for other purposes in relation to this MOU.

3 CONFIDENTIALITY

Confidential Information

3.1 Notwithstanding anything else herein, the Parties will not provide information to the other Party if doing so would contravene any relevant legislation, policies, or guidance documents. Each Party will ensure that all information received from the other Party (the “**Confidential Information**”) will be kept confidential and will make reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, or disposal of the Confidential Information.

Disclosure to Third Parties

3.2 Neither Party will disclose any Confidential Information to any third party without the written consent of the other Party except as required by law. Where disclosure of Confidential Information to a third party may be required by law, the Party that may be required to disclose the Confidential Information will give notice to and consult with the other Party on how to protect their interests and the interests of any third party whose information may be disclosed, in any applicable review or process in light of the disclosure requirement. The Party that may be required to disclose the Confidential Information will give such notice promptly after it becomes aware of the possible disclosure requirement.

4 ADMINISTRATIVE DETAILS

4.1 Date in effect

This MOU will come into effect on the later of:

- a. the date the MOU is signed by both Parties; and
- b. the date determined in accordance with the OSC's applicable legislation.

This MOU shall remain in effect until terminated by the Parties in accordance with section 4.3 or section 4.4.

Additions and amendments

4.2 This MOU may be amended at any time with the mutual consent of the Parties, and such amendments may be effected by an exchange of letters between the persons occupying the positions of the signatories to this MOU.

Termination

4.3 This MOU will be terminated thirty (30) days from the date one Party gives written notice to the other Party of their intention that the MOU be terminated. For this purpose, notice must be given by a person occupying the position of the signatory to this MOU.

4.4 This MOU may be terminated at any time, with the mutual consent of the Parties, through an exchange of letters between the persons occupying the positions of the signatories to this MOU.

5 NATURE OF THIS MOU

This MOU is an administrative understanding between the Parties and is not intended to be legally binding or enforceable before the Courts.

6 INFORMATION THAT MAY BE DISCLOSED BY THE OSC TO FINTRAC

6.1 The OSC agrees to disclose to FINTRAC the following information:

- a. on an annual basis, a list of firms registered with the OSC;
- b. a copy of the OSC 's procedures used to determine if an OSC registrant has policies and procedures in place to address the following required elements of an anti-money laundering (“**AML/ATF**”) compliance program:
 1. appointment of a compliance officer to oversee the AML/ATF compliance program;
 2. the existence of written AML/ATF compliance policies and procedures;

3. the existence of an AML/ATF risk assessment process;
 4. the existence of an ongoing AML/ATF training program; and
 5. the existence of an AML/ATF compliance program effectiveness review process (collectively, the “**Compliance Program Requirements**”);
- c. on a semi-annual basis, any findings made by the OSC pursuant to subsection 6.1(b) above about any OSC registrants;
 - d. upon request, any other information held by the OSC about those OSC registrants about whom the OSC has made findings pursuant to subsection 6.1(c) above, provided that the OSC may redact or decline to provide such information where appropriate at the OSC’s discretion; and
 - e. upon receipt by the OSC of the names of the firms FINTRAC plans to examine pursuant to subsection 7.1(b) below, whether any such firm has been referred within the OSC for further regulatory action.

7 INFORMATION THAT MAY BE DISCLOSED BY FINTRAC TO THE OSC, PURSUANT TO SUBSECTION 65(2) OF THE PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

7.1 FINTRAC agrees to disclose to the OSC the following information:

- a. on an annual basis, a list of OSC registrants examined by FINTRAC and the examination outcomes, including:
 - (i) No Further Action;
 - (ii) Consider Follow-up Activity; and
 - (iii) Consider Enforcement Activity.

The OSC may use this information as part of its risk assessment in determining which OSC registrants it plans to review;

- b. in February of each year, the name of each OSC registrant that FINTRAC plans to examine for compliance with Part 1 and / or 1.1 of the *PCMLTFA* in the coming fiscal year;
- c. as they become available, planned dates for the examinations set out in subsection 7.1(b) above; and
- d. upon request by the OSC, copies of correspondence, including findings letters, between FINTRAC and an OSC registrant.

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IN WITNESS THEREOF, this Memorandum of Understanding is signed in duplicate, each copy being equally authentic.

SIGNED in Ottawa, Ontario this 22 day
of October, 2020

SIGNED in Toronto, Ontario this 18th day of November, 2020

**FOR THE FINANCIAL TRANSACTIONS AND REPORTS
ANALYSIS CENTRE OF CANADA**

FOR THE ONTARIO SECURITIES COMMISSION

"Donna Achimov"

"Grant Vingoë"

DONNA ACHIMOV

Chief Compliance Officer, Financial Transactions and Reports
Analysis Centre of Canada

GRANT VINGOE

Acting Chair and CEO of the Ontario Securities Commission