



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

Office of the President
Cabinet de la présidente

May 11, 2018

Via email: fin.fc-cf.fin@canada.ca

Lisa Pezzack
Director General
Financial Systems Division
Financial Sector Policy Branch
Department of Finance
90 Elgin Street
Ottawa ON K1A 0G5

Dear Ms. Pezzack:

Re: Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime

The Canadian Bar Association is pleased to respond to the Department of Finance consultation paper, "Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime."

The CBA is a national association of over 36,000 lawyers, Québec notaries, law students and law teachers. We are dedicated to supporting the rule of law and improving the administration of justice in Canada, which includes an independent Bar and respect for solicitor-client privilege. The CBA's work on anti-money laundering is guided by the CBA Ethics Subcommittee, with input from CBA sections with a variety of expertise.

The CBA supports the federal government's efforts to combat money laundering and terrorist financing in compliance with Canadian constitutional requirements. Our submission to the House of Commons Finance Committee, currently conducting a statutory review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) is appended. Our comments here are directed at the section in the consultation paper titled "The Legal Profession in Canada."

The CBA takes issue with comments in the consultation paper on "the lack of inclusion of the legal profession in Canada's AML/ATF framework." The Supreme Court of Canada has declared provisions in the PCMLTFA to be of no force and effect to the extent they apply to legal counsel and law firms because these provisions do not comply with the constitution. This does not mean there is no AML/ATF framework in place for the legal profession. Like all citizens, lawyers are subject to criminal prosecution when they violate the law, including the prohibition against money

laundering. Unlike other citizens, lawyers are also subject to regulation by law societies, whose rules include robust measures to address the risks associated with money laundering and terrorist financing. Some of these rules are more stringent than those under the PCMLTFA, and these rules continue to evolve as does the PCMLTFA.

The CBA believes that we can work together to improve Canada's AML/AFT framework. We welcome the Department's stated intention to reach out to law societies and bar associations to find solutions. If, as the government has stated, legal professionals play an "integral part" in combatting money laundering and terrorist financing, it will be essential to bring the profession's knowledge of risks, challenges and workable responses to the table.

We look forward to hearing from the Department.

Yours truly,

(original letter signed by Kerry L. Simmons)

Kerry L. Simmons, Q.C./c.r.