

Closing Submission to the
Cullen Commission of Inquiry into Money Laundering in British Columbia
by The Society of Notaries Public of B.C. ("the Society")

July 9, 2021

Introduction

1. The Commission of Inquiry into Money Laundering in British Columbia – Austin R. Cullen Commissioner (hereinafter referred to as "CCI") has heard from over 200 witnesses over more than 120 days of hearings. 1024 Exhibits, Thousands of documents and many gigabytes of data have been submitted, presented, and considered. The 135 transcripts of evidence alone total 73 M.B. of information.
2. It is necessary now to reflect on what has been learned and what remains unclear. The mandate of CCI was necessarily constrained to a limited number of issues.
3. However, the evidence touched on many important matters that should not be ignored by readers of the materials and the forthcoming final report.
4. We direct the attention of CCI again to our opening statement. (<https://cullencommission.ca/data/transcripts/2020%2002%2025%20Hearing%20Transcripts%20-%20Opening%20Statements.pdf>)
5. We can advise that a Memorandum of Understanding between the Society and The Financial Transactions and Reports Analysis Centre Of Canada ("FINTRAC") been finalized. A copy is attached as Appendix "A" to this submission.

"Bring Administration of Justice Into Disrepute."

6. This phrase appears thousands of times in the CanLII (www.canlii.org) database of Canadian legal decisions. While usually used in the context of the admission of evidence in criminal proceedings and the Charter of Human Rights, it is also a broader reference to the idea that the reputation of our system of justice (and civil administration) is to be protected and maintained. It is clear that regarding the complex issues considered by CCI, there is concern that somehow our judicial, political, and administrative systems have failed.
7. We will focus in this submission on matters relating to real estate, our civic institutions such as the Torrens Land Registration system administered by the LTSA, and the professional regulation of those that use and rely on these systems.

8. Calls for the establishment of CCI came from dramatic tales of questionable goings-on in B.C. Casinos. This "news" coincided with rapid inflation in house pricing and widespread concerns about affordability. So naturally, there is a deep desire to understand what has and is happening in the realm of B.C. real estate.
9. In our comments at the initial public forum in Vancouver, we brought in a selection of books to recommend to the Commission. The story of Vancouver and related concerns about real estate goes back to the beginnings of the City.
10. The question of affordability and the concerns about who is doing the buying are not new issues. The evidence of David Ley and others put the concerns into a historical perspective. We did not hear significant new evidence that "money laundering" is the primary or even a substantial cause of the lack of affordability of Vancouver real estate.
11. We did hear quite direct evidence of criminal behaviour associated with casino gambling and loans made to bankroll that gambling. It is not surprising that the parties involved (borrowers and lenders) used various real estate documents to enable and secure these transactions. It is a giant leap to go from the evidence of loans and some dubious security associated with the funding of gambling and washing of drug sale cash to any claims that the answer to what has gone on in the Vancouver real estate market has been found.
12. As the American journalist H.L. Mencken is reputed to have said, "For every complex problem, there is an answer that is clear, simple, and wrong." We do not in any way want to minimize the remarkable and clear evidence of what is likely criminal behaviour facilitating money laundering and exploiting desperate, addicted gamblers. However, careful analysis is needed when "solutions" that will impact hundreds of thousands of legitimate transactions by increasing cost and complexity are considered.
13. We suggest that on a consideration of the evidence presented to the CCI:
 - a. There is no solid evidence of the dollar value of money laundering. The Maloney report contained many caveats when estimating the dollar value of money laundering in B.C. Presentations by the authors of that report repeatedly stated the problem of "estimating the inestimable" Their caution was overshadowed by reporting and commentary that focused on numbers in the billions.
 - b. The impotence of criminal law and justice has been made plain for all to see. For all the many sincere efforts of individuals in police and other agencies, the system itself has not and cannot, as currently conceived, bring "justice" to bear on economic crimes such as money laundering. There has been remarkably little punishment and minimal deterrence.
 - c. Key justice system issues fall into the "too hard" pile, as well as being clearly not within the scope of the Commission. Cases such as

Stinchcombe and Jordan have become untouchable "holy writ," ensuring that justice in the larger community sense is not done. These developments in criminal law are of course based in thoughtful considerations of the Charter of Human rights and Freedoms.

14. Remarkable, even shocking, evidence has been presented in regard to issues in B.C.'s casinos. We did not hear evidence about such matters as public health issues concerning what is euphemistically referred to as "gaming." The toll taken by addiction to gambling is well documented and studied here and around the world.
15. There is an enormous literature on the social harm arising from gambling. Governmental and non-profit health organizations The evidence before the Commission shows how desperation arising from "gaming" at casinos lead to remarkable crimes – including the use of real estate to take security for loans to vulnerable addicted gamblers. While not in the mandate of the Commission, it is difficult to ignore some of the "root causes" of what are very problematic transactions. To use the title of a book on the Casino industry, we cannot be surprised that systems that entice "playing to extinction" actually have that result. (https://www.amazon.ca/Addiction-Design-Machine-Gambling-Vegas/dp/0691160880/ref=sr_1_1?dchild=1&keywords=Addiction+by+Design%3A+Machine+Gambling+in+Las+Vegas&qid=1623697166&sr=8-1 , See for example these resources <https://cgr.psych.ubc.ca/> The Centre for Gambling Research at UBC, <https://www.greo.ca/en/index.aspx> GREO - Gambling Research Ontario, and <https://howardleague.org/commission-on-crime-and-problem-gambling/research-commissions/> Commission on Crime and Problem Gambling
16. Without information on the addiction side of "gaming," making sense of what seems to be the utterly implausible behaviour by the casino "Whales" has been wholly focused on the well-documented use of cash and the provision of that cash by a complex system of business and facilitators here in B.C. That some of the desperation was financed by questionable mortgages or secured by wrongful use of claims of builders liens does not indicate fundamental or widespread misuse of the standard real estate documents and security arrangements.
17. CCI has heard some evidence on the "bigger picture" regarding real estate. Dr. David Ley and others give some historical context to investment in B.C. and the reasons for it. In addition, dozens of books and hundreds of academic papers document changes in the global economy, capital flight, the economic preferences and behaviour of a vast number of wealthy world citizens.
18. These studies consider in-depth the "financialization" of real estate and its importance as an asset class to millions of "HNW" – high net worth individuals from all over the world. This massive increase in wealth – and the need to do something with it is both a remarkable success story and a global problem that has bedevilled governments worldwide.

19. This is a classic good news/ bad news story. Political and cultural institutions of all kinds have struggled with creating effective policies and laws to deal with globalization, capital outflows and the impact of incoming funds and asset purchases.
20. There is a strong belief – without evidence - that the incredible inflow of money must be the result of predicate crimes and that the use of the money here is, therefore, money laundering.
21. It is within the power of the Provincial government to control and legislate who can purchase B.C. real estate and to impose related taxes. This was recently confirmed by the B.C. Court of Appeal in *Li v. British Columbia*, 2021 BCCA 256 (CanLII), < <https://canlii.ca/t/jgnp> j>.
22. In the '70s, in response to concerns about European investment, a B.C. law required a "Citizenship Declaration" to be filed with every land transfer. This empty "look we're doing something" measure (they were never looked at) lasted until a later government removed the requirement in the spirit of "red tape" reduction.

Burden on all transactions

23. We urge the Commission to consider the impact of proposed new laws or procedures on the many thousands of routine transactions that are part of the standard and lawful purchase and sale of property in the province. For example, the Land Owner Transparency Act ("LOTA") and the now operational registry have increased the complexity and cost of every real estate transaction.
24. We expect that by far, the most common need to make a LOTA Transparency Report will arise from the common situation where a lender requires a party to be on title. In the past, the need for additional loan security was handled by the use of Guarantors or Covenantors. Now it is common for the major lenders to require a family member to be added to the title as, for example, a 1% owner. They are, of course, 100% responsible on a personal covenant for the loan. Almost always, the family is not of the view that "Mom" or "Brother" has an actual beneficial interest. The understanding is that they are holding a small legal interest in trust for the family member that will be living in the property. There is nothing criminal, of course, about this. It is families doing what families do – assisting each other with the complexities of life and legal requirements.
25. It is difficult, of course, to write a law along the lines of "only criminals and money launderers need comply." And no matter what is written, criminals will find a way to avoid the law. The complex challenge is to create public law and policy that makes an actual difference, not just the appearance of one. Public support for proposals and the willingness to be burdened by them will come from confidence that new universal measures will have universal benefits.

No actual evidence of the scope of the problem

26. We urge the Commission to be very cautious regarding any estimations of the nature and extent of money laundering in B.C. and particularly the impact of ML activity on housing affordability. There certainly is evidence of criminality, and it not in the least surprising that criminals purchase, finance, and reside in B.C. real estate. For example, evidence was lead of the use of registered land title documents such as mortgages and claims of builders lien to "secure" loans made for the purposes of casino gambling.
27. CCI heard evidence of how our civil forfeiture system has made many claims against interests in land. Unfortunately, for some, the forfeiture is just a cost of doing business that is repeated over and over. (Vancouver Sun June 15, 2020 "Alleged pot growers targeted for a third time by B.C.'s director of civil forfeiture" <https://vancouversun.com/news/alleged-pot-growers-targeted-for-a-third-time-by-b-c-s-director-of-civil-forfeiture>)
28. We need to face directly the question of what the future is, if any, of criminal prosecution for complex economic crimes and money laundering. Experts spoke of the need to "Detect, Disrupt and Deter." (Exhibit #828). Proposal for new agencies and policies that may enable prosecution and punishment have been presented and are worthy of serious consideration.
29. What seems entirely unworkable is "outsourcing" and privatizing crime deterrence to the members of our Society. With the support of the Society, they have willingly taken on their professional responsibilities that include compliance with the FINTRAC AML regime. CCI has heard conflicting evidence of the utility (and perhaps futility) of the massive, costly worldwide adoption of AML systems.
30. We urge the Commission to carefully consider the evidence given of systems in other counties and explicitly consider the potential unintended consequences of new AML regimes. We have the benefit of learning from reforms and improvements to AML measures around the world. See, for example, recent developments in the USA. (Anti-Money Laundering Act of 2020 <https://www.natlawreview.com/article/anti-money-laundering-act-2020-congress-enacts-most-sweeping-aml-legislation-passage>)

We are collecting the wrong information at wrong time from the wrong parties.

31. In the report of Adam Ross Appendix May 13, 2021, there is are a number of versions of the property tax return. It needs to be noted that the form, signed by buyers, collects information about sellers. It requires the buyer to certify the truth of the data. Starting with version 29, detailed information was collected in Part C regarding the sellers. The certification by the buyers requires the following: *"I certify and declare that the information given in this return is complete and correct in all respects. I acknowledge that the penalties for tax avoidance or providing false information are the amount of unpaid tax, plus interest and a fine*

and/or up to two years imprisonment." Our members daily have to explain this requirement to buyers who rightfully note that they have usually never met the sellers. Conflict arises as sellers are understandably reluctant to provide what they consider private information to buyers.

32. We urge CCI to consider recommendations for the fair collection of taxes. These would have very broad support.
33. For example, sellers and buyers could be required to provide timely information to taxation authorities. We recommend that this be done explicitly by the appropriate party.
34. Complex and costly systems to support elaborate data linking and mining and complex artificial intelligence analysis are not needed if the appropriate parties explicitly give direct information to the relevant agencies.
35. The utility and integrity of our B.C. land title system needs to be explicitly acknowledged. For over 150 years, it has affordably provided stability and certainty to our real estate transactions, giving both owners and lenders security. It is a system that has operated since 1861 without corruption, innovating appropriately as technology has advanced. We are very concerned about suggestions that there are significant failings with the information in our land title system that are somehow linked to crime and affordability.
36. This is not the case. If more detailed, explicit data is required, then it is well within the Provincial government's power to require and collect it.
37. We recommend that all sellers give a "notice of intended sale of real estate" to CRA before completing transactions. To do this, they would be required to have either a (1) Canadian SIN number, (2) a Canadian "B.N." for corporate entities, or (3) an Individual Tax Number (ITN) for Non-Residents (Form: <https://www.canada.ca/content/dam/cra-arc/formspubs/pbg/t1261/t1261-21e.pdf>) The proposed transaction could not be completed without validation from CRA that they have been given notice. None of the personal information need be exchanged with the other side of the transaction, just a confirmation code that can be checked by the other party and the Land Title system. For Buyers, they too would need to give notice of the acquisition of real estate to CRA based on SIN, ITN and B.N. numbers. These confirmation codes could have a "shelf life" that would expire after a prescribed period.
38. These notifications could also include information on intentions regarding property use. For example, if the property is to be rented, that should be noted so that appropriate withholding remittances and other taxes on rental income can be made. The requirement for direct notification to CRA could also apply to private mortgages so that appropriate taxes could be collected on the lending income.
39. CRA could get confirmation of the transaction by virtue of the registration of Land Title documents. If the transaction does not complete, specific notice could be

given, or CRA could note that they did not receive notification of the transaction from the Land Title system within a set period from the date of completion. This scheme would collect the right information, at the right time, from the right parties. It would not require changes to current B.C. and Federal laws regarding the rights of non-citizens to acquire B.C. real estate. (See B.C. [Property Law Act s. 39](#) and [Canadian Citizenship Act S. 34](#))

See Something Say (and share) Something

40. The Commission has heard evidence that significant wrongdoing was known, reported in the media and set out in internal documents from various parties. We need to deal with the multiple factors that lead to failures to confront significant issues and failures of public policy. With the benefit of hindsight and the information provided to the Commission, future policies can be better informed, and systems of law and justice can respond to emerging situations in practical ways.
41. A significant question is around our laws regarding whistleblowers. Are there adequate systems in place? We have not had a culture that explicitly supports "see something, say something." Problems with "Willful Blindness" are not unique to B.C. or Canada. Books such as "Willful Blindness – Why we ignore the obvious at our peril" (Margaret Heffernan) and "Willful Blindness" by Sam Cooper have canvassed this concern in ways that have strong public support.

Strong evidence of wrongdoing by a relatively few parties

42. We have heard strong evidence of wrongdoing. We urge the Commission not to avoid commenting on "systemic" issues such as the structure and function of our policing and judicial responses to crime. While Federal matters are not within the mandate of CCI, the large "elephant in the room" cannot be ignored. If the very structure of our policing model and our criminal justice system is not able to respond to known crime, it is at least worthy of some explicit acknowledgement. The danger, of course, is that if the reality of dysfunctional systems are glossed over, then we stand to perhaps to end up with ineffective responses that have significant issues for privacy and other human rights.
43. Many Canadian commissions of inquiry have dealt with the need to comment on systemic failures. See, for example, the discussion in the "Process Management Directive #2" of the B.C. "Missing Women Commission of Inquiry" where Commissioner Wally T. Oppal quotes from the observations of Mr. Justice Archie Campbell. (<https://missingwomen.library.uvic.ca/wp-content/uploads/2010/10/Forsaken-Vol-4-web-RGB.pdf>) (Also noted in "The Conduct of Public Inquiries" by Ed Ratushny at pp 385-386)
44. Surely it cannot be the goal of reform to give up on trained justice system professionals and to put "amateurs" on the front lines of crime detection and deterrence? We are concerned that this will put our members at serious personal

risk if they are to be the ones with the responsibility to detect and confront sophisticated criminals.

45. The matters considered by CCI have a global context. Useful evidence was given from many witnesses in this regard. When it comes to real estate as an asset class, many factors are at play other than crime and associated money laundering. The spectacular growth of an interconnected world economy and the associated international flow of funds together with what has been called the "financialization" of real estate cannot be ignored.
46. The Commission has heard much evidence of the cost and complexity of AML efforts and very little demonstrating the effectiveness of these regimes. Vast numbers of reports to FINTRAC and other national Financial Intelligence Units have not resulted in a significant number of criminal convictions and are of unknown deterrent effectiveness. At the very least, barriers to information sharing need to be reduced.
47. For example, the Society is more than prepared to play our part in working with other agencies and institutions to appropriately and privately share information. As the statutory regulator of Notaries Public, we need to be "in the loop" regarding concerns about the work of those we regulate. Unfortunately, current systems – both explicit and implicit – have created barriers.
48. It appears clear that many known crimes fall into the "too hard" to investigate or prosecute in a manner consistent with Canadian statute and case law. This, in our view, has brought the entire Canadian justice system into disrepute and naturally encourages the use of methods such as civil forfeiture, makes the possibility of the use of "unexplained wealth orders" attractive, and lays the groundwork for extra-judicial corruption.
49. After 9/11, the phrase "if you see something, say something" became appropriately widespread. Evidence before the Commission revealed many who saw something, yet even they then "said something," very little was done. Rarely out of corrupt intent, but more often just a sense that, given the reality of our political and justice systems, nothing could or would be done.
50. Some matters are beyond the mandate of the Commission and are properly within the jurisdiction of our Federal government. I would encourage the Commission not to be reticent when pointing out areas at the Federal level for further investigation and reform.
51. There are innovative approaches taken elsewhere that should be considered. RICO criminal laws from the USA have had success. In the U.K., taxation reforms now require reporting of information and remittance of taxes due on property sales within 30 days of the completion of the conveyance. (See for example <https://www.accountancydaily.co/capital-gains-tax-residential-property-30-day-rule>)

52. We did not hear from the Judiciary or experts on the Canadian Justice processes regarding systemic and legal issues that may be enduring issues diminishing our ability to bring "justice" to bear. For example, it is appropriate to ask if we have found the right balance between individual rights and collective justice. (See for example, the paper by an Ottawa prosecutor who is now a Justice of the Ontario Superior Court of Justice: *Julianne Parfett, A Triumph of Liberalism: The Supreme Court of Canada and the Exclusion of Evidence*, 2002 40-2 *Alberta Law Review* 299, 2002 *CanLIDocs* 126, <https://canlii.ca/t/2dbr>, retrieved on 2021-06-13

Some legal aphorisms come to mind

53. "It is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done". (Lord Hewart - *Rex v. Sussex Justices*, [1924] 1 KB 256.)

54. From Wikipedia: "Audi alteram partem (or audiatur et altera pars) is a Latin phrase meaning "listen to the other side", or "let the other side be heard as well". It is the principle that no person should be judged without a fair hearing in which each party is given the opportunity to respond to the evidence against them."

55. We heard from witnesses that discussed Prof. Andy Yan's research. We have not heard from Prof. Yan directly so that he can respond to the comments made on his work. If Prof. Yan is not to be given an audience that it would be appropriate for the Commission to give no weight to what it has heard from any witnesses that have mentioned his work.

56. Representatives of the Society gave evidence on March 5, 2021. We provided CCI with practical information on the context of real estate transactions and the typical flow of funds in those transactions. We confirmed our support for the FINTRAC AML regime. As Solicitor – Client privilege does not apply to our members they can and do corporate with investigative agencies (Subject to s. 18 of the [Personal Information Protection Act](#) .)

57. We have asked the Provincial Government to pass the appropriate regulation further to sections 28 and 34 of the [Land Owner Transparency Act](#), so the Society has the same rights as the Law Society to search the Land Owner Transparency Registry in aid of our regulation of B.C. Notaries Public and recommend that CCI explicitly endorse that step.

58. As the work our members do is "downstream" from Financial Institutions and regulated real estate, it should be permitted, and perhaps even required, that concerns about client money laundering detected and reported by these parties be explicitly reported to our members or at the least to the Society as the statutory regulator. We need to know of all reports to FINTRAC regarding our members. Unfortunately, even with our recent MOU with FINTRAC, statutory barriers block the release of information to us.

59. We have a long track record of cooperating with investigative agencies and fully support measures that may be taken to structure, fund and implement improved investigative and prosecutorial systems.

60. With this submission, we wish to acknowledge and appreciate the comprehensive work of the Commission to date. We also stand ready to provide whatever ongoing support and consultation may be helpful to CCI as work proceeds on the preparation of a final report. We can bring significant legal and practical experience to bear as policy recommendations are considered.

Thank you.

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Appendix "A"
to the July 9, 2021
Submission of The Society of Notaries Public of B.C. to the Cullen
Commissioner of Inquiry into Money Laundering in B.C.

MEMORANDUM OF UNDERSTANDING

BETWEEN:

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

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

AND:

THE SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA

(represented by the Executive Director and herein referred to as "SNPBC")
hereinafter each, a "Party", or collectively, the "Parties".

WHEREAS the Parties wish to establish a framework to share information and minimize any potential duplication or overlap of work under their respective legislative mandates and given their common interests for combating money laundering and terrorist activity financing and for protecting the public interest;

AND WHEREAS SNPBC is the regulator of professional commissioned Notaries Public in B.C., as constituted by the Constitution and Bylaws of SNPBC and in accordance with the provisions of the Notaries Act of B.C.;

AND WHEREAS SNPBC is a "Public Body" subject to the Freedom of Information and Protection of Privacy Act (*FIPPA*) of B.C.;

AND WHEREAS the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* allows for the sharing of information between the Parties;

AND WHEREAS *FIPPA* s.33.1 (1) (d) allows for disclosure of personal information in accordance with a written agreement

The Parties have reached the following understanding:

1 - PURPOSE AND APPLICATION

- 1.1 This Memorandum of Understanding ("MOU") establishes the administrative framework for the sharing of information between the Parties for purposes relating to compliance with Part 1 or 1.1 of the *PCMLTFA* (such as record-keeping, client identification, policies and procedures, training, risk assessments and program review).
- 1.2 This MOU sets out the information that the Parties may share between them for the purposes specified in subsection 1.1 of this MOU and the terms and conditions that apply to such sharing of information.
- 1.3 This MOU is a statement of intent to consult, cooperate and exchange information in a manner consistent with, and permitted by, the laws and regulations that govern the Parties. In the event of any conflict between this MOU and the laws and regulations, the laws and regulations will govern.
- 1.4 This MOU is an administrative understanding between the Parties and it is not intended to be legally binding or enforceable before the courts. In addition, this MOU does not modify the responsibilities, authority or jurisdiction of either Party under law.

2 - LEGISLATIVE AUTHORITY

- 2.1 Paragraph 66(1) of the *PCMLTFA* authorizes FINTRAC to, for the purpose of exercising its powers or performing its duties and functions under Part 3 of the *PCMLTFA*, enter into contracts, memoranda of understanding and other agreements with, among other persons or organizations, the government of a province in its own name or in the name of Her Majesty in right of Canada.
- 2.2 Subsection 65(2) of the *PCMLTFA* specifies that for the purpose of ensuring compliance with Part 1 or 1.1 of the *PCMLTFA*, FINTRAC may disclose to or receive from any agency or body that regulates or supervises persons or entities to whom Parts 1 or 1.1 applies information relating to the compliance of those persons or entities with those Parts.
- 2.3 Subsection 65(3) of the *PCMLTFA* specifies that any information disclosed by FINTRAC may be used by SNPBC only for purposes relating to compliance with Part 1 or 1.1 of the Act.
- 2.4 SNPBC may disclose Personal Information or records as authorized by Part 3 Division 2 of *FIPPA*.

3 - EXCHANGE OF INFORMATION

- 3.1 This MOU is not intended to apply universally. This MOU is only applicable in those circumstances in which both Parties agree to apply the terms of this MOU as described below.
- 3.2 The assistance and exchange of information may be made:
 - a) in response to a specific request by the other Party;
 - b) on an ongoing basis as may be mutually agreed to by the Parties;
 - c) where regulatory action in respect of a Person or Entities regulated by SNPBC and FINTRAC is taken, or may be taken; or
 - d) where a Party has information it believes may be of assistance to the other Party in carrying out its regulatory and compliance responsibilities.

4 - REQUESTS FOR INFORMATION

- 4.1 All requests for information under this MOU will be made in writing, including by secure electronic mail.
- 4.2 Each request will specify the following:
 - a) the information sought by the Requesting Party;
 - b) a general description of the matter that is the subject of the request;
 - c) the desired time period for reply; and
 - d) the contact person at the Requesting Party.
- 4.3 All information shared through this MOU will require the permission of either party prior to its disclosure to a third party.

5 - EXECUTION OF REQUESTS FOR INFORMATION

- 5.1 The Requested Party will confirm receipt of any request and make best efforts to fulfil the request in a timely manner.
- 5.2 If a request cannot be fulfilled entirely, the Requested Party will consider whether part of the information requested or any other relevant information may be provided.
- 5.3 The Requested Party may specify such restrictions on the use of the information to be provided as the Requested Party considers reasonably necessary to comply with any applicable laws, regulations or policy.

6 - CO-ORDINATION OF COMPLIANCE ACTIVITIES

Where the Parties are undertaking separate compliance activities or compliance assessments of the same Person or Entity under their respective jurisdictions, and where the Parties deem it appropriate, best efforts will be made to co-ordinate their respective activities to minimize the impact on the Person or Entity.

7 - PERMISSIBLE USES AND ACCESS

The Parties shall be entitled to use the information obtained under this MOU for the purposes of ensuring compliance with Part 1 or 1.1 of the *PCMLTFA*, as contemplated under subsection 65 (2) and (3) of *PCMLTFA*.

8 - OFFICIALS

8.1 The following officials, for the Parties, have overall administrative responsibility for this MOU:

For FINTRAC:

Regional Director Vancouver
Financial Transactions and Reports Analysis Centre of Canada
1120 - 1185 Georgia Street West
Vancouver, BC V6E 4E6

Telephone: (604) 666-8245

Fax: (604) 666-8106

For SNPBC:

Executive Director
Society of Notaries Public of British Columbia
700 - 625 Howe Street
Box 44
Vancouver, BC V6C 2T6

Telephone: (604) 681-4516

Fax: (604) 681-7258

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

9 - COMMUNICATIONS

9.1 In order to promote the best cooperation possible in administering this MOU, the Parties agree to continuously monitor the operation of this MOU and to hold meetings of their officials, at mutually agreed upon times and locations, to discuss matters related to compliance with Part 1 or 1.1 of the *PCMLTFA* and areas of mutual interest.

9.2 The Parties agree that at least one meeting will be held on an annual basis.

9.3 Both Parties will also, in a timely manner:

- a) provide notice to the officials listed above of any new activities or initiatives, or of any change in legislation, regulations, operational policies and procedures, or practices, relating to their programs that may affect the administration of this MOU;
- b) maintain close and on-going communication pertaining to their respective activities, as these may relate to any matters identified in this MOU; and
- c) where appropriate, ensure timely communication / consultation with respect to any existing issues and new or proposed measures, which may affect any activity or responsibility of either Party outlined in this MOU.

10 - ACCURACY AND LIABILITY

Each Party will make every reasonable effort to ensure that information shared is accurate, complete, and up-to-date.

11 - CONFIDENTIALITY AND SECURITY OF INFORMATION

Except for disclosures in accordance with this MOU and to the extent permitted by law, each Party will ensure that all information received from the other Party will be treated as confidential and will make appropriate security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal. Parties will not disclose the information to any other party and will use the information only for their respective purposes as set out in article 7. Unless otherwise directed in writing, each Party will store the information inside Canada and will not permit access to the information from outside Canada.

12 - COMPLIANCE MONITORING

- 12.1 Each Party will comply with all applicable legislation respecting its record keeping and monitoring of access to the information it receives from the other Party.
- 12.2 Each Party will comply with all applicable legislation in respect of all reported cases of:
- a) unauthorized access to or modification of the information in its custody;
 - b) unauthorized use of the information in its custody;
 - c) unauthorized disclosure of the information in its custody; and
 - d) breaches of privacy or security with respect to the information in its custody or with respect to any computer system in its custody that is used to access the information.
- 12.3 Where it is material to this MOU, each Party will report to the other the results of any such investigation and the steps taken to address any remaining issues or concerns about the security of the information or computer systems, or the privacy of the individuals to whom the information relates.

13 - ACCESS TO INFORMATION

The Parties acknowledge that the information provided to SNPBC may be subject to access in accordance with the *FIPPA* and information provided to FINTRAC may be subject to access in accordance with the *Access to Information Act* or the *Privacy Act of Canada*.

14 - EFFECTIVE DATE AND EXECUTION

This MOU shall come into effect immediately after it has been signed by both Parties, and shall remain in effect until terminated by the Parties in accordance with article 17. This MOU may be executed and delivered by the Parties in one or more counterparts, each of which when so executed and delivered will be deemed to be the original, and those counterparts will together constitute one and the same instrument.

15 - DISPUTE RESOLUTION

Any unresolved disagreement with respect to this MOU shall be referred to the appropriate officials who have overall administrative responsibility for this MOU or any named officials identified for this purpose for consideration and resolution. If those officials are not able to resolve the disagreement, it shall be resolved by the persons occupying the positions of the signatories to this MOU.

16 - ADDITIONS AND AMENDMENTS

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.

17 - TERMINATION

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.

18 - COST SHARING

- 18.1 The Parties agree that no costs are payable by one Party to the other Party for work routinely conducted by in accordance with this MOU.
- 18.2 In the event that FINTRAC requests to perform work, in addition to any work that SNPBC would normally undertake for compliance with Part 1 or 1.1 of the *PCMLTFA*, and that SNPBC agrees to perform such work, FINTRAC agrees to reimburse SNPBC the cost of such work in an amount agreed upon prior to the work being performed.

19 - COMPLIANCE WITH PARTS 1 AND 1.1 INFORMATION THAT MAY BE RECEIVED BY FINTRAC FROM SNPBC PURSUANT TO SUBSECTION 65(2) OF THE *PCMLTFA*

- 19.1 In the event that SNPBC establishes a compliance review program respecting compliance with Parts 1 and 1.1 of the *PCMLTFA*, to the extent permitted by law, SNPBC agrees to disclose to FINTRAC the following information, and subject always to compliance with all applicable legislation:
- a) the name of each entity that SNPBC plans to examine for compliance with Parts 1 and 1.1 of the *PCMLTFA* during a given planning period and the term of the planning period;
 - b) a copy of the SNPBC compliance review program used to review policies and procedures to ensure compliance with Parts 1 and 1.1 of the *PCMLTFA*;
 - c) a summary of the results of each compliance review undertaken by SNPBC relating to compliance with Parts 1 and 1.1 of the *PCMLTFA*;
 - d) a copy of the correspondence between SNPBC and any entity regarding any compliance deficiencies with Parts 1 and 1.1 of the *PCMLTFA*;
 - e) where applicable, a description of the actions, and results thereof, that SNPBC has asked any entity to take to rectify any deficiencies with Parts 1 and 1.1 of the *PCMLTFA* identified;
 - f) a description of progress made by any entities in taking the corrective actions referenced identified in (e); and
 - g) the information that will be shared may include examination lists, finding letters, name of the regulated entity, the name of the compliance officer at the entity, transactions, insurance policies, program elements (policies and procedure), and enforcement information.

20 - COMPLIANCE WITH PARTS 1 AND 1.1 INFORMATION THAT MAY BE DISCLOSED BY FINTRAC TO SNPBC, PURSUANT TO SUBSECTION 65(2) OF THE PCMLTFA

20.1 FINTRAC agrees to disclose to SNPBC the following information, pursuant to subsection 65(2) of the *PCMLTFA*:

- a) compliance related information, such as guidance provided to entities regarding the reporting, record keeping, client identification and compliance regime requirements, overview of issues arising from FINTRAC's compliance program including monitoring of entity reporting performance, and other similar information that SNPBC may use as part of its risk assessment when reviewing its members for compliance with Parts 1 and 1.1 of the *PCMLTFA*;
- b) the results of FINTRAC's compliance actions regarding any entities with respect to compliance with Parts 1 and 1.1 of the *PCMLTFA*; and
- c) a copy of the correspondence between FINTRAC and entities regulated by SNPBC regarding their compliance deficiencies with Parts 1 and 1.1 of the *PCMLTFA*.

20.2 The sharing of information pursuant to this section excludes information that would directly or indirectly identify a client of a person or entity referred to in section 5 of the *PCMLTFA*.

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

SIGNED

FOR THE FINANCIAL TRANSACTIONS AND REPORTS ANALYSIS CENTRE OF CANADA



Donna Achimov
Chief Compliance Officer of the Financial Transactions and Reports Analysis Centre of Canada

SIGNED in Ottawa, Ontario this 31 day of March, 2021

FOR THE SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA



John Mayr
Executive Director of the Society of Notaries Public of British Columbia

SIGNED in Vancouver, British Columbia this 6 day of April, 2021