

New Registration Requirements for MSBs in British Columbia

If you operate a money services business (“**MSB**”) in Canada, you are required to comply with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (“**PCMLTFA**”), which requires registration with the Financial Transactions and Reports Analysis Centre of Canada (“**FINTRAC**”).

If you operate your MSB in the province of Quebec, in addition to the registration with **FINTRAC**, you are also required to comply with the Quebec MSBA Act, which requires MSBs to register with Revenu Quebec.

The British Columbia (“**B.C.**”) government introduced *Bill 19-2023: Money Services Businesses Act* (“**B.C. MSB Act**”), on March 29th, 2023, requiring MSBs operating in the province of B.C. to register with the B.C. Financial Services Authority (“**BCFSA**”). The act received Royal Assent on May 19th, 2023, however the regulations related to the B.C. MSB Act have yet to be published. The BCFSA has not provided a timeline for this publication. We will continue to monitor the development of the B.C. MSB Act.

The B.C. MSB Act defines “money services” as:

- foreign exchange dealing;
- remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network;
- issuing or redeeming money orders, traveller’s cheques or other negotiable instruments, other than cheques payable to a named person; and
- services included by regulation.

Exemptions under the B.C. MSB Act include insurance companies, saving institutions, trust companies, securities dealers and advisers, casinos and Canadian or provincial government entities engaged in deposit taking or money order issuing or precious metals dealing activities. Additionally, persons or entities referred to in section 5(g)(k),(k.1),(k.2),(k.3) or (1) of the PCMLTFA are also exempted. Unless the regulations advise otherwise, the B.C. MSB Act also exempts any person from having to register if that person is providing MSB activities while acting as an agent for a registrant.

Under this new legislation, the BCFSA will appoint a new Superintendent of MSBs ("**Superintendent**") who will become the primary provincial regulator of MSBs. A publicly accessible register of registered MSBs will also be established and maintained by the BCFSA.

The Superintendent will have powers to:

- conduct investigations;
- apply to the court for an order authorizing a search or seizure, and issue orders, including orders to cease provision of money services in BC; and
- impose administrative penalties ("**AMPs**") up to \$100,000.

MSBs will be required to submit an application to the Superintendent and will have to undergo background checks as part of the registration process. The deadline to register with BCFSA has not yet been determined.

The Superintendent will have the power to refuse a new application or a renewal for an MSB that is insolvent or deemed to be "unfit". An MSB, or its associates¹ or agents, can be deemed "unfit" if:

- the MSB or associate or agent have ever been refused registration or a licence related to MSB activities, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction;
- the MSB or associate or agent have ever held a registration or licence that was suspended or cancelled related to MSB activities, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction;
- the MSB or associate or agent have ever been disciplined by a professional body; or
- the MSB or associate or agent have ever been convicted of an offence under an enactment of British Columbia or a law of another jurisdiction

Some of the key provisions of the B.C. MSB Act include the following:

Recovery or remuneration: a person or entity that is providing MSB activities but is not properly registered under the B.C. MSB Act at the time those activities were

¹An associate can include a director, officer, partner or beneficial owner.

performed, can not receive any remuneration for those activities. Remuneration can be defined as any commissions, fees, gains, rewards that are received or expected to be received either directly or indirectly.

Reporting: MSBs will have annual reporting requirements, record keeping obligations as well as a duty to inform the Superintendent of certain events, as prescribed by the regulations.

Duty to report offenses: MSBs registered under the B.C. MSB Act will be required to report to the Superintendent if there is reason to believe that an offence under the B.C. MSB Act has been committed. Persons who commit an offence under the B.C. MSB Act can be liable to a fine up to \$200,000 or up to years in prison, or both.

For more information about this or any other aspect related to MSB registrations, please reach out to Marcelle Dadoun (marcelle@theamlshop.ca).

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