



THE INVESTMENT FUNDS INSTITUTE OF CANADA
L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA

1 KINGST WEST FLOOR TORONTO, ONTARIO, M5H 4C7 TEL: (416) 593-5500 FAX: (416) 593-1995 WEBSITE: IFIC.CA

BY EMAIL: rammd@fintrac.gc.ca

January 10, 2008

Mr. Derek Ramm
Regional Officer, Central
Financial Transactions and Reports Analysis Centre
234 Laurier Avenue West, 24th floor
Ottawa, Ontario
Canada K1P 1H7

Dear Mr. Ramm:

Re: Draft Revised FINTRAC Guidelines 2, 4 & 6E

We are writing to provide comments of Members of the Investment Funds Institute of Canada (“IFIC”) on draft revised FINTRAC Guideline 2 *Suspicious Transactions*, Guideline 4 *Implementation of a Compliance Regime* and Guideline 6E *Record Keeping and Client Identification for Securities Dealers*. We are grateful for this and previous opportunities to comment and engage in stakeholder discussions with FINTRAC staff on the implementation of upcoming changes to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. In general we have no significant concerns with the proposed revisions to the guidelines but would like to clarify our understanding of certain account opening records requirements.

Guideline 2 *Suspicious Transactions*

We have no concerns with the proposed revisions to Guideline 2 and welcome the clarification of what constitutes an “attempted transaction”. We look forward to continued discussion with FINTRAC on the implementation of the new requirements, and in particular on the industry-specific indicators of attempted transactions over and above those outlined in the Guideline.

Guideline 4 *Implementation of a Compliance Regime*

Similarly, our members do not have significant concerns with proposed revisions to Guideline 4 and appreciate that FINTRAC has developed a list of questions to help reporting entities assess the money laundering and terrorist financing risks associated with various products, service, delivery channels and geographic locations. However, it is important not to position the checklists as “baseline”¹ examples of risk-based assessment as this implies a minimum standard for compliance. While our members are grateful for FINTRAC guidance on this matter, it should be made abundantly clear that each reporting entity has the flexibility to develop its own assessment tools reflecting its unique circumstances.

¹ Draft Guideline 4, page 27

Mr. Derek Ramm, Regional Officer, Central, Financial Transactions and Reports Analysis Centre
Re: Draft Revised FINTRAC Guidelines 2, 4 & 6E
January 10, 2008

Guideline 6E Record Keeping and Client Identification for Securities Dealers

We would like to confirm our understanding of the account opening records requirement for nominee accounts, and in particular the requirement to keep a record about the account's intended use. As you are aware, IFIC Members may maintain two types of accounts: **client name accounts** where the account is registered in the name of the beneficial owner of the account, and **nominee accounts** where the account is registered in the name of a dealer or third-party administrator on behalf of the beneficial owner of the account. It is not possible for a fund manager to obtain information on the intended use of nominee accounts unless the dealer or third-party administrator submits that information. Please confirm that fund managers will not be expected to keep a record for the intended use of nominee accounts.


We also have concerns with the requirement to keep a record about the account's intended use as relates to accounts for corporations. We appreciate that the account opening records requirements do not apply to accounts for very large corporations with minimum net assets of \$75 million on the last audited balance sheet. The requirement to collect information on the intended use of accounts for corporations with less than \$75 million in net assets would be difficult to implement and accordingly we request that the exemption from the requirement to collect information on the account's intended use be extended to corporations with less than \$75 million in net assets.

We have set out additional, more detailed comments on draft Guideline 6E on the attached appendix.

Thank you, again, for providing us with the opportunity to offer the comments of our Members on the draft revised guidelines. We would appreciate an opportunity to further discuss these comments with you and will contact you to arrange a meeting at your earliest convenience. Please do not hesitate to contact Constance Wamala, Senior Policy Advisor, at (416) 309-2309 or cwamala@ific.ca or Ralf Hensel, Director – Policy, Manager Issues, at (416) 309-2314 or rhensel@ific.ca should you have any questions or concerns regarding this submission

Yours truly,

THE INVESTMENT FUNDS INSTITUTE OF CANADA


By: Joanne De Laurentiis
President and CEO

JDL/cm

Attachment - Appendix

Appendix – Additional Comments on Draft Guideline 6E

1. Introducing/Carrying Dealer Arrangements

The Mutual Fund Dealers Association of Canada and the Investment Dealers Association of Canada permit their members to enter into introducing/carrying dealer/broker arrangements provided certain conditions are met. The eighth bullet in section 3.1 *General Exceptions to Record Keeping* indicates that the records described in sections 3.3 to 3.5 or in section 7 are not required to be kept for “an account opened solely to provide customer accounting services to a securities dealer.”

It is our understanding that this general record keeping exemption applies to introducing/carrying dealer arrangements. Please confirm that our understanding is correct.

2. Identification of clients not physically present

Section 3.7, which outlines the methods for identification of clients not physically present, states that if a reporting entity relies “on a previous confirmation of the individual’s identity by an affiliate, the record has to include the name of that other entity as well as the type and reference number of the record that they previously relied on to ascertain the individual’s identity.”

Please clarify whether the reporting entity would also have to include in the record the type and expiration date of identification document relied on by the affiliate.