



Special General Purposes Committee

Council Chambers, City Hall
6911 No. 3 Road

Monday, July 27, 2020
4:00 p.m.

COUNCILLOR HAROLD STEVES

1. **OPEN LETTER RE: RESILIENT FOOD SYSTEMS**
(File Ref. No.)

GP-3

See Page GP-3 for materials

RECOMMENDATION

That the letter to the Premier advocating for resilient food systems and the attachment outlining the strategies and policies be endorsed by Council.



FINANCE AND CORPORATE SERVICES DIVISION

2. **2020 ANNUAL TAX SALE OPTIONS**
(File Ref. No. 03-1240-01) (REDMS No. 6491657)

GP-15

See Page GP-15 for full report

Designated Speaker: Ivy Wong

STAFF RECOMMENDATION

- (1) *Should Council choose to proceed with the tax sale in accordance with the provisions of the Local Government Act, staff recommends that Council approve those measures, process and procedure changes and adjustments, and the designation and change of venue described under the Status Quo Option set out on page 3 of this report.*

- (2) *In the alternative, should Council choose to defer the annual tax sale for 2020, staff recommends:*
- (i) *That the Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199 be introduced and given first, second, and third readings; and*
 - (ii) *That the Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199 be adopted.*

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COMMUNITY SAFETY DIVISION

3. **PROVINCIAL CONSULTATION ON MONEY SERVICES BUSINESSES REGULATION**

(File Ref. No. 09-5350-01) (REDMS No. 6503179)

GP-21

See Page GP-21 for full report

Designated Speaker: Mark Corrado

STAFF RECOMMENDATION

That the responses included in Attachment 2 of the staff report titled “Provincial Consultation on Money Services Businesses Regulation”, dated July 17, 2020, from the General Manager, Community Safety be endorsed for submission to the BC Ministry of Finance.

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ADJOURNMENT

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Open Letter

July 9, 2020

To The Honourable John Horgan, Premier
Cc: The Honourable Lana Popham, Minister of Agriculture

The COVID-19 global pandemic is a wake up call to take action to transform BC's food systems. The pandemic confirms the stark vulnerability of our global and regional food systems to economic, environmental, health, and social crises. Much of our food in BC travels thousands of miles, across many borders, and passes through many hands before reaching our plates. While climate change and the pandemic response are top of mind, our food system also suffers from deep social inequities, biodiversity loss, and water and soil degradation. The flaws in this system are becoming more apparent daily, as we see a range of immediate and medium to long-term impacts across our food systems.

The pandemic has caused significant disruptions but it has also presented an opportunity to make change as part of the pandemic Recovery Plan. BC can take transformative steps to simultaneously develop resilient food security and address the climate emergency. Now is the time to build and protect place-based food systems able to withstand future threats and disturbances. COVID-19 may well be the dress rehearsal for the ongoing impacts of climate change and for future global crises, for which we hope to be better prepared.

The direction and programs set for and by the Ministry of Agriculture (MOA) contain much promise for the achievement of sustainable agriculture and food security in the province. Appended to this letter, we offer a range of recommended strategies that align with and extend the MOA's "Buy, Grow, Feed" mandate and that respond to the current crises. We believe that our recommendations are tangible, achievable, and address the some of the key challenges facing the immediate and long term food security of British Columbians from both climate change and the COVID-19 pandemic:

- **Grow BC:** BC's skilled fishers and farmers are deeply invested in their communities and food systems. The recommendations under this goal seek to stabilize, to the degree possible, the climatic, economic, and community contexts of their livelihoods.
- **Feed BC:** many of BC's fishers and farmers are highly motivated to make their product available to BC citizens. Our recommendations seek to lower barriers and optimize opportunities for domestic market access.
- **Buy BC:** the Buy BC program is an important means for making BC products more accessible to BC consumers. Our recommendations address additional structural, policy, and market barriers that face BC's fishers and farmers.

The authors of this letter come from diverse backgrounds, organizations and regions of British Columbia. Collectively, we bring decades of experience, expertise, and insight into the necessary steps to rebuild strong, sustainable, and innovative food economies across the province. We believe that BC's food producers are key to our collective food security. Now widely recognized as the essential service that they are and will always be, food producers and our domestic food economy are key and reliable pillars of our recovery from this current pandemic and any future shocks.

We also recognize that we are settlers in this place commonly known as British Columbia. Like all of society, food systems are subject to systemic racism and injustices, as perpetrated upon Indigenous and Black communities, People of Colour, and low-income people. The voices and priorities of these populations must be heard and addressed. We acknowledge that we do not speak on behalf of these groups and urge you to seek out, recognize, and support Indigenous food systems and traditional knowledge holders as leaders in the food and climate conversation, particularly at this time of crisis. We urge you to support Indigenous-led knowledge sharing on food systems and land relationships with settlers. Further, we encourage you to seek Indigenous participants to identify opportunities to strengthen long-term relationship building and to learn from Indigenous approaches to land stewardship. These measures will contribute positively to the government's commitment to achieve the objectives of the *United Nations Declaration on the Rights of Indigenous Peoples* as stated in BC's Declaration on the Rights of Indigenous Peoples Act. There are also many groups that represent the needs and voices of Black and other People of Colour in the province who will have their own priorities and recommendations on food security and justice which should be heard, and heeded with clear acknowledgement.

The world will never go back to the way it was before COVID-19. However, we can seize the opportunity today to rebuild our food systems in BC to be secure, just, resilient, and climate friendly. To build a resilient, food sovereign British Columbia will require many new partners and new ways of thinking about and creating regenerative ecosystems and food access for all.

We welcome the opportunity to discuss this further with you and to collaborate on implementing the recommended strategies. Our partners are able to provide expertise, resources, and additional recommendations. Please contact Anita Georgy, Executive Director of FarmFolk CityFolk director@farmfolkcityfolk.ca or 604-730-0450 ext 302 to liaise with the signatories.

Sincerely,

Anita Georgy, Executive Director, FarmFolk CityFolk
Abra Brynne, Executive Director, Central Kootenay Food Policy Council
Dr. Kent Mullinix, Director, Institute for Sustainable Food Systems, Kwantlen Polytechnic University
Dr. Hannah Wittman, Academic Director, UBC Centre for Sustainable Food Systems
Harold Steves, Agroecologist, City Councillor, Richmond
Heather O'Hara, Executive Director, BC Association of Farmers' Markets
Heather Pritchard, Executive Director, Foodlands Co-operative of BC
Jim McIsaac, Managing Director, BC Commercial Fishing Association
Kathleen Gibson, Sustainable Food Systems Advocate
Linda Geggie, Executive Director, Capital Region Food and Agriculture Initiatives Roundtable
Mark Gifford, CEO, Real Estate Foundation of BC
Sara Dent, Executive Director, Young Agrarians
Dr. Tammara Soma, Assistant Professor, Simon Fraser University

Appendix: Policy Recommendations

We believe that the framework and priorities found in the MOA's current Service Plan and the Minister of Agriculture's Mandate Letter have delivered important programs for British Columbia Agriculture and provide a useful framework for expanding actions that foster safe, sustainable, and resilient food systems. Our recommendations are aligned with the Service Plan's framework and offer Strategies that we believe will help to evolve the Service Plan to more effectively respond to the current dual challenges of climate change and the COVID-19 Pandemic.

<h3>Goal 1 — Grow BC</h3> <p>Build sustainable production and help BC producers expand local food production</p> <p>Comment: Farming and fishing depend on stable environments and weather in order to achieve viable, sustainable businesses. Climate change is increasingly undermining both. Canada's agricultural emissions are on track to increase over the next decade. Harvest yields are becoming ever more unpredictable as a result of climate change impacts, and ocean acidification is compromising marine ecosystems around the world. In order to help meet mandated emissions reductions in agriculture, and ensure that farmers and fishers are positioned to withstand the impacts of climate change and other disruptions, it is necessary to reduce GHG emissions from agriculture, increase carbon sequestration in agricultural soils, increase resilience of individual farms and fishing enterprises and sectors, and improve farmer and fisher livelihoods. The following recommendations address the mitigation measures that BC and Canada must take in order to meet our international climate change obligations, and foster adaptation by both sectors.</p>	
<h4>Objective 1.1: Enhance services and supports to the Agri-Food and Seafood Sector</h4>	
Key Strategies	Rationale
Increase advisory, research, and education extension programs to be delivered to farmers and	Section 4 of the <i>Ministry of Agriculture and Food Act</i> states that one of the purposes and functions of the Ministry is to provide extension programs. The pandemic has made it clear that increasing the viability and supply of BC's farming and fishing operations is a wise immediate and long-term strategy. In order to

fishers throughout the province.	effectively respond to the ever-changing impacts of climate change, as well as new domestic market opportunities, extension services are the most efficient means of providing objective, tailored, and sector-specific advice and information to primary producers. Professional agriculture, fisheries and business advisory services can be effectively delivered by suitably credentialed MOA public servants, and community and university partners, such as the Institute for Sustainable Food Systems at Kwantlen Polytechnic University and the Kootenay Boundary Farm Advisors. In addition to addressing management issues, these services will also help to increase business profitability, which is a key component in sustainability and succession for both the farming and fishing sectors.
Develop and deliver programs that incentivize reduced use of high-emissions inputs, especially nitrogen fertilizer, and a transition towards regenerative agriculture.	Emissions associated with nitrogen fertilizer are the largest single source of on-farm GHGs and they are on track to increase over the next decade. Improving efficiency in the use of nitrogen fertilizer can help reduce emissions, and can have the additional benefit of improving farm profit margins by reducing expenditures. Examples of suitable programs are crop insurance discounts for acres that could include cover-crops, integrated livestock, or N-fixing legumes, national cost-shared programs, and AgrilInvest matching contributions for extended and diversified rotations. ¹
Support continuation and expansion of <i>Farmland Advantage</i> to provide contract opportunities for farmers to benefit from the environmental goods and services they deliver to the province.	Farmland Advantage and other community and environmental organizations work with farmers to enhance the natural values on their land. These natural values contribute to the well-being of all British Columbians and can provide an additional income stream to farmers that are proactively stewarding the water and ecosystems on their farms. Several jurisdictions in North America and Europe compensate farmers for the essential ecosystem services that sustainable, regenerative agriculture contributes to the public.
Work with the Minister of Public Safety and the Solicitor General to amend the Compensation and Disaster Financial Assistance Regulation that excludes those who derive less than 50% of their income from fishing or farming.	Rural and remote economies and communities function well because of diversity on many levels. Few residents in rural and small coastal communities have the luxury of one income stream – referred to in academic circles as occupational plurality. As a result, rural coastal and inland communities are populated by part-time postal workers, farmers, fishers, bakers, loggers, and bus drivers. BC’s Compensation and Disaster Financial Assistance Regulation provides no compensation to business owners negatively impacted by a disaster if they do not derive the “majority” of their income from that business. Multiple income streams, like biodiversity, can be a sign of resilience and strength in remote and rural communities. The prejudice against “part-timers” needs to be eliminated by amending the criteria used to determine assistance so that those who own fishing and farm infrastructure that is devastated by a

¹ This policy recommendation is drawn from a draft federal policy framework developed by [Farmers for Climate Solutions](#).

	natural disaster can benefit.
Objective 1.2: Ensure the Future of the Agri-Food and Seafood Sector by Protecting the Land Base and Animal, Plant and Human Health	
Key Strategies	Rationale
Support seed security by increasing the quality and quantity of seeds produced and available in BC.	Our reliance on international seed companies to supply a limited number of seed varieties puts our food systems at risk in the most fundamental way. Here in BC, we are particularly vulnerable as we rely on imported seed for the vast majority of our vegetable production. We have experienced how large transportation distances and international restrictions can disrupt the supply of food and seeds, increase costs to consumers, and shake confidence in our food security. Many seed companies saw a 300% spike in demand that forced the imposition of daily limits, delayed orders, restricted sales to home gardeners, and at least one US seed company stopped shipping seeds to Canada. As well, BC's farmers, backyard and community gardeners overwhelmingly rely on imported seed that has not been bred for BC's growing conditions and depends on international supply chains. To increase BC's seed supply, it is necessary to significantly expand programs such as FarmFolk CityFolks' BC Seed Security program and other community-university partnerships for research, technical training, participatory plant breeding initiatives, and extension services such as the Canadian Organic Vegetable Improvement Project led by University of British Columbia's Centre for Sustainable Food Systems, and Kwantlen Polytechnic University's Seed Lab .
Fully implement the recommendations in Revitalizing the Agricultural Land Reserve and the Agricultural Land Commission report to Minister Popham in December 2018.	As stated by BC Cattlemen's Association , Richmond FarmWatch and many others, each class of farmland (1 through 6) is important and supports the diversity of production, crops, and sectors that collectively contribute to a secure and sustainable food supply for British Columbians. It is vital that each acre of the scarce and precious farmland in BC be preserved for food security and ecosystem services provision in perpetuity. The extensive consultation that resulted in the Revitalizing the Agricultural Land Reserve and the Agricultural Land Commission provides a host of well researched and considered recommendations that will help to ensure that the land necessary for agriculture in this province is not further compromised.
Provide inventories of industrially-zoned land <u>outside</u> the ALR in various locations across	Agriculturally zoned land in and out of the ALR is seen all too often as easily accessible land to be repurposed for activities other than active soil-based farming. The province's recent commitment to supporting and promoting an agritech industry must not run counter to the findings of the MOA's

the province in order to identify and establish suitable sites for the Agritech Industry.	<p>Revitalizing Report. Every acre of farmland removed from the possibility of production further undermines the food security and well-being of British Columbians. The infrastructure necessary to support the emerging agritech industries can be located on land outside the ALR and not zoned for agriculture, while still supporting the development of an industry intended to complement our province's agriculture.</p>
Support long term, affordable access to land suitable for food production.	<p>In today's speculative real estate market, access to land is one of the greatest barriers to those wanting to produce food in our province, given market failure conditions for agriculture. It is critical that we support new growers and those wanting to expand their production to access land. Programs like the BC Land Matching Program delivered by Young Agrarians, the Foodlands Cooperative of BC, food and farmland trusts, and other land access initiatives are innovations that have been successful at developing opportunities for land access that support community-based food systems and inter-generational knowledge sharing among food providers. Enhancing the powers and budget of the Agricultural Land Commission and the MOA's Strengthening Farming program, as well as exploring ways to create additional incentives to put fallow land into production will help to expand opportunities for new and established farmers.</p>
Continue to expand resources for new farmer and fisher programs delivered by the MOA and by third-party organizations to ensure that there is a viable new generation of farmers and food growers, fishers, and provisioners.	<p>It is a well known fact that farmers make up less than 2% of our population. The 2016 Agriculture Census reported that the average age of Canadian farmers continues to increase (55 in 2016) with the fastest growing age group over 55. The success of programs such as Young Agrarians and the Foodlands Cooperative of BC in lowering barriers and supporting new farmers is vital in contributing to the trends of increasing the number of farmers across the province.² BC Young Fishermen's Network is working to address similar challenges in fisheries, where aging fishers combined with challenges accessing capital for boats, opportunities to fish, and connecting to markets create parallel barriers for new fishers. Creative programs that increase knowledge transfer, lower barriers to capital (loan guarantees by govt), and open new market opportunities are vital to enable and retain for the long term, those interested in entering these professions so vital to our province's food security.</p>

² <https://www150.statcan.gc.ca/n1/pub/96-325-x/2017001/article/54925-eng.htm>

<p>Goal 2 — Feed BC</p> <p>Build the availability, value and variety of BC food</p> <p>Comment: There is no inherent superiority to local food. However, as the breakdown of global supply chains demonstrates, having the source close at hand provides greater security of access. Most of us rely on commerce or the marketplace to source food. There are those, however, who rely on their own skills and work to obtain at least a portion of their food. To augment food security for Indigenous people, wherever they may be able to practice traditional ways, we must ensure that they have access to the places and waterways from which they can source their foods and medicines. For those who rely on commerce to obtain food in exchange for money, we must rebuild our local food businesses and economies.</p>	
<p>Objective 2.1: Increase the use of BC grown and processed foods by large BC based purchasers such as government facilities</p>	
Key Strategies	Rationale
Work with BC Association of Abattoirs, BC Cattlemen's Association, and Small-Scale Meat Producers Association to expand market access and opportunities for provincially inspected meat.	Large grocery chains and food distributors do not want to have to consider provincial borders as they move food across our landscapes. Thus, they will not purchase meat from provincially licensed abattoirs whose product cannot cross provincial boundaries. BC inspected meat is qualitatively equal, if not superior, to that produced in federally registered abattoirs. A program that increases the number of retail outlets for BC inspected meat and educates the consumer about the importance of supporting the farmers, butchers, and independent retailers who can and do provide provincially inspected meat will expand the opportunities for both the livestock sector and meat processors. It will also help to return stability to the sector and an increase in numbers for livestock producers across the province.
Eliminate Employment Standards exclusions for agricultural workers and review the private farm labour contracting system. Work with the Ministry of Labour to strengthen proactive, unannounced inspections to enforce health and safety for farm workplace conditions,	For many years, concerns have been raised about the conditions and treatment of immigrant and migrant workers so vital to many agriculture sectors. COVID-19 has taught us all just how essential these workers are. Their housing and work conditions, access to benefits and health care, safety and wages must reflect their importance to our collective well-being. Pathways to citizenship should be made available.

transportation, and migrant worker housing. Coordinate with the federal government to prioritize permanent resident status on arrival for migrant workers.	
Work with the federal Minister of Fisheries and the Department of Fisheries and Oceans to protect and promote fishery ownership for independent harvesters, Indigenous Nations, and coastal communities.	Federal policies in five Atlantic provinces protect ownership and control of inshore fisheries for independent harvesters and coastal communities. These policies have allowed harvesters to capture the major benefits from local fisheries, and in these times, pivot from export markets to focus on domestic. This is not the case in BC, as similar policies have not yet been adopted. As Danielle Edwards recently stated, exorbitantly high lease fees are precluding BC fishers from meeting objectives for fisheries in Canada with respect to fleet viability and equitable distribution of benefits. Pacific region fisheries require the measures that benefit fishers in Atlantic Canada and agricultural producers in supply management: namely, that only those actively involved in the sector are able to hold quota and the licence to fish. This would eliminate speculative investment in BC fisheries quota and licensing and ensure that they are accessible to those who live and work in BC's coastal communities and waters. Not only would this change foster a stronger sustainable fisheries economy up and down BC's coast, it would also allow for more BC wild fish to be landed, processed, and eaten in our province.
Objective 2.2: Foster Innovation and Develop a Food Hub Network to support food processing	
Key Strategies	Rationale
Continue and expand the food hub network initiative, rebuilding place-based infrastructure and local processing, including food and distribution hubs, abattoirs, butcher shops, fishmongers, milk processing, seed processing, and other sector-specific post-production infrastructure,	The stripping out of infrastructure has had a detrimental impact on local producers and on their respective communities. The loss of local abattoirs in 2007 saw a massive reduction in livestock on the landscape; up and down the BC Coast, residents can no longer access seafood harvested in nearby waters since the canneries have been shut down; when regionally-serving milk processing was centralized in the Lower Mainland and Alberta, local consumers lost access to milk produced just down the road and have experienced bare dairy shelves when there are disruptions from bad weather or pandemics. Rebuilding local food infrastructure across the province will help to bolster our collective food security, restore place-based economies with all the related benefits of jobs, pride, and provide domestic options when there are supply chain failures. In locations where no one sector has enough volume to support

allowing area producers to adapt, innovate, and thrive with the necessary support to access regional markets.	processing, multi-use processing facilities need to be enabled through both policy and funding. Co-operative business structures should be encouraged.
Work with independent harvesters, coastal communities and Indigenous Nations to rebuild the coastal infrastructure for local fisheries including maintained government wharves, shipways, local processors, and ice plants.	“Once a major employer in BC and the predominant economy in many coastal communities, fisheries have suffered extensive job losses. The effect this has had on coastal economies has been felt on many levels, including direct job loss in fishing but also the loss of ancillary services and infrastructure that supported a broad range of community needs... The decline of wellbeing in BC communities historically based on fishing is also well documented with increased unemployment and drug use, loss of infrastructure and youth retention, as well as increased youth delinquency and suicide.” (Page 19 & 24, Just Transactions Just Transitions: Towards Truly Sustainable Fisheries in British Columbia , 2018). With the necessary supports, coastal communities and fishers will be a vital part of our food security, rural communities, and thriving placed-based economies.
Fully honour historical and modern Treaties and support Indigenous communities in their pursuit of and implementation of aboriginal title.	The Tsilhqot’in Aboriginal Rights and Title is an important precedent and step forward in redressing the wrongs experienced by the first peoples of the land that has come to be known as Canada. Restoring meaningful and full control over their territories to Indigenous people will not only reinstate their inherent sovereignty but will improve food security for Indigenous households, which suffer from the highest food insecurity in the country. ³ Restoring control over traditional lands to Indigenous people, widely recognized as skilled ecosystems stewards, will also contribute to mitigation measures against climate change. ⁴

³ <https://proof.utoronto.ca/resources/research-publications/aboriginal-peoples-and-food-insecurity/>

⁴ See, for instance, <https://www.indigenousfoodsystems.org/> and Project Drawdown: <https://drawdown.org/solutions/indigenous-peoples-forest-tenure>

<p>Goal 3 — Buy BC</p> <p>Build consumer awareness and demand and help local producers to market their products to grow their businesses</p> <p>Comment: We know that British Columbians will be better served with a significant increase in domestic production for domestic markets. The April 2020 Food Flows in Metro Vancouver Final Report explores food sources and supplies in Metro Vancouver, highlighting vulnerabilities that come from the over-reliance on distant sources for the staples of a complete diet. Replacing imports with BC-grown and processed products will enhance our food self-sufficiency and economies across the province. The province also has an enormous opportunity and leadership role to play in mandating and properly financing universal school meal programs that will not only address child food insecurity (1 in 6 BC children experience food insecurity⁵) but also, if done well, will provide new opportunities for local food producers of all scales.</p>	
<p>Objective 3.1: Build and leverage a strong recognizable Buy BC brand to help producers and processors expand sales and ensure consumers can easily identify local food and beverages.</p>	
Key Strategies	Rationale
Continue to expand the availability of the Class D license for Regional Districts and Electoral Areas so that livestock producers far from a suitable abattoir for their respective livestock species have the ability to slaughter their animals and sell the resulting meat legally.	Many parts of the province have never recovered from the impacts of the 2007 change in the Meat Inspection Regulation, despite the introduction of the graduated licencing system that is lauded around the world. The recent expansion of the availability of Class D licenses is an important step forward but more need to be made available if we are ever to see a return to the levels of local livestock production and meat supply that existed prior to 2007.

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<https://proof.utoronto.ca/resources/proof-annual-reports/priority-health-equity-indicators-for-british-columbia-household-food-insecurity-indicator-report/>

Work with the Small Scale Meat Producers, BC Association of Abattoirs, MOA and Health Authorities to ensure inspection systems in A/B and D/E facilities are congruent, and provided by the MOA's Meat Inspection Branch at agreed intervals. Consider adding video for some inspections.	Oversight of all classes of licences needs to be taken back under the MOA's Meat Inspection branch. This would provide consistency and even the playing field. Having ALL meat processing under one regulatory authority would improve the current system and make it easier to address the challenges posed by regional sales restrictions.
Continue to work with the BC Association of Farmers' Markets and other partners to ensure that farmers markets get the investment and support necessary (such as operating capacity, dedicated equipment and infrastructure, and political leverage) to operate, expand and become more viable and resilient in communities throughout the province.	Recognized as an essential service, farmers markets are critically important to consumers, farmers, food processors and other vendors. Largely community driven and operated by grassroots non-profit organizations, farmers markets lack any tangible investment by provincial and municipal governments in their human capital, dedicated storage, equipment and infrastructure, and resources to operate viably and sustainably. In fact, many municipalities are not operating a market in the 2020 season which is devastating to farmers who rely on the markets. The goal would be to ensure that 100% of markets in the province are operational this and every year.
Objective 3.2: Help producers and processors expand sales in priority export markets.	
Key Strategies	Rationale
Expand the focus from export to more proactively include	The international market place will always force BC producers into price wars with global producers and into long, vulnerable supply chains. We recommend prioritizing domestic, short

domestic markets and provide support to food producers (farmers, fishers, processors) to better understand and access domestic (provincial) markets.	supply chain markets. We recognize that large producers of single commodities may need transition strategies in order to find domestic outlets for some or all of their products. Like those seeking to access export markets, new farmers, fishers, and those seeking to expand locally often face challenges understanding domestic market requirements when it comes to product sizing, packaging, labelling, and access. The Central Kootenay Food Policy Council's Domestic Navigator is modeled after the successful <i>Export Navigator program</i> and is “shovel ready”.
Collaborate with the Health Authorities to support small and medium-size enterprises (SMEs) and processors to access domestic institutional food services contracts.	Through their public health personnel and services, the five regional Health Authorities in the province have the ability to assess and help address any food safety risk that may exist at SMEs without obligating them to implement prohibitively expensive HACCP systems. Such a partnership could open up new opportunities for SMEs, particularly for institutions that are not serving highly vulnerable populations who require an extra degree of caution. Institutions of all sizes can benefit by sourcing product from their local food producers.
Expand the Buy BC Program to include meat, seafood, seeds, and bedding plants, and allow BC grown vegetables to be traced all the way back to BC grown seeds.	<p>Despite the fact that the Buy BC branding includes images of seafood and meat, none are included in the list of product categories currently available on the Buy BC web platform. This must be rectified in order to maximize the potential of the marketing platform.</p> <p>The Buy BC Program has increased demand for local food, but this concept has not been applied to seeds. By promoting this crucial part of the local sustainable food system to the general public, we will raise awareness of the importance of localized seed production.</p> <p>To support transparency and education, there could be tracking and labelling of seeds to confirm they are locally produced in BC, tracking and labelling bedding plants that were produced from local BC grown seeds, and an incentive program for farmers who sell at farmers markets to create a system for identifying food products they sell that are produced using local BC grown seed.</p>



City of Richmond

Report to Committee

To: General Purposes Committee
From: Jerry Chong
Director, Finance
Re: 2020 Annual Tax Sale Options

Date: July 20, 2020
File: 03-1240-01/2020-Vol
01

Staff Recommendation

1. Should Council choose to proceed with the tax sale in accordance with the provisions of the Local Government Act, staff recommends that Council approve those measures, process and procedure changes and adjustments, and the designation and change of venue described under the Status Quo Option set out on page 3 of this report.
2. In the alternative, should Council choose to defer the annual tax sale for 2020, staff recommends:
 - i That the Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199 be introduced and given first, second, and third readings; and
 - ii That the Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199 be adopted.

Jerry Chong
Director, Finance
(604-276-4064)

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law	<input checked="" type="checkbox"/>	
SENIOR STAFF REPORT REVIEW	INITIALS:	APPROVED BY CAO
	N/A	

Staff Report

Origin

The Local Government Act s.645 requires the City to hold an annual tax sale at 10am on the last Monday in September to publically auction all properties with outstanding delinquent tax balances. Due to the financial hardship that COVID-19 has had on many British Columbians, the Minister of Public Safety and the Solicitor General, under the Emergency Program Act, passed Ministerial Order M159 on May 15, 2020, giving local governments the authority to delay the annual tax sale for 2020 by one year. In order to delay the sale, a bylaw must be adopted by Council on or before August 31, 2020.

This report supports Council's Strategic Plan 2018-2022 Strategy #5 Sound Financial Management:

Accountable, transparent, and responsible financial management that supports the needs of the community into the future.

Analysis

All properties with outstanding 2018 charges on the property tax account are considered delinquent in taxes under the Community Charter. As part of the City's tax billing procedure, a notification of a possible tax sale if the delinquent balance is not paid before the last Monday in September was printed on all tax notices with delinquent balances. As of July 22, 2020, there are 331 accounts with delinquent balances totaling over \$1.465M or 0.35% of the total tax billing. The number of delinquent accounts and the total outstanding amount are normal for this time of year.

Annually, after the July 2nd rush of tax payments, tax staff dedicate a majority of their time to reducing the number of properties going to tax sale by trying to collect the delinquent balance from property owners, property managers, or mortgage companies. Even though many municipalities, including the City of Richmond have extended the tax penalty date this year to October 1, 2020, staff have been trying to contact delinquent property owners to encourage early payment. In past years, staff were able to reduce the number of properties going to tax sale to less than 10 properties per year.

It is staff's intention to utilize their best efforts to remove properties from going to tax sale in order to minimize the interest burden for property owners. Bidders at Richmond's tax sale are often willing to increase their bids to at least 50% of the property's assessed value because many view this as a low risk, short term investment with a higher than average return. Current interest charged on arrears and delinquent balance is 5.45%. When properties are sold at tax sale to the highest bidder, the original property owner has one year from the date of the auction to redeem the property by paying the upset price (all the outstanding tax and interest charges to the date of sale) plus a daily per diem interest charge based on the final sale price for the property at the auction.

An example of the interest calculation is as follows:

Upset Price	Per Diem Interest – (at 5.45%) charged in the tax account	Sale Price	Per Diem Interest – After Tax Sale (at 5.45%)
\$10,000	\$1.49	\$450,000	\$67.19

If the total arrears and delinquent balance outstanding on an account is \$10,000, the daily interest charged is \$1.49. If the same property was auctioned at tax sale and was sold for \$450,000, the daily interest would increase by over 4,409% to \$67.19.

Tax Sale Options for 2020:

1. Status quo:

Due to the pandemic, additional public health and safety measures will need to be implemented and current auction procedures will require changes and/or adjustments in order to accommodate a tax sale for 2020. These would include:

- Relocating the tax sale to the Minoru Centre in order to increase attendance up to 45 bidders (plus staff to meet the 50ppl max). With distancing requirements, Council Chambers currently accommodates less than 20 people. To effect this relocation, Council would be required to temporarily designate the bidding area of the Minoru Centre as “council chambers” for the duration of the tax sale in order to satisfy s.645 of the Local Government Act.
- In order to participate in the September 28, 2020 auction, bidders must pre-register by paying a pre-registration fee of \$175 and providing proof of funds in the form of a certified cheque or bank draft payable to the City of Richmond for the maximum amount that they are willing to spend for the day prior to admission to the bidding area. This ensures that only serious bidders are allowed into the room and that the sold properties are paid for immediately after the sale.
- Depending on the number of serious bidders and bidding area capacity (factoring in social distancing rules and other health and safety measures) of the facility used for the auction, further restrictions may be set to ensure that only interested bidders on a specific property will be allowed into the bidding area. This may require limiting entrance to the bidding area to those with the largest available certified funds (original certified amount less purchases made) to bid on a specific property. This may also require temporary pauses to the auction process after each property to accommodate the movement of old and new bidders.

The status quo option will have the following pros and cons:

Pros:

- A tax sale will force property owners to at least pay the delinquent balance in order to remove the property from sale.
- Delinquent taxes are a result of property owners not paying their debt to the City for 3 years. As the debt was not a result of the pandemic, changes to the tax sale process is not necessary.

Cons:

- The pandemic has created financial hardship for many people and may have further hampered the ability of property owners to pay their delinquent taxes. The number of properties actually going to auction may be higher than normal.
- Currently, most municipalities in the Lower Mainland have passed bylaws or will be passing bylaws to defer the tax sale. At this time, with only 1 confirmed local municipality holding an auction on September 28, 2020, there may be more interested bidders from other municipalities attending the City's auction.
- There may be logistical challenges with all the changes required of the bidders. If there are too many interested bidders, the movement of people between the auctioning of each property and to ensure proper physical distancing is maintained may cause additional confusion and frustration. Additional staff will be required to ensure a smooth transition of bidders between properties.
- With the due dates extended for property tax and Q1 metered utility bills, priority shifts in the department to deal with the increased tax/utility workload results in less staffing dedicated to the delinquent collections effort.
- Adds a higher interest burden to financially distressed property owners when redeeming their property.
- While the annual tax sale is a legislated process, auctioning properties during the pandemic may be viewed negatively as the City being insensitive to the plight of taxpayers.

2. Defer annual tax sale:

Ministerial Order M159 gives local governments the authority to delay the annual tax sale for 2020 to September 27, 2021. If a bylaw to defer annual tax sale is adopted, staff have 2 weeks from the date of adoption to inform property owners that the tax sale date has been extended. As part of the notification process, staff will make every effort to negotiate a repayment schedule with the property owner to try to reduce the amount outstanding.

Deferring the annual tax sale option will have the following pros and cons:

Pros:

- Provides temporary relief to property owners who may be financially impacted by COVID-19 in that they have an additional year to pay the delinquent taxes before their property is auctioned.
- Lowers the interest burden on property owners since interest is calculated on the outstanding balance in the account instead of the sale price after the auction.
- Provides evidence that Council is empathetic to the financial challenges of tax payers during the pandemic.
- Avoids the possible logistical and social distancing challenges that may arise from the increase in bidders as a result of the deferment of tax sales at other municipalities.

Cons:

- Removes the impending threat of losing their property and therefore property owners may delay paying the delinquent taxes.
- If not paid prior, property owners will need to pay 2 years of delinquent taxes in 2021 in order to keep their properties from the auction.

Financial Impact

None.

Conclusion

1. Should Council choose to proceed with the tax sale in accordance with the provisions of the Local Government Act, staff recommends that Council approve those measure, process and procedure changes and adjustments, and the designation and change of venue described under the Status Quo Option set out on p. 3 of this report.
2. In the alternative, should Council choose to defer the annual tax sale for 2020, staff recommends:
 - i That the Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199 be introduced and given first, second, and third readings; and
 - ii That the Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199 be adopted.



Ivy Wong
Revenue Manager
(604-276-4046)

IW:iw



Bylaw to Defer Annual Tax Sale for 2020, Bylaw No. 10199

The Council of the City of Richmond enacts as follows:

1. The annual tax sale for 2020, provided for under Division 7 [*Annual Municipal Tax Sale*] of Part 16 [*Municipal Provisions*] of the *Local Government Act*, is deferred until September 27, 2021, with the effect that the annual tax sale would be on that date in respect of the upset price described in section 649 [*upset price for tax sale*] of that Act.
2. This Bylaw is cited as “Bylaw to Defer Annual Tax Sale for 2020, Bylaw No.10199”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

MAYOR

CORPORATE OFFICER

CITY OF RICHMOND
APPROVED for content by originating dept. 
APPROVED for legality by Solicitor 



City of Richmond

Report to Committee

To: General Purposes Committee **Date:** July 17, 2020
From: Cecilia Achiam **File:** 09-5350-01/2020-Vol
General Manager, Community Safety 01
Re: **Provincial Consultation on Money Services Businesses Regulation**

Staff Recommendation

That the responses included in Attachment 2 of the staff report titled "Provincial Consultation on Money Services Businesses Regulation", dated July 17, 2020, from the General Manager, Community Safety be endorsed for submission to the BC Ministry of Finance.

Cecilia Achiam
General Manager, Community Safety
(604-276-4122)

Att. 2

REPORT CONCURRENCE	
ROUTED TO:	CONCURRENCE
Business Licences	<input checked="" type="checkbox"/>
RCMP	<input checked="" type="checkbox"/>
SENIOR STAFF REPORT REVIEW	INITIALS:
APPROVED BY CAO 	

Staff Report

Origin

At the February 11, 2019, Council meeting, Council made the following referral:

“That staff bring forward amendments to Business Regulation Bylaw No. 7538 to include criminal record checks and other regulations for operators of money exchange businesses.”

In May of 2019, the Province released a report entitled “Combatting Money Laundering in B.C. Real Estate” by the Expert Panel on Money Laundering, which recommended that:

“The BC government should consider developing a regulatory regime for money services businesses to be operated by the Financial Institutions Commission.”¹

In March 2020, the BC Ministry of Finance announced that it would engage the public regarding a potential regulatory regime for Money Service Businesses (MSBs) and released a report/survey (Attachment 1). Despite the passing of the consultation deadline on April 30, the Ministry of Finance has agreed to accept a submission from the City of Richmond (Attachment 2). The Province has extended the deadline to the City due to the extraordinary circumstances caused by the COVID-19 pandemic and the impact it has had on the response rate from survey recipients. Moreover, the Ministry of Finance has yet to develop draft legislation and policy options on MSBs.

This report supports Council’s Strategic Plan 2018-2022 Strategy #1 A Safe and Resilient City:

1.1 Enhance safety services and strategies to meet community needs.

Analysis

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) MSB Registry

As noted in the Province’s “Money Services Businesses Consultation Paper” (Paper), MSBs are required to register with Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). There are more than 900 MSBs listed in FINTRAC’s registry and it is estimated that they account for \$39.5 billion in transactions per year. In theory, MSBs are subject to monitoring, inspection and punitive action by FINTRAC. In 2019, according to FINTRAC’s registry, there were 66 entities which were operating 75 MSBs in the City of Richmond. These businesses ranged from government agencies such as Canada Post to small retail operations.

Recently, FINTRAC has faced stern criticism following several government led studies and, in particular, Dr. Peter German’s report entitled “Dirty Money – Part 2: Turning the

¹ <https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/real-estate-in-bc/combating-money-laundering-report.pdf>
pg 86.

Tide - An Independent Review of Money Laundering in B.C. Real Estate, Luxury Vehicle Sales & Horse Racing” noted that:

“The great preponderance of stakeholders that we met during the Review were critical of FinTRAC. Despite its specialist resources and technical systems, FinTRAC is wrapped in a legal framework that resembles a straitjacket. The result is that its effectiveness is blunted and criticism results.”²

A Postmedia investigation delved further into FINTRAC’s MSB registry and found that 24 MSBs in Richmond, Vancouver and the North Shore were registered as located in houses, condos or the offices of lawyers, accountants and real estate companies. The Postmedia further exposed that the registry appeared to lack the most basic verification and inspection system as many of the companies that were listed as closed in FINTRAC registries were still in operation.³ It also appears that FINTRAC has not proactively shared intelligence with local law or bylaw enforcement partners who could have investigated these businesses further.

Detection

Dr. German also found that underground or undetected MSBs were key to the “Vancouver Model” of Money Laundering. These underground MSBs functioned like international banks providing liquidity for organized crime, gamblers and expatriates trying to avoid capital controls. The largest example of an underground MSB in Canadian history was Silver International. The Financial Action Task Force has provided a succinct and general typology based in large part on the Silver International and associated RCMP E-Pirate case:

“The cash given to the high-roller gamblers came from Company X, an unlicensed MVTs⁴ [MSB] provider owned by Subject X. Investigators believe that gangsters or their couriers were delivering suitcases of cash to Company X, allegedly at an average rate of CAD 1.5 million a day. Surveillance identified links to 40 different organisations, including organised groups in Asia that dealt with cocaine, heroin and methamphetamine.

After cash was dropped off at Company X, funds were released offshore by Subject X or his network. Most transactions were held in cash and avoided the tracking that is typical for conventional banking. Subject X charged a 5% fee for the laundering and transfer service. As the ML [money laundering] operation grew, the money transfer abilities of Company X became increasingly sophisticated to the point where it could wire funds to Mexico and Peru, allowing drug dealers to buy narcotics without carrying cash outside Canada in order to cover up the international money transfers with fake trade invoices from China. Investigators have found evidence of over 600 bank accounts in China that

² https://news.gov.bc.ca/files/Dirty_Money_Report_Part_2.pdf pg 281.

³ <https://vancouver.sun.com/business/local-business/bc-attorney-general-opens-door-to-background-checks-for-money-transfer-exchange-businesses>

⁴ Money or value transfer services (MVTs) refers to financial services that involve the acceptance of cash, cheques, other monetary instruments or other stores of value and the payment of a corresponding sum in cash or other form to a beneficiary by means of a communication, message, transfer, or through a clearing network to which the MVTs provider belongs. (<https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-money-value-transfer-services.pdf>)

were controlled or used by Company X. Chinese police have conducted their own investigation, labelling this as a massive underground banking system.”⁵

Expanding the Definition of MSB

In addition to MSBs, the Province’s Paper considered broadening FINTRAC’s definition of MSBs⁶ to include white label automated teller machines which are typically operated by small businesses outside of the banking and credit union industry. In Canada, any individual can own or operate a white-label ATM. However, because white-label ATMs are not financial institutions, they are not covered under the Bank Act, and consequently are not regulated under federal jurisdiction. In 2018, FINTRAC reported to the Parliamentary Standing Committee of Finance that WLATM operators are not subject to FINTRAC reporting as defined in the *Proceeds of Crime (Money Laundering) Terrorist Financing Act*. As a result these machines have been exploited by organized crime and money launderers.

According to a redacted 2007 FINTRAC report on WLATMS, they have been known to be utilized by organized crime groups during the placement stage of money laundering. These groups usually locate the generic ATMs within an existing business where the owner/operator has a “clean” criminal record. The ATMS are typically exploited in the following ways:

- “1. The white-label ATM is loaded with proceeds of crime (illegitimate funds may be commingled with legitimate funds).
2. The operator arranges to have the funds withdrawn from his machine, or lets the funds from his machine be gradually depleted.
3. A credit from a settlement company for the same amount is transferred to the operator’s bank account through third party withdrawals.”⁷

A similar problem exists with armoured cars and other money couriers who often serve as agents for MSBs. As a result of this lack of oversight and FINTRAC reporting, the Committee called for white label automated teller machines and armoured cars to be included under the *Proceeds of Crime (Money Laundering) Act* reporting guidelines.⁸

Public Consultation

Staff have prepared a response (Attachment 2) to the Ministry of Finance survey based on previous direction received from Council. Most importantly, the response asserts that the Province should take charge of a regulatory regime instead of deferring the responsibility

⁵ Financial Task Force, Professional Money Laundering, July 2018. <http://www.fatf-gafi.org/media/fatf/documents/Professional-Money-Laundering.pdf>. Cited in Dirty Money Part 2. pg 47.

⁶ <https://www.fintrac-canafe.gc.ca/msb-esm/msb-eng>

⁷ <https://assets.documentcloud.org/documents/813221/2007-fintrac-report-on-white-label-atms.pdf>

⁸ <https://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742/finarp24/finarp24-e.pdf>

to individual municipalities to ensure equity and regulatory effectiveness and efficiency province-wide.

Key Highlights of the Survey Response

The Province should create a regulatory agency for MSBs which has the following mandate:

1. a robust licencing regime similar to that of Quebec, which generates enough revenue to pay for the department that oversees it;
2. the authority and investigative tools to conduct inspections of MSBs and detect suspected underground MSBs;
3. adequate resourcing levels and trained staff to proactively conduct inspections of both licenced and suspected underground MSBs;
4. the ability to develop and share intelligence on suspected underground MSBs with local law enforcement, local government and FINTRAC;
5. the technology and staff trained in data analytics and intelligence analysis to monitor suspicious activity around MSBs;
6. education and outreach towards MSB operators as well as the banking and credit union industry regarding new trends, “red-flags”, and modalities of criminal activity; and
7. regular consultation with key government and private sector stakeholders to develop strategic plans, which establishes clear performance metrics.
8. MSBs. Moreover, this new department should be given the mandate, strategic direction, resources, and tools to proactively regulate MSBs. At the same time, it recommends that the definition of MSBs be expanded to include White Label Automated Machines and armoured cars services.

Financial Impact

None.

Conclusion

The development of a BC regulatory regime of MSBs represents a historic opportunity to address many of the above deficiencies. Following direction from Council, staff will submit the attached response to the BC Ministry of Finance’s consultation on money services businesses regulation.



Mark Corrado
Manager, Community Safety Policy and Programs
(604-204-8673)

MC:mc

Att. 1: MSB Consultation Paper
2: Response to Provincial Consultation on Money Services Businesses Regulation

Money Services Businesses

Public Consultation Paper



Ministry of
Finance

MARCH 2020

GP - 26
(Special)

MONEY SERVICES BUSINESSES
PUBLIC CONSULTATION PAPER

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INTRODUCTION

The Ministry of Finance is consulting on whether the province should regulate money services businesses (MSBs). MSBs are currently required to register with the Financial Transactions and Reporting Analysis Centre of Canada (FINTRAC), Canada's financial intelligence unit, whose mandate is to facilitate the detection, prevention and deterrence of money laundering and terrorist financing. FINTRAC requires MSBs to establish and implement a comprehensive and effective compliance program as well as meet certain know your client, reporting and record keeping requirements. Both the [Expert Panel on Money Laundering in BC Real Estate](https://news.gov.bc.ca/files/Combating_Money_Laundering_Report.pdf) (https://news.gov.bc.ca/files/Combating_Money_Laundering_Report.pdf) and the [Independent Review of Money Laundering in Lower Mainland Casinos](https://news.gov.bc.ca/files/Gaming_Final_Report.pdf) (https://news.gov.bc.ca/files/Gaming_Final_Report.pdf) recommended that in addition to the FINTRAC regime, MSBs should be regulated by the province.

Purpose of MSB Consultation Paper

The purpose of this public consultation paper is to seek input on whether the province should regulate MSBs and what the objectives of a possible regulatory framework should be and any potential costs that would be a consequence of such a regime. The paper sets out a number of possible rationales, objectives and implications of a potential regulatory regime on which input and comments are being sought. Questions are posed after each section to help identify the specific areas and issues. Stakeholders are also invited to provide comments on other issues related to the possible regulation of MSBs that they consider relevant to the review.

How to Provide Input

Submissions and comments must be received by April 30, 2020 and may be transmitted electronically to msb.consultation@gov.bc.ca.

Submissions and comments may also be mailed to:

Attn: Policy & Legislation Division
MSB Consultation
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria BC V8W9V1

Public Nature of Consultation Process

Please note that this is a public consultation process and, unless confidentiality is specifically requested, comments and submissions may be summarized or attributed in a public report, and may also be disclosed to other interested parties or made publicly available on the Ministry of Finance website at <http://www.gov.bc.ca/fin/>.

If certain comments should not be posted publicly or shared with other parties, please clearly indicate that in the submission or covering letter. However, please note that all submissions received are subject to the *Freedom of Information and Protection of Privacy Act* and, even where confidentiality is requested, this legislation may require the Ministry to make information available to those requesting such access.

BACKGROUND AND CONTEXT

Money Services Businesses Sector

Definition

MSBs are a large and diverse set of businesses. The federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) defines MSBs as:

...persons and entities engaged in the business of foreign exchange dealing, of remitting funds or transmitting funds by any means or through any person, entity or electronic funds transfer network, or of issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments except for cheques payable to a named person or entity.

MSBs are not traditional financial institutions. They do not accept deposits or make loans like banks, credit unions or trusts; however, banks and other financial institutions often provide services that are similar to MSBs. FINTRAC does not consider persons and entities that engage in utility payments, payroll and commission services, mortgage and rent payment services and certain tuition payment services to be MSBs. This is because FINTRAC considers these services to be payment processing and that the transmitting of funds is simply a corollary of their actual service. Similarly, FINTRAC considers businesses that provide settlements directly to merchants on behalf of the merchant's customers for the purchase of goods and services not to be MSBs.

Many regulators, including FINTRAC, consider informal alternative money transfer systems such as Hawala¹ to be MSBs. Some jurisdictions also include cheque cashing and prepaid or stored value (e.g. prepaid cards, digital wallets) to be MSBs.

At least one jurisdiction has included the operation of privately-owned automated teller machines (ATMs) or so-called "white-label ATMs" (WLATMS) as MSBs. More recently, many regulators have clarified that MSBs also include businesses dealing in virtual currency, such as Bitcoin. Recent amendments to the PCMLTFA regulations define virtual currency as:

¹ The Financial Action Task Force (FATF) defines Hawala and other similar services providers (HOSSP) as money transmitters, particularly with ties to specific geographic regions or ethnic communities, which arrange for transfer and receipt of funds or equivalent value and settle through trade, cash, and net settlement over a long period of time. A broader category is Informal Value Transfer Systems (IVTS), which are informal money transfer systems that facilitate the transfer of value outside of the conventional financial system (<https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-money-value-transfer-services.pdf>, p. 7).

...(a) a digital representation of value that can be used for payment or investment purposes that is not a fiat currency and that can be readily exchanged for funds or for another virtual currency that can be readily exchanged for funds; or (b) a private key of a cryptographic system that enables a person or entity to have access to a digital representation of value referred to in paragraph (a).

This definition mirrors language from international guidance,² which has added definitions for “virtual assets” and “virtual asset service providers” to reflect the evolution of the virtual asset space. The Organisation for Economic Co-operation and Development (OECD) has observed that an increasing number of countries’ financial authorities are defining and regulating virtual currency exchanges as MSBs.³

Industry Size

MSBs play an important role in the international financial system. For example, it is estimated that in 2018, U.S. MSBs handled over U.S.\$1.4 trillion in transactions, of which U.S.\$1.2 trillion were domestic transactions.⁴ The majority of this was money transmission (60%), followed by stored value (such as prepaid cards or mobile wallets) (21%), payment instruments including money orders (12%) and virtual currency exchange (5%). MSBs also play a significant role in Canada, where there are more than 900 MSBs⁵ (not including agents) registered with FINTRAC, which handle approximately \$39 billion a year.⁶

Trends

MSBs are innovative businesses that often assist individuals who have challenges accessing the financial system. They are frequently at the forefront of adopting new technologies and developing new innovative products and services. These trends have accelerated in recent years with the rapid growth in international migration and migrants’ related money transmission needs as well as the rise of new financial technologies and related start-up firms. At the same time, MSBs continue to experience challenges in accessing the banking system which can affect their ability to provide affordable and convenient products and services.

Use by Disadvantaged and Vulnerable Groups

Many MSBs provide convenient and affordable financial services to disadvantaged and vulnerable groups such as low-income, rural, and undocumented migrants. Remittances⁷ to low- and middle-income countries have reached record highs in recent years and continue to grow rapidly. They are expected to be the largest source of external financing for these countries in 2019 and will surpass foreign direct investment and official

² <https://www.fatf-gafi.org/media/fatf/documents/recommendations/RBA-VA-VASPs.pdf>

³ <https://www.oecd.org/tax/crime/money-laundering-and-terrorist-financing-awareness-handbook-for-tax-examiners-and-tax-auditors.pdf>, p. 55

⁴ <https://www.csbs.org/system/files/2019-10/Chapter%204%20-%20MSB%20Final%20FINAL.pdf>, p. 13

⁵ <https://www.fintrac-canafe.gc.ca/publications/ar/2018/ar2018-eng.pdf>, p. 13

⁶ <https://vancouver.sun.com/business/local-business/expert-money-laundering-panel-recommends-b-c-regulate-foreign-exchange-money-transfer-businesses>

⁷ A remittance is the transfer of money from a person to another party and typically refers to money that is sent to a person’s family members and friends back in their home country.

development assistance.⁸ Lowering the costs of remittances is both an international and domestic priority.

Other developments, which provide new opportunities for disadvantaged and vulnerable persons, as well as present some challenges, include the development of new technologies and the entry of new firms, increasing competition and resulting in lower prices as well as new products and services.

FinTech

FinTech is “technology-enabled innovation in financial services, that could result in new business models, applications, processes or products with an associated material impact on the provision of financial services.”⁹

Many new FinTech firms are MSBs, as they develop and apply new technologies to existing bank infrastructure. Competition is growing as new FinTech firms enter businesses, such as money transmission and currency exchange as well as virtual currency dealing. FinTech new entrants are also partnering with large MSB incumbents to leverage new technologies to lower costs and improve products and services.

De-risking

Most MSBs require accounts at financial institutions in order to process transfers and settle accounts with agents domestically and internationally. However, some financial institutions avoid doing business with MSBs, as many financial institutions perceive that MSBs are high risk with respect to anti-money laundering/anti-terrorist financing (AML/ATF) obligations. The practice of financial institutions exiting relationships and closing the accounts of their clients because they perceive the clients to be high risk is referred to as “de-risking.”

As a result of de-risking, some MSBs have experienced challenges in maintaining accounts with financial institutions. This has a serious impact on the business model of MSBs, as it can limit their ability to transmit remittances and it may lead to other negative outcomes such as financial transactions moving to less transparent informal channels. The Canadian Money Services Business Association (CMSBA) has reported that de-risking actions by Canadian financial institutions has led to the number of MSBs in Canada shrinking from over 2400 to approximately 800 over a 5-year period. The CMSBA has also claimed that several financial institutions have stopped doing business with all MSBs.

The Competition Bureau of Canada (Bureau) conducted a FinTech Market Study¹⁰ (Study), which noted that several Fintech companies registered with FINTRAC as MSBs, particularly those providing payment related services, reported that they had difficulties opening and maintaining accounts with financial institutions. The Bureau also heard that financial institutions under certain circumstances have closed MSB accounts or refused services to

⁸ <https://www.worldbank.org/en/news/press-release/2019/04/08/record-high-remittances-sent-globally-in-2018>

⁹ <https://www.fsb.org/wp-content/uploads/P140219.pdf>, p. 44

¹⁰ <https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04188.html>

MSBs with little or no explanation. The Study included a number of recommendations to combat de-risking including requiring financial institutions that terminate or refuse to provide account services to MSBs to provide their reasoning with supporting evidence to their clients. In addition, financial institution applicants who are unduly refused or clients who have had their accounts terminated should have a suitable course of redress, such as the Ombudsman for Banking Services and Investments.

In the international context, the Financial Action Task Force (FATF) has recommended that financial institutions should not resort to the wholesale termination or exclusion of customer relationships in the MSB sector without conducting a proper risk assessment of the MSB.¹¹

Questions:

- 1) How would you describe the current state of the MSB industry in BC? Are the trends presented here representative of the BC marketplace?
- 2) Are there any other trends, challenges or industry developments in BC outside of what is presented here? Is de-risking a concern for MSBs operating in the province?

Regulation of Money Services Businesses

FINTRAC

FINTRAC was established by the PCMLTFA and is an independent government agency that reports to the federal Minister of Finance. Under the PCMLTFA, FINTRAC is authorized to disclose financial intelligence to police services, law enforcement agencies and other entities.

Registration and Compliance

MSBs are required to register with FINTRAC and to renew their registration every two years.

FINTRAC assesses the fitness of applicants before allowing registration. Organizations or individuals that have been found guilty of, or guilty of being involved in, a money laundering and terrorist financing (ML/TF) offence, as well as corporations, partnerships or other organizations with ineligible leaders/owners as well as listed terrorists are not eligible to register as an MSB and cannot own or operate an MSB in Canada.

MSBs are also required to submit a list of their agents, mandataries and branches upon registration and are accountable for them with respect to anti-money laundering and anti-terrorist financing (AML/ATF) compliance.

Under the PCMLTFA, MSBs must develop a comprehensive compliance program, which is the basis for meeting all reporting, record keeping, client identification and know-your

¹¹ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-money-value-transfer-services.pdf>, p. 44

client (KYC) requirements. MSBs must verify their client's identity for certain activities and transactions and have obligations related to ongoing monitoring of business relationships, determining politically exposed persons (PEPs) or heads of international organizations, beneficial ownership and third-party determination. They are also responsible for identifying clients at certain dollar thresholds and must, with certain exceptions, keep client records for ongoing service agreements, electronic fund transfers (EFTs), fund remittances and foreign exchange services.

MSBs are required to complete and submit reports for suspicious transactions, terrorist owned or controlled property, as well as large cash transactions and EFTs of \$10,000 or more. FINTRAC uses the reports to analyze transactions and develop financial intelligence.

Examinations and Penalties

FINTRAC has the authority to inquire into the business and affairs of MSBs. The Centre undertakes on-site and desk examinations applying a risk-based approach to selecting entities for compliance examinations. Examinations can result in an administrative monetary penalty (AMP). FINTRAC has reported that the imposition of AMPs on MSBs has had a significant dissuasive effect on non-compliance. The Centre may also disclose cases to law enforcement if there is extensive non-compliance or there is little expectation of immediate or future compliance.

PCMLTFA Regulations Amendments

In June 2021, amendments to the PCMLTFA regulations are expected to update customer due diligence requirements, include foreign MSBs in the AML/ATF Regime and update beneficial ownership reporting requirements in suspicious transaction reports. Amendments requiring virtual currency dealers to register as MSBs, are also expected be brought into force in June 2020.

As a result of the 2021 amendments, foreign MSBs, which are not currently subject to PCMLTFA obligations, will have the same obligations as domestic MSBs if they offer online services that target people in Canada even if the MSB does not have a place of business in Canada. Although not defined as MSBs, prepaid payment products with accounts that permit \$1,000 or more to be added or maintained such as prepaid cards will be treated similarly to bank accounts with the same due diligence requirements. Certain low-risk products will be exempted, and the issuers of products restricted to particular merchants or groups such as a shopping centre gift card will not be included.

Other relevant 2021 amendments include requiring MSBs, along with other entities, to conduct ML/TF risk assessments of new technologies prior to their launch, clarifications related to the determination of large transactions reporting thresholds, PEP requirements, suspicious transaction report submission timelines and added record keeping for certain EFTs. MSBs will also have added flexibility for registration renewal.

White Label ATMs

WLATMs do not fall under the PCMLTFA and are not required to register with FINTRAC. However, in 2008 the federal government worked with Canadian payments networks representatives to develop a set of voluntary and self-enforced industry rules and measures to address ML/TF risks. This includes client identification, record keeping and an annual review by a qualified auditor.

Quebec Money Services Businesses Act

Quebec is currently the only province or territory that regulates MSBs. Quebec's *Money-Services Businesses Act* (MSBA)¹² came into force in 2012 and was adopted to facilitate the fight against money laundering and tax evasion. The Act does not regulate for consumer protection purposes. The MSBA was the result of efforts by the Quebec government to combat tax-related economic and financial crime, as MSBs were often linked to these crimes.¹³ It was also meant to address the view that there was limited knowledge of the industry and a lack of control of the delivery of services by MSBs.

The MSBA definition of MSBs includes: currency exchange; funds transfer; the issue or redemption of traveller's cheques, money orders or bank drafts; cheque cashing; and the operation of WLATMs, including the leasing of a commercial space if the lessor is responsible for supplying the machine with cash. Businesses operating a virtual currency ATM or a platform for trading virtual currency must also obtain a licence.¹⁴

The MSBA requires that any person or entity that operates an MSB for remuneration hold a license issued by Quebec's financial market regulator, the Autorité des marchés financiers (AMF). The Act establishes standards for the integrity and "moral character" of executive officers and major shareholders of MSBs and imposes requirements for customer identification, maintaining and updating records and disclosure of certain transactions.

The AMF maintains a public register of licensees and sends relevant information to police and tax authorities when it believes an MSB is conducting unlawful activities. The Sûreté du Québec (SQ), Quebec's national police force, issues security clearance reports that include recommendations on whether or not to grant a licence to an applicant. An MSB that contravenes or commits offences under the MSBA can be fined or have its licence revoked. The AMF may also request that the Financial Markets Administrative Tribunal impose an administrative penalty. The Act includes a number of penal provisions, which can be doubled in the case of a second or subsequent offence.

The AMF was selected to administer the MSBA because of its expertise in registration systems management even though MSBs are not part of the regulated financial sector. A recent Quebec Ministry of Finance report¹⁵ on the application of the MSBA recommended that Revenue Quebec should administer the MSBA. This is because the Act does not

¹² <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/E-12.000001>

¹³ http://www.finances.gouv.qc.ca/documents/autres/en/AUTEN_loiservicesmonetaires.pdf, p. 13

¹⁴ <https://lautorite.qc.ca/en/general-public/media-centre/news/fiche-dactualites/virtual-currency-atms-and-trading-platforms-must-be-authorized/>

¹⁵ http://www.finances.gouv.qc.ca/documents/autres/en/AUTEN_loiservicesmonetaires.pdf

conform to AMF's primary mission to protect and assist consumers of financial services, and that combatting tax evasion and money laundering are not part of its mandate.

The Quebec Finance report also noted that prior to the adoption of the MSBA, it was difficult to establish a clear picture of the MSB industry in Quebec even with FINTRAC reporting obligations. It concluded that the Act has made economic and financial crime more difficult to commit and acts as a deterrent.

United States Money Services Businesses Sector Regulation

In the United States, MSBs are regulated at both the federal and state level. Federal supervision is shared between the Financial Crimes Enforcement Network (FinCEN), which is the federal AML/ATF regulator, and the Consumer Financial Protection Bureau (CFPB), which is a regulatory agency that oversees the offering and provision of consumer financial products or services. State regulators also regulate for *Bank Secrecy Act* (BSA)¹⁶/AML compliance, consumer protection and financial system safety and soundness.

Financial Crimes Enforcement Network (FinCEN)

The BSA requires MSBs in the U.S. to register with FinCEN, which is the federal financial intelligence unit and is a bureau of the U.S. Department of the Treasury. FinCEN defines MSBs as any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities: currency dealer or exchanger; cheque casher; issuer or seller or redeemer of traveller's cheques, money orders or stored value/pre-paid access products; money transmitter; and the U.S. Postal Service.¹⁷ To be considered an MSB, activity dollar thresholds apply, except for money transmitters where there are no dollar thresholds. Persons accepting and transmitting value that substitutes for currency such as virtual currencies, as well as Informal Value Transfer Systems (IVTS) are considered to be MSBs (money transmitters). WLATMs that limit service to remote access (balance inquiries, withdrawals) from their customers from their own accounts at a depository institution are not considered to be MSBs but are subject to certain BSA requirements.

MSBs must renew their registration with FinCEN every two years, develop and implement an AML compliance program, and report transactions greater than U.S.\$10,000 as well as suspicious activities. MSBs must also provide estimates of business volume, information regarding ownership/control of the MSB and a list of agents. Businesses that operate solely as an agent of another MSB are not required to register. The U.S. Postal Services is not required to register but must still comply with the same AML/ATF obligations as other MSBs. Federal, state and local agencies are also not required to register.

¹⁶ The *Currency and Foreign Transactions Reporting Act* of 1970 (which legislative framework is commonly referred to as the "Bank Secrecy Act" or "BSA") requires U.S. financial institutions to assist U.S. government agencies to detect and prevent money laundering. (<https://www.fincen.gov/resources/statutes-regulations>)

¹⁷ <https://www.fincen.gov/money-services-business-definition>

State Supervision

Most state regulatory agencies also license and regulate MSBs and have had exclusive prudential jurisdiction of MSBs for over one hundred years.¹⁸ State supervision of MSBs involves licensing, examination, enforcement and complaints handling. They ensure compliance with state and federal regulatory requirements as well as regulate for AML/ATF, narcotics trafficking, consumer protection and financial market stability, safety and soundness. Most states do not monitor or require registration of owners or operators of WLATMs.

State regulators coordinate with each other as well as federal agencies. The Multi-State MSB Examination Taskforce¹⁹ (MMET) coordinates and facilitates multi-state supervision of MSBs. FinCEN meets with MMET regularly to compare examination schedules and review processes as well as the effectiveness of the supervisory regime. The states have also collectively developed and currently operate the Nationwide Multistate Licensing System and Registry²⁰ (NMLS) through the Conference of State Bank Supervisors²¹ (CSBS), which many state agencies use for MSB licences.

Many states require MSBs to submit reports that include financial information, transactional activity and permissible investment amounts (high quality assets that must be reserved against money transmission liabilities). They also coordinate and standardize this information to better assess risks and identify trends. The CSBS has an information sharing memorandum of understanding (MOU) with FinCEN to provide regulatory information from NMLS. States also share information and coordinate with the CFPB where appropriate.

Questions:

- 3) If BC were to regulate MSBs, what kind of customer identification, record keeping, transaction reporting and other compliance requirements should a provincial regulatory regime have?
- 4) If BC were to regulate MSBs, which entity should be the provincial regulator and why?
- 5) Should agents and mandataries have to report in a potential provincial MSB regulatory regime?
- 6) Should WLATMs be included in a provincial definition of MSBs? Are there any other businesses or activities that should be included or excluded beyond FINTRAC's definition?

¹⁸ <https://www.csbs.org/system/files/2019-10/Chapter%204%20-%20MSB%20Final%20FINAL.pdf>, p. 14

¹⁹ <https://www.mtraweb.org/exams/multi-state-msb-examination-taskforce-mmet/>

²⁰ <https://nationwidelicensingsystem.org/Pages/default.aspx>

²¹ <https://www.csbs.org/>

DISCUSSION OF KEY ISSUES AND AREAS FOR PUBLIC INPUT

Overview

The remainder of this paper identifies and briefly describes the key areas and issues about which government is seeking input for consideration as part of the possible regulation of MSBs. The intent of this paper is not to present conclusions about the issues, or to propose specific policies. The intent is to raise issues for discussion, and to provide an opportunity for stakeholders in the MSB sector, and any other interested parties, to comment and provide input.

The issues are grouped into two main sections: a section on the rationale and objectives for regulating the MSB sector, and a separate section outlining other potential implications of regulating MSBs. Additional questions are posed after each section to help identify the specific areas and issues about which input is being sought.

Stakeholders are also invited to provide additional input and comments on the issues (e.g., if they would like to comment on issues other than those specifically raised in the questions) and are encouraged to provide comments and input on any other issues or concerns (i.e., those not identified in the paper) they would like considered in the review.

RATIONALES AND OBJECTIVES FOR REGULATING THE MSB SECTOR

Combatting Money Laundering

MSBs vulnerability to ML

MSBs have been identified as being potentially vulnerable to money laundering. The BC government's recent reports on money laundering in BC real estate (Expert Panel)²² and lower mainland casinos (Independent Review)²³ both recommended that MSBs be regulated by the province. The Expert Report suggested that a provincial business authorization requirement for MSBs could mean that MSBs engaged in ML would be more susceptible to detection by an active regulator with effective investigative resources. It also concluded that MSBs engaged in illegal activity and operating without a licence would be susceptible to detection. In addition, the Independent Review noted that the development of a provincial MSB licensing regime is strongly supported by the province's anti-gang agency, the Combined Forces Special Enforcement Unit – British Columbia (the CFSEU).

The federal Department of Finance's 2015 Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada²⁴ (Assessment Report) determined that ML/TF vulnerabilities of the MSB sector in Canada is medium to very high. Although the MSB sector is broadly vulnerable, the degree of vulnerability is not uniform across different firm sizes and business models. EFTs, currency exchanges and negotiable instruments

²² https://news.gov.bc.ca/files/Combatting_Money_Laundering_Report.pdf

²³ https://news.gov.bc.ca/files/Gaming_Final_Report.pdf

²⁴ <https://www.fin.gc.ca/pub/mltf-rpcfat/mltf-rpcfat-eng.pdf>

(e.g., money orders) were found to be used the most often for ML due to the common use of cash in these transactions.

Two types of MSBs were identified as the most vulnerable: national full-service MSBs, and small predominantly family-owned MSBs that provide wire transfer services largely through informal networks. The national full-service MSBs conduct high volumes of transactional business (i.e., wire transfers, currency exchange and monetary instruments), and a significant amount of their business is with PEPs, clients in vulnerable businesses/occupations and those who conduct activities in locations of concern. The small family-owned MSBs were deemed to be vulnerable because they can allow high-risk clients to wire funds to high-risk jurisdictions through their informal networks. They may also be more vulnerable to exploitation because of their small size and low-profile.

Virtual Currency

Virtual currency market capitalization and transaction volume is growing and evolving rapidly, which may present an increasing ML risk. The Assessment Report found that the ML/TF vulnerabilities of virtual currencies is high. Virtual Currencies were found to be the most vulnerable because they can provide a high degree of anonymity, are easy to access and transfer and determining beneficial ownership can be challenging. Virtual currency exchanges in particular were found to be susceptible to ML due to their anonymity and intensive use of cash.

The FATF has updated its recommendations to clarify that virtual asset providers be regulated for AML/ATF purposes and that they should be licensed or registered and subject to effective systems of monitoring/supervision. A key priority of the FATF is urgent action by countries to mitigate ML/TF risks of virtual assets and virtual assets service providers, and it has issued several guidance documents related to addressing the ML/TF risks associated with virtual currency payments and products.

WLATMs

WLATMs may be vulnerable to ML because they can be owned by any person or entity directly or through nominees and can be loaded with large amounts of cash including criminal proceeds. Law enforcement continues to express concerns that the industry is used by organized crime groups in Canada.

International Regulation and Assessments

AML/ATF is often the primary purpose for and objective of MSB regulation. Both FINTRAC and FinCEN's mandates are focused on AML/ATF. In the U.K., HM Revenue & Customs (HMRC), which is responsible for regulating most MSBs, set up a Proceeds of Crime Intervention Team which focuses mainly on MSB ML.²⁵

Both the US and UK's national assessments of ML/TF have found MSBs to be vulnerable to ML. The US 2018 National Risk Assessment found MSBs to have varying degrees of

²⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf, p. 71, 72

vulnerabilities to ML depending on the type of MSB.²⁶ It also found that specific case examples demonstrated that professional money launders continually seek out MSBs with weak controls or corruptible staff in order to access the financial system. The UK's 2017 national risk assessment found the ML risks associated with the MSB sector to be high although certain services (e.g., cheque cashing) had little or no risks. This was an increase from the previous assessment and was partly due to the persistence of previously identified risks such as the control of some MSBs by organized crime groups and low levels of compliance with ML regulations.²⁷

MSB regulation for AML/ATF purposes is a global priority. The FATF, which has 37 member jurisdictions²⁸ has issued two risk-based approach (RBA) AML/ATF guidelines related to MSBs over the past decade, including the 2016 FATF Guidance²⁹ for Money or Value Transfer Services as well as the earlier 2009 Guidance³⁰ for MSBs.

Questions:

- 7) Should AML be the primary or only focus of a provincial MSB regulatory regime? Why or why not?

Consumer Protection

There are valid reasons to regulate MSBs for consumer protection purposes. Unfair business practices and fraud can occur by service providers in any industry, but the vulnerability of a consumer is greater when the service consists of handling the consumer's money. The BC Expert Report suggested that regulating the market conduct of MSBs for consumer protection would fill a significant gap in the existing provincial regulatory system. The FATF has recommended that as part of a risk-based regime, the legal and regulatory framework for MSBs should reflect broader financial sector policy objectives such as financial inclusion, consumer protection and competition. In addition, the OECD, Financial Stability Board (FSB) and other international organizations have developed common high-level principles on consumer protection in financial services as directed by the G20 Finance Ministers and Central Bank Governors.³¹

As mentioned above, many U.S. states also regulate MSBs for consumer protection as well as for financial safety and soundness. The U.S. federal regulator CFPB works to protect consumers from unfair, deceptive, or abusive practices and conducts enforcement, takes complaints as well as conducts financial education, research and monitors for new risks to consumers.

²⁶ https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf

²⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf, p. 68

²⁸ <http://www.fatf-gafi.org/about/membersandobservers/>

²⁹ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-money-value-transfer-services.pdf>

³⁰ <https://www.fatf-gafi.org/documents/documents/fatfguidanceontherisk-basedapproachformoneyservicesbusinesses.html>

³¹ <https://www.oecd.org/daf/fin/financial-markets/48892010.pdf>

Financial Inclusion

Consumer protection may be especially important in the context of MSBs, as they are often used by those who are less likely to use traditional banking. MSBs are a lower cost option for people that need to send money quickly and cheaply instead of waiting for domestic or international wire transfers from a financial institution, which can sometimes take several days to process. The services are also often used in places with limited or no banking services.

Money transmission services are particularly important to financial inclusion. They comprise a large portion of total MSB transactions and are growing rapidly and increasingly relying on internet-based business models. Remittances, in particular, are an important source of income for many developing countries with annual remittance flows to low and middle-income countries reaching U.S.\$529 billion in 2018. This was an increase of 9.6% from the previous high in 2017. Reducing remittance costs to 3% by 2030 is a global target under the World Bank Sustainable Development Goals.³²

A recent Statistics Canada study found that 37% of Canadian residents born in countries eligible for Official Development Assistance sent money abroad to relatives and friends.³³ Money transfer stores are the most common method of sending money, with 56% of remitters going in-person for their most recent transfer and 8% sending money online. The study reported that the average remittance fee was 6% in 2017, with the amount varying depending on the transfer method. The remittance of lower dollar amounts generally had higher average fees.

Reducing remittance fees is a priority in Canada. In 2015, the federal government announced a series of provisions to reduce the costs of remittances. More recently, the federal government indicated that it intends to work closely with provincial and territorial governments to improve regulation of the remittance industry to ensure that consumers are not charged exorbitant fees.³⁴ The government has also committed to lowering remittance costs to an average of 5% by 2022 and 3% by 2030 which is consistent with the Sustainable Development Goals and Canada's G20 commitments.³⁵

Competition

Competition can provide significant benefits to consumers and businesses. This includes providing competitive prices, product/service choice and information to make informed purchasing decisions. Competition is one of the ten G20 high-level principles on financial consumer protection and includes the promotion of competitive markets to enhance innovation and service. MSBs in particular, play an important role in providing competition and provide many direct benefits to consumers including lower prices, increased choice, convenience and product/service innovation.

³² <https://www.worldbank.org/en/news/press-release/2019/04/08/record-high-remittances-sent-globally-in-2018>

³³ <https://www150.statcan.gc.ca/n1/en/pub/89-657-x/89-657-x2019007-eng.pdf?st=IoLaOQil>, p. 3

³⁴ <https://www150.statcan.gc.ca/n1/pub/89-657-x/89-657-x2019007-eng.htm>, p. 4

³⁵ https://www.budget.gc.ca/2019/docs/plan/chap_04-en.html

A potential roadblock to competition from MSBs is de-risking. The Competition Bureau of Canada has noted that financial institutions are in a unique position to potentially block the entry of new competition from MSBs. Financial institutions can provide the same services as MSBs and could in theory close MSB accounts in order to exclude an existing or potential competitor. This may make it more difficult for MSBs to act as a competitive constraint on incumbent financial institutions, which may ultimately lead to higher prices as well as reduce innovation, quality and choice for consumers.

Technological Innovation

New competitive pressures are being introduced in the money services sector with the growth of online business models, as well as new MSB related FinTech firms. This has led to lower costs and the application of new technologies for some services. FinTech companies have specifically targeted remittances and money transmission and have devised ways to lower costs through aggregation as well as adopting new technologies such as machine learning and distributed ledgers. These firms are also often entirely digital, which reduces costs compared to more traditional business models. Recent Fintech entrants have been able to keep remittance fees below 2% or even less on high volume routes.^{36,37} Large incumbent MSBs are also building their digital business and have been partnering with FinTech companies to execute foreign currency trades as well as for liquidity related purposes.

Rapidly changing markets that are unregulated may pose consumer protection challenges. The G20 principles note that rapid financial market development and innovation combined with unregulated or inadequately regulated financial service providers can increase the risk of consumer fraud, abuse and misconduct. These risks are particularly significant for certain low income and less experienced consumers. The OECD has found that growing digitization of financial decisions is not necessarily matched by increasing digital and financial literacy levels, even for younger consumers. New types of fraud are possible in the digital environment which take advantage of consumer uncertainty and may lead to new types of financial exclusion for certain groups such as the elderly.

Questions:

- 8) Should consumer protection and market conduct be part of a potential provincial MSB regulatory regime? Are there other more effective ways to ensure consumer protection, especially for vulnerable groups?

Solvency and Systemic Risks

Many MSBs hold their customer's money on account as part of the service they provide. For example, in a wire transfer, a customer provides the service provider or agent money to be transferred. The service provider or agent sends a message to another branch or agent where the money is then given to a transferee. The service provider holds the money

³⁶ <https://www.economist.com/finance-and-economics/2019/04/11/fintech-takes-aim-at-the-steep-cost-of-international-money-transfers>

³⁷ <https://www.reuters.com/article/us-crypto-currencies-remittances/bitcoin-start-ups-in-asia-take-aim-at-remittances-market-idUSKCN1GP117>

between when they have received the money and when it has been provided to the transferee. This potentially raises the risk of the solvency of the provider for its customers and therefore prudential supervision may be appropriate to ensure adequate capital and liquidity of the MSB.

Flowing from the solvency risk, is systemic risk. Any time money can be moved around or converted, there are opportunities for arbitrage and speculation. As persons take larger and larger positions in any one asset through a single service provider, the solvency of the service provider is no longer just a concern for individual customers; it becomes a concern for the entire financial system.

Given that MSBs may engender concerns about the stability of the financial sector like those of other financial services, supervision of capital and liquidity may be warranted and rules about clearing and settlement may be required for some of the services. Traditionally such specialized supervision is the responsibility of financial regulators.

The FATF Guidance for a Risk-Based Approach for Money or Value Transfer Services³⁸ includes financial stability as a broad policy objective. The FATF also notes that prudential supervision of MSBs can facilitate regulators obtaining information on an MSB's risk levels related to their products, services and business model, and can also facilitate AML/ATF measures when shared among appropriate regulators.

Evolving Risks

Technological innovation among MSBs and related FinTech companies may lead to increased prudential and financial stability risks. The International Monetary Fund has suggested that while the evolving FinTech market could boost competition and efficiency, it may also raise new risks to financial stability and integrity. For example, new ways of transmitting money may change the nature of cross-border financial capital flows and could make enforcing macroprudential measures more challenging.³⁹

The rise and rapid growth of virtual currencies may also eventually pose a risk to financial stability. In 2018, the FSB reported to the G20 that crypto-assets did not currently pose risks to global financial stability, as their market capitalization levels remain small compared to the global financial system and they are not currently widely used for financial transactions. However, the FSB is monitoring the growth and development of crypto-assets for potential new risks to financial stability. If there were significant growth in virtual asset markets, the risks that could ultimately lead to financial stability implications could include market liquidity, volatility, leverage and technological and operational risks.

³⁸ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-money-value-transfer-services.pdf>, p. 37

³⁹ <https://www.imf.org/en/Publications/Policy-Papers/Issues/2019/06/27/Fintech-The-Experience-So-Far-47056>, p. 38

Questions:

- 9) Should prudential and financial stability regulation be part of a potential MSB provincial regulatory regime? If so, what types of measures should it include? Are there specific types of MSBs that have a greater solvency and/or stability risk?

OTHER IMPLICATIONS OF REGULATING THE MSB SECTOR

Minimizing Regulatory Overlap

It would be important for any provincial MSB regulatory regime to minimize regulatory overlap with other regulators. Cooperation, coordination and information sharing with other regulators and relevant parties would be critical to ensure an effective and efficient provincial regulatory regime. This would include closely cooperating with FINTRAC, the Canada Revenue Agency, police and local law enforcement as well as other provincial and federal entities. The level of cooperation and coordination would likely depend on the objectives of a provincial regime.

Working with FINTRAC would be especially important given its existing registry and reporting regime. FINTRAC has demonstrated a willingness to work with other regulators and parties and has signed over 20 MOUs with federal and provincial partners.⁴⁰ These agreements have allowed FINTRAC to coordinate examinations with regulatory bodies, share results, minimize overlap and duplication as well as coordinate the monitoring of trends and emerging risks. For example, the AMF and FINTRAC have an MOU which allows for the sharing of compliance information, minimizes duplication and reduces the regulatory burden for stakeholders subject to the two bodies. Similarly, FINTRAC signed an MOU with FICOM (now the BCFSA) to exchange compliance information, minimize overlap and reduce administrative requirements with respect to credit unions, life insurance companies and trust companies in British Columbia. Other examples of FINTRAC MOUs include those with the Real Estate Council of British Columbia (RECBC) and the Investment Industry Regulatory Organization of Canada (IIROC).

Virtual Currency

Virtual currency dealer regulation may require enhanced cooperation with securities regulators. In March 2019, the Canadian Securities Administrators (the CSA) and IIROC released a joint consultation paper to seek feedback on the requirements for trading platforms (which are used for the buying, selling or transferring of crypto-assets) in Canada whose operations engage securities law. The paper outlined a proposed framework with tailored regulatory requirements for the platforms. Securities regulators will use the feedback to establish a framework that will provide regulatory clarity, investor protection and market integrity.⁴¹ This would likely require coordination with FINTRAC's

⁴⁰ <https://www.fintrac-canafe.gc.ca/new-neuf/nr/2019-05-30-eng>

⁴¹ https://www.bccsc.bc.ca/Securities_Law/Policies/Policy2/PDF/21-402_CSA_IIROC_Consultation_Paper__March_14_2019/

upcoming requirement that dealers in virtual currency register as MSBs as well as any provincial MSB regimes.

U.S. regulators have recently addressed the issue of regulatory overlap of virtual currencies. In October 2019, the U.S. Commodity Futures Trading Commission (CFTF), FinCEN and The U.S. Securities and Exchange Commission (SEC) issued a joint statement regarding digital assets and related AML/AFT obligations under the BSA.⁴² FinCEN's 2019 Guidance set out that any person registered and functionally regulated or examined by the SEC or the CFTF is not subject to the BSA obligations applicable to MSBs but is instead subject to the BSA obligations of the regulated entities' type.

Questions:

- 10) What steps should be taken to avoid regulatory overlap with FINTRAC and other regulators/entities with a provincial MSB regulatory regime?

Minimizing Regulatory Burden

Provincial regulation of MSBs could lead to increased regulatory costs for those MSBs operating in BC. MSBs may in turn pass these increased costs on to consumers by raising prices or reducing available products and services. This could ultimately lead to some MSBs exiting the BC marketplace in the longer term, which would further reduce competition and lead to increased prices. Regulatory costs may also act as a disincentive for new MSB related FinTech companies to enter the BC market thereby further reducing potential new competition. Increased prices and reduced products and services would likely have the biggest impact on vulnerable groups and may negatively impact financial inclusion.

During Quebec's consultation⁴³ on an MSBA regulation, some MSBs submitted that an increase in compliance costs would impose a competitive disadvantage on MSBs and would act as a disincentive to enter the Quebec market. Stakeholders noted that the regulation of WLATMs in particular would result in less ATMs being available in Quebec and would lead to higher transaction fees, reduced competition and lower employment in the ATM industry.

Risk-Based Approach / Harmonization

A Risk-Based Approach (RBA) to regulation could help to ensure a more flexible regulatory framework that would help to minimize regulatory costs for MSBs. The FATF has increased its emphasis on a RBA to AML/ATF, which allows regulators to target their resources more effectively as well as apply preventative measures that are commensurate

⁴² <https://www.cftc.gov/PressRoom/SpeechesTestimony/cftcfincensecjointstatement101119>

⁴³ <https://lautorite.qc.ca/en/professionals/regulations-and-obligations/public-consultations/topic/money-services-businesses/finished/>

with the nature of the risks.⁴⁴ This allows for reduced AML/ATF measures where the risk is assessed to be lower.

Coordination and harmonization with other regulators and jurisdictions would also help to minimize regulatory burden and costs. Examples include the Canadian securities regulators' harmonization efforts as well as those of U.S. state supervisors. For example, the U.S. state regulators have launched Vision 2020, an initiative to modernize and harmonize state regulation of non-bank financial companies including MSBs.⁴⁵

Questions:

- 11) What measures could BC take to minimize regulatory costs and burden for MSBs in a provincial regime? How can BC ensure that competition and access to MSBs are not adversely impacted by a potential regulatory regime?
- 12) Are there alternatives to direct regulation of MSBs that would be more efficient and/or more effective?
- 13) Are there any other implications or unintended consequences of a provincial MSB regulatory regime? What measures could mitigate these?

⁴⁴ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-money-value-transfer-services.pdf>, p. 14

⁴⁵ <https://www.csbs.org/vision2020>

Response to Provincial Consultation on Money Services Businesses Regulation

1) How would you describe the current state of the MSB industry in BC? Are the trends presented here representatives of the BC marketplace?

Money Service Businesses (MSBs) are currently unregulated in BC and are only required to register with FINTRAC. The FINTRAC registry appears to lack basic enforcement and intelligence sharing with government partners and local law enforcement. This lack of regulation and enforcement has led to the proliferation of an underground MSB industry and unprecedented money laundering problem that has come to be recognized as the “Vancouver Model”. The Province must establish legislation that will create a department which will oversee the regulation MSBs. The mandate of this new MSB regulatory department should include:

- a) a robust licencing regime similar to that of Quebec, which generates enough revenue to pay for the department that oversees it;
- b) the authority and investigative tools to conduct inspections of MSBs and detect suspected underground MSBs;
- c) adequate resourcing levels and trained staff to proactively conduct inspections of both licenced and suspected underground MSBs;
- d) the ability to develop and share intelligence on suspected underground MSBs with local law enforcement, local government and FINTRAC;
- e) the technology and staff trained in data analytics and intelligence analysis to monitor suspicious activity around MSBs;
- f) education and outreach towards MSB operators as well as the banking and credit union industry regarding new trends, “red-flags”, and modalities of criminal activity; and
- g) regular consultation with key government and private sector stakeholders to develop strategic plans, which establishes clear performance metrics.

The MSB industry, as described by the Money Services Business Public Consultation Paper (Paper), plays a key role in providing financial services outside of the banking and credit union sector in BC. While the paper notes that many MSBs serve population groups from low-income, rural and undocumented migrants, it is also important to consider that MSBs serve middle to upper income individuals from economically advanced countries. Canada, in particular BC, differs from Europe and the United States as it has experienced substantially more foreign migration from economically advanced countries. Foreign born Canadians, permanent residents and temporary residents often originate from countries where the banking sector is dominated by what are perceived to be corrupt and authoritarian regimes. MSBs provide a degree of anonymity for individuals who fear retribution from authoritarian countries where one’s wealth and civil rights can be swept aside without due process. Given the global proliferation of authoritarian regimes and the attractiveness of Canada as a democratic safe haven for immigration, MSBs will likely continue to serve as a valuable economic service.

At the same time, the Paper as well as the recent BC government sponsored Peter German and Expert Panel reports note that MSBs have also been spectacularly exploited by organized crime groups. Money laundering, terrorism financing and tax evasion have afflicted MSBs to a greater extent than the traditional banking sector. The aforementioned studies, as well as the Financial Action Task Force, point to recent cases in Canada where MSBs have served as conduits for

millions and even billions of dollars of proceeds of crime. The socio-economic harm of money laundering has been acutely felt in the BC where organized crime groups have fueled an unprecedented opioid crisis and laundered billions of funds through the real estate market.

The trend in FinTech or technology-enabled innovation in financial services is of particular concern to law enforcement as it is far easier to exploit by organized crime and difficult to detect. FinTech is also increasingly utilized to facilitate money transfers between countries in order to circumvent capital controls. Smart phones and social media applications that ensure anonymity through encryption are being utilized to transfer considerable sums of money. The trend in increased usage of crypto currencies is likely to accelerate and will continue to be exploited by organized crime.

2) Are there any other trends, challenges or industry development in BC outside of what is presented here? Is de-risking a concern for MSBs operating in the province?

As noted in the above answer to question one, MSBs, Casinos and FinTech have recently been exploited by organized crime. Recent BC government studies as well as expert witness testimony in the Cullen Commission Inquiry have noted that underground MSBs in the Lower Mainland are vital to facilitating the “Vancouver Model” of Money Laundering.

While the Paper notes the adverse impact that “de-risking” has had on MSBs, it is necessary to explore more comprehensively why banks and credit unions have felt the need to de-risk so aggressively. De-risking is clearly linked to the fact that MSBs in BC have an international reputation as being associated with the Vancouver Model. Banks and credit unions are regulated and subject to quite substantial national as well as international consequences if they do not implement strict anti-money laundering, anti-terrorism financing and anti-tax evasion measures. The de-risking trend could be reversed, if banks and credit unions were satisfied that appropriate regulatory and due diligence measures were in place for MSBs. In short, if MSBs are not regulated then it is increasingly likely that banks and credit unions will accelerate de-risking.

3) If BC were to regulate MSBs, what kind of customer identification, record keeping, transaction reporting, and other compliance requirements should a provincial regime have?

BC should adopt similar customer identification requirements and record keeping regulations as regulations under the Quebec’s *Money Service Business Act* Division IV section 7-17.⁹ Ensuring proper customer identification is a vital first step to most due diligence regimes. To facilitate the verification of customer IDs, consideration should be given to developing or adopting a similar software client verification solutions which many banks and credit unions currently utilize.

Moreover, operators of MSBs and their beneficial shareholders should be thoroughly vetted through criminal background checks. The acceptability of these operators should not only be assessed through a criminal check but a comprehensive risk based approach as advocated by the Financial Action Task Force’s due diligence process.

4) If BC were to regulate MSBs, what entity should be the provincial regulator and why?

⁹ <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/E-12.000001,%20r.%201>

The BC Financial Services Authority (BCFSA), formerly Financial Institutions Commission, should be the regulator for MSBs. Much of BCFSA's personnel have recent experience regulating credit unions under the Financial Institutions Commission. BCFSA will likely require an increase in resources, new training and development of separate policies for MSBs, however, its familiarity with regulating financial services and knowledge of the Proceeds of Crime (Money Laundering) Terrorism Financing Act is essential. However, BCFSA will require substantially more resources and staff who have the legislative authority and training to conduct thorough investigations and inspections of underground and suspicious MSBs. BCFSA will also likely be able to leverage its strong relationship with the credit unions, FINTRAC, law enforcement and tax regulators.

5) Should agents and mandataries have to report in a potential provincial MSB regulatory regime?

If the mandatory or agent is a part of the provincial or federal government, for example, Canada Post, they can be exempt. However, if the agent or mandatory is not a government agencies and are fulfilling a nominal role or function they should be subject to a similar MSB regulatory regime. For example, armoured car services should be fall under the MSB regulatory regime.

6) Should White Label or Generic Automated Teller Machines (WLATMS) be included in a provincial definition of MSBs? Are there any other business activities that should be included or excluded beyond FINTRAC's definition?

There are an estimated 43,100 White Label or Generic Automated Teller Machines (WLATMS) in Canada. These generic ATMS are not linked to banks or credit unions and are typically operated by small businesses. They are often found in small retail establishments, gas stations, bars/pubs and restaurants. WLATMS should be included in the provincial definition of MSBs and regulation. A 2018 Federal government report recommended that the "Government of Canada amend the PCMLTFA so that the armoured car and white label ATM sector be subject the Anti-Money Laundering/Anti-Terrorism Financing regime, as is the case in the United States and the province of Quebec, respectively."¹⁰ RCMP, FINTRAC and a 2016 Financial Task Force report on Canada identified that WLATMS as having been exploited by organized crime who often infiltrate businesses or utilize proxies known as "mules" or "smurfs" to exploit these machines for money laundering purposes.¹¹

7) Should Anti-Money Laundering be the primary or only focus of a provincial MSB regulatory regime? Why or why not?

Anti-money laundering, anti-terrorism financing and tax evasion detection should be the focus of the Provincial MSB regulatory regime. Critically, the focus should also be on the detection of underground MSBs through proactive inspection and intelligence collection. International agencies such as the Financial Task Force, the European Union, the United States as well as the Canadian and BC government have identified how organized crime, terrorist groups and

¹⁰ <https://www.ourcommons.ca/Content/Committee/421/FINA/Reports/RP10170742/finarp24/finarp24-e.pdf>

¹¹ <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Canada-2016.pdf>

criminals have utilized MSBs to launder money, evade tax and finance terrorism. The Provincial MSB regulators should work closely with the MSB operators, local law enforcement, financial sector, revenue Canada and FINTRAC to identify suspicious behaviour, share intelligence and enforce regulations. In Quebec, MSB regulators work seamlessly with the aforementioned agencies and routinely share intelligence which has disrupted serious criminality related to money laundering, tax evasion and national security.

8) Should consumer protection and market conduct be part of a potential MSB regulatory regime? Are there other more effective ways to ensure consumer protection, especially for vulnerable groups?

One of the most effective ways to ensure consumer protection and good market conduct is to have regular enforcement of regulations, intelligence sharing between various law enforcement agencies and other regulators, robust background checks of operators and routine inspections of MSBs. As noted in the Paper, the emergence of digitization has led to lower costs and lower remittance fees being charged by online Financial Technology companies MSB firms. At the same time virtual currencies are at a greater risk of identity theft, cybercrime and fraud. The Provincial regulator of MSBs should work with business operators and consumers to generate awareness campaigns regarding the aforementioned risks. Criminal schemes and other predatory behaviour are constantly evolving and it is vital that these new modalities are shared both with MSB operators and consumers.

9) Should prudential and financial stability regulation be part of a potential MSB provincial regulatory regime? If so, what types of measures should it include? Are there specific types of MSB that have a greater solvency and/or stability risk?

MSBs should be subject to prudential supervision and regulators should strive for financial stability as an objective. As noted in the Paper, the Financial Action Task Force has found that prudential supervision also enhances improved intelligence collection, identification of risk and ultimately enforcement. It is conceivable that virtual currencies and other financial technology companies could pose systemic risks to the financial markets, particularly, if they continue to experience exponential growth.

10) What steps should be taken to avoid regulatory overlap with FINTRAC and other regulators/entities with a provincial MSB regulatory regime?

Quebec's MSB regulators have proven to work effectively with FINTRAC, law enforcement and the Canadian Revenue Agency with minimal issues. Regular intelligence sharing, joint-task forces and strong relationship are key to ensuring an integrated approach between regulators. It would be prudent to ensure that there is regular stakeholder consultation with other provincial and national regulators of MSBs to mitigate regulatory overlap and align strategic objectives. To date, there has been little issue with overlap in mandate given the relative lack of enforcement resources devoted to Anti-Money Laundering and Anti-Terrorism Financing at both the provincial and national level.

11) What measures could be taken to minimize regulatory costs and burden to MSBs in a provincial regime? How can BC ensure that competition and access to MSBs are not adversely impacted by a potential regulatory regime?

Researching and investing in the use of cost effective technology that automates client identity verification and financial transactions/records keeping could be used to offset regulatory costs and burdens. Much of the banking and credit union industry has applied technological solutions to automate risk analysis and suspicious transaction reporting. The Provincial regulator could employ similar data analytics and machine learning as the private sector and FINTRAC to build better risk matrices, track threats, and identify emergent trends.

12) Are there alternatives to direct regulation of MSBs that would be more efficient and/or more effective?

Multiple provincial, national and international studies have shown direct regulation of MSBs as essential and effective to ensuring Anti-Money Laundering, Anti-Terrorism Financing, tax enforcement, and even the stability of financial markets. There are no more effective and efficient means to reducing the risk of Anti-Money Laundering, Anti-Terrorism Financing and tax evasion in MSBs other than direct regulation.

13) Are there any other implications or intended consequences of a provincial MSB regulatory regime? What measures could mitigate these?

The United States and Quebec have regulated MSBs with minimal consequences. As was noted above, a lack of regulation leading to increasing de-risking from banks and credit unions poses a far greater risk and consequence to the MSB industry.