INVESTMENT INDUSTRY ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÉRES

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Director, Policy

February 29, 2012

VIA E-MAIL

Fcs-scf@fin.gc.ca

Ms. Leah Anderson
Director, Financial Sector Division
Department of Finance
140 O'Connor Street
Ottawa, Ontario
Canada K1A 0G5

Dear: Ms. Anderson:

Re: Consultation Paper: Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime (Consultation Paper)

The Investment Industry Association of Canada (IIAC) appreciates the opportunity to comment on the Consultation Paper published on December 21, 2011.

The IIAC formed an industry Sub-Committee to review the Consultation Paper and gather industry views and recommendations in order to assist the Department of Finance to develop an effective Anti-Money Laundering (AML) and Anti-Terrorist (ATF) Regime that at the same time does not impose an undue burden on our members as reporting entities.

Our members participated in the focus groups in the summer of 2010 that were conducted by an independent consultant in support of the government's 10-year evaluation of the AML/ATF Regime. Many of the areas that the IIAC identifies below as potential areas for improvement were raised during those focus groups.

Further, the IIAC submitted a letter to the Department of Finance in November 2010 and met with staff in the Financial Sector Division in the summer of 2011 to request relief from certain provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*

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(PCMLTFR) relating to record-keeping and ascertaining identity. Section 62(2) of the *PCMLTFR* provides exemptive relief from certain provisions relating to record keeping and ascertaining identity where an account is opened by a securities dealer, life insurance companies, investment funds, pension funds etc.

As previously requested, we suggest extending the current exemptions under section 62(2) of the *PCMLTFR* to equivalent foreign regulated entities that are subject to a comparable regulatory regime in their home jurisdiction or through the stock exchanges on which they are listed in order to "level the playing field" and to permit our members to compete in the global capital markets.

The underlying rational for the exemptive relief currently provided in section 62(2) for Canadian regulated entities is, at least in part, due to the regulatory oversight of these entities provided by a government regulatory body or an industry-specific self-regulatory organization. Regulated entities are less likely to pose AML risks relating to identity, identity verification of its authorized officers and record-keeping because they are already subject to significant registration requirements, disclosure, audit and reporting obligations and enhanced regulatory scrutiny over their business conduct and operations. Foreign regulated entities that are subject to similar regulatory regimes in their home jurisdictions should be eligible for comparable exemptive relief under the *PCMLTFR*. As a result, if, for example, an entity were regulated by the Financial Services Authority (FSA) in the U.K or the Securities and Exchange Commission (SEC) in the U.S., Canadian dealers would be able to verify the identity by confirming and documenting the entities registration status and rely on the regulatory review by that home jurisdiction.

Further, we note that under Proposal 1.8 of the Consultation Paper, the Department of Finance is considering removing the $75 million net asset test under paragraph 62(2)(m) of the *PCMLTFR* provided the public body or corporation's shares are traded on a Canadian or other designated stock exchange. The Consultation Paper states that "listed corporations are considered to be at lower risk for money laundering and terrorist financing as they are subject to stringent disclosure obligations outside of the *PCMLTFA*." The IIAC suggests that a similar argument applies to foreign regulated entities that are subject to stringent regulatory oversight.

As the IIAC has outlined in earlier submissions, where a securities dealer outside of Canada opens an institutional account for a Canadian regulated entity, it is not required to obtain copies of corporate documents and identity information regarding authorized officers, nor is it required to verify such identity information through face-to-face meetings with its employees or agents or other means. Foreign dealers are permitted to rely on information posted on SEDAR, EDGAR, and other government and regulatory sources and public databases in conducting due diligence in order to satisfy AML concerns relating to identity and record-keeping. As a result, when our members ask a foreign regulated entity for its corporate documents and detailed information and for a face-to-face verification meeting, many of these entities balk at the request, electing instead to take their business elsewhere because of the inconvenience to them. They can easily open an institutional account with a SEC or FSA registered securities dealer, for example, without similar onerous requirements.

Our purpose in seeking the proposed amendments to section 62(2) is to address this disparity and to enable our members to compete more effectively and on an equal footing as other securities dealers in the global capital markets for foreign investments from foreign regulated entities.

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Attached as Appendices 1, 2 and 3 is a list of provisions found in legislation in other jurisdictions which permit such an exemption. For instance, in the United Kingdom, section 5.3.121 of the Joint Money Laundering Steering Group Guidance states, "In respect of other financial services firms (including their nominee companies) which are subject to the ML Regulations or equivalent, and which are regulated in the UK by the FSA, or in the EU or an equivalent jurisdiction, by an equivalent regulator, simplified due diligence may be applied." Section 5.4 explains that simplified due diligence means not having to apply CDD measures and in practice, "this means not having to verify the customer's identity." Likewise, in France, Art. L. 561-9 of Code Monetaire et financier sets out that where a client is established in a third country that imposes equivalent obligations in the fight again money laundering and terrorist financing, firms are not subject to the same requirements with respect to anti-money laundering measures**.**

Additionally, the regulations under the U.S. Patriot Act require identification and verification and defines customer. Section 1023.220 of Subpart B of 31 CFR Chapter X, paragraph (a)(2), states that the Customer Identification Procedures (CIP) must include risk-based procedures for verifying identity of each customer to the extent reasonable and practical. Therefore while dealers must have a CIP, they are able to apply it using a risk-based approach to the "extent reasonable and practicable." The risk-based approach permits simplified diligence so the fact that the entity is regulated suffices as verification of identity.

As of June 2008 as set out in Canada's AML regime, a firm's compliance program must include an assessment and documentation of risks related to money laundering and terrorist financing in a manner that is appropriate to that firm. A risk-based approach has numerous advantages as it is a process that allows a firm to identify and measure potential high risks and develop firm-specific strategies to mitigate them. To identify potential money laundering and terrorist financing risks, the principle behind a risk-based approach is for a firm to focus its resources where they are most needed to manage risks. A firm-specific risk assessment allows each firm to identify high risk situations within its particular business lines for which additional controls and monitoring may be required.

Under this approach, there are no universally accepted risk factor or risk scales. Each member must examine its own operations and make its own determinations on higher or lower risk factors. A firm-wide risk assessment usually begins with a determination of the factors relevant to the firm's business that will differentiate higher from lower risk businesses or customers. For example, some factors will not be relevant to some dealer members because they do not deal in the relevant kinds of products, with particular types of customers or outside of the local jurisdiction.

Given that other jurisdictions are comfortable with exemptions for foreign regulated entities and recognizing the important benefits of a risk-based approach, we respectfully request that our request be reexamined to determine whether such an exemption would be acceptable to the Department of Finance.

Proposal 1.1 – Business Accounts

With respect to client identification records for authorized signers for business accounts, the IIAC requests that some clarification be provided regarding the term "business account". Would

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such an account encompass partnerships, trusts and other legal entities? Some detail around the term business account is requested.

Proposal 1.2 – Introducing/Carrying Relationships

Proposal 1.2 indicates that the *PCMLTFR* currently only recognizes two specific "introduced business" scenarios where one reporting entity can rely on the CDD performance by another. The IIAC wishes to clarify that the term "introduced business" carries a specific meaning in the investment industry. In addition, there are clear obligations and responsibilities between the parties in such an introduced business relationship. Consequently, the IIAC believes it would be beneficial to outline current industry practices and the scenarios where requiring both parties to keep records would not only be a duplication of efforts but somewhat impractical from a business perspective.

As set out under the Investment Industry Regulatory Organization of Canada's (IIROC) rules, member firms are permitted to conduct business through an introducing broker/carrying broker arrangement. In these arrangements, an agreement is entered into between two members that allow one firm to use the back office of another firm to perform certain trading related functions on its behalf.

There are four types of permissible introducing broker/carrying broker arrangements under IIROC rules. The four types of arrangements were developed to give firms increased flexibility to use the excess back office capacity of another firm. The carrying broker is relied on most heavily to perform trading related functions on behalf of the introducing broker under an Introducing Type 1 arrangement and less heavily under an Introducing Type 4 arrangement.

Under a Type 1 or 2 arrangement, the name of both the introducing broker and the carrying broker must appear on all contracts, statements and correspondence relating to any introduced customer accounts. This is because under these arrangements, both the introducing broker and the carrying broker have significant performance obligations to the introduced customers. Further, in order to ensure that the customer is aware of the individual roles and obligations of the introducing broker and the carrying broker, a disclosure statement detailing the roles and obligations of both brokers must be provided to the customer at the time they open an account as well as on an annual or ongoing basis thereafter.

Under a Type 3 and 4 arrangement, only the introducing broker's name must appear on all contracts, statements and correspondence relating to any introduced customer accounts. This is because under these arrangements, the introducing broker retains the bulk of the performance obligations to the introduced customers. For the most part, the carrying broker under these arrangements acts as a securities clearing, settlement and record keeping service bureau. However, as with the Type 1 and 2 arrangements, a disclosure statement detailing the roles and obligations of both member firms must be provided to the customer at the time they open an account as well as on an annual or ongoing basis thereafter.

It should be noted that in most of these arrangements, only the introducing broker has the direct relationship with the client and therefore it is the introducing broker that is responsible for customer due diligence requirements under the AML regime.

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Under the IIROC AML Compliance Guidance issued in October 2010, the regulator provides guidance to members regarding a carrying broker's involvement in an introducer's account opening, transaction and recordkeeping process and sets out that it is a good practice for the introducing/carrying agreement to specifically set forth the respective obligations between the two firms relating to compliance with applicable AML laws, rules and regulations and for the introducing broker to ensure it has all the tools necessary to fulfill the CDD requirements. It also states that the following should be considered:

- There must be a clear understanding between the dealers as to where the operational responsibility for all anti-money laundering procedures lies, and sufficient information must be available to those responsible for carrying out each procedure;
- If the carrying broker designs and provides the new account forms and other standard account documentation, it must ensure that they request all the information and support all the processes necessary for the introducing firm to conduct full CDD;
- The carry broker must provide reports necessary for introducing brokers to properly fulfill their transaction monitoring responsibilities;
- It should be clear what back-up support the carrying broker provide, such as the checking of client names against terrorist lists;
- Electronic records maintained by the carrying broker must meet the record keeping and access requirements; and
- If customers can deal directly with the carrying firm to conduct transactions such as deposits, withdrawals and wire transfers there must be effective communication between the firms to enable proper monitoring for suspicious activity.

The IIROC Guidance also states that based upon the allocation of responsibilities and subject to a reasonable request by the introducing broker, carrying brokers may need to develop certain tools, or enhance existing tools, to assist the introducing broker in analyzing the transactional activity of its customers. These tools could include reports intended to assist the introducing firm in supervising and monitoring customer accounts, such as exception reports reflecting deposit and trading activity that might detect possible money laundering activity, including the structuring of deposits. Carrying brokers should include these reports on the list of reports required to be provided to introducing brokers at the inception of the introducing/carrying relationship.

IIROC further indicates that introducing and carrying brokers must also develop effective communication to deal with questionable activity or potential indications of suspicious activity. A carrying firm cannot, for example, consider its responsibilities fulfilled if it simply reports what it considers potentially suspicious activity to the introducing firm. The introducing firm should provide the carrier with sufficient information to satisfy itself that the activity has been appropriately dealt with, either through the filing of a suspicious transaction report or the receipt of an explanation sufficient to conclude that the activity gives no reason for suspicion. Feedback

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from the introducing broker can have the added benefit of either pointing at other activity that should be reviewed or preventing the recurrence of similar false positives.

The allocation of responsibilities should be made known to those conducting the annual audits of anti-money laundering procedures at both the introducing and the carrying firm. Those conducting the audits should be encouraged to work together and share information to ensure that there are no gaps and that both parties are properly executing their responsibilities as defined in the legislation, regulations and the introducing/carrying agreement.

The IIAC would be happy to discuss in further detail introducing/carrying broker arrangements in order for the Department of Finance to better understand how clients are adequately protected in such arrangements.

Non-Face-to-Face Situations and Additional Verification Options

With respect to non-face-to-face identification, the IIAC is pleased that the Department of Finance has recognized that there is a rapidly increasing reliance on electronic means for product delivery in the financial services industry and appreciate the attempt to accommodate this evolution where possible. For example, we support the fact that the *PCMLTFR* recognizes that a bank statement provided electronically by a financial entity may be used to confirm that an individual has a deposit account under the non-face-to-face identification requirements. However, we continue to have issues surrounding the identity method options currently available. Our members believe that obtaining a five-point background check relating to an individual is far superior with respect to ascertaining identity than obtaining a copy of an individual's driver's license as it provides a great deal more information and comfort as to the true identity of the client. For instance, a credit check will provide information including: legal name, physical address, date of birth, social insurance number and phone number. In addition, it will provide a number of other pieces of information such as previous addresses, employers and credit history. On the other hand, it is uncertain whether an employee of a dealer would be able to identify a forged driver's license.

Additionally, the IIAC requests that the Department of Finance consider permitting additional documents as an acceptable second piece of ID in the combination method to address the difficulty in meeting the existing requirements for certain clients. Specifically, acceptance of a utility bill, care facility or nursing home statement as a method of identification. The current acceptable methods can create significant compliance burden if dealing with an elderly client. In some jurisdictions such as the U.S. and U.K., a utility bill is accepted provided it includes the client's full name and addresses and was recently issued.

Proposal 1.5 – Definition of Politically Exposed Foreign Person

This proposal is considering an amendment to the definition of "politically exposed foreign person" (PEFP) to include close associates of such a person.

The IIAC agrees that it is important for reporting entities to identify current or former PEFPs and their immediate family members and to have enhanced measures in respect of these customers due to their higher risk with respect to money laundering or terrorist financing activities.

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However, the IIAC has concerns regarding a proposal that would require reporting entities to take reasonable measures to determine whether a customer is a close associate of a PEFP. There is a great deal of uncertainty among our members as to how a close associate would be defined and identified. Many firms also rely heavily on outside vendors as a means to screen against PEFP sources. There is additional concern as to whether these data sources would suffice to meet this type of requirement. How would a close associate be defined? Would it also include the family members of a close associate? Including a close associate is far too broad in scope and would be difficult for member firms to implement in any practical manner.

Proposal 1.7 – Assessment of Account Holders as PEFPs

The Government is considering amending paragraph 54.2(b) and subsection 57.1(2) of the *PCMLTFR* to clearly provide that reporting entities would be required to assess whether all existing account holders are PEFPs, where such a determination has not already been made.

Currently, firms are required to use a risk-based approach to determine if they should take the next step to take reasonable measures to establish whether a customer is a PEFP. The proposal states that where customers have been identified as low risk, reporting entities are not required to determine whether those customers are PEFPs.

The IIAC was not entirely clear as to the intent of this proposal. It appears that the Government is contemplating removing the use of a risk-based approach and instead require reporting entities to assess whether all current account holders are PEFPs. As discussed above, a risk-based approach has numerous advantages as it is a process that allows a firm to identify and measure potential high risk areas and develop firm-specific strategies to mitigate them. While some of our members do a general screening of all accounts and many firms ask the question to customers upon account opening, some do not, and removing the ability for firms to make the best determination according to their business, activities, transactions and clients as to when and how to assess potential PEFPs removes an important component in continuing to strengthen Canada's AML regime as a whole. The continued use of a risk-based approach as it relates to PEFPs is requested.

Proposal 1.8 – Extend Exemptions to Include Listed Corporations

The IIAC and our members are extremely pleased that the government has granted our request that paragraph 62(2)(m) of the *PCMLTFR* will be amended to remove the $75 million minimum net assets threshold that was a condition of exemptive relief from certain provision of the regulations relating to record-keeping and ascertaining identity for companies that are listed on a Canadian or designated foreign exchange.

Paragraph 1.9 – Corporate Status of Corporations

This proposal would require that any document used as proof of the existence of a corporation must be no more than one year old. The proposal goes on to state that acceptable certificates of corporate status could be those that are issued by the "competent authority under whose laws the corporation exists."

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The IIAC is unclear if certificates of corporate status are the only acceptable method for proof of the existence of a corporation or if other records (such as a published annual report or a letter or notice of assessment from a government) are permissible.

In addition, not all jurisdictions have annual filing requirements and thus it may be impossible to comply with a one year provision. In such situations, the IIAC suggests that it would be acceptable to provide annual financial statements or a copy of the entity tax return from the previous year, which would satisfy the requirement to confirm the ongoing existence of a corporation.

Proposal 1.10 – Replacing the Term "Third Party" with "Instructing Party"

This proposal would amend the provision that establishes the third party determination requirements under the *PCMLTFR*, to replace the term, "third party" with "instructing party".

The IIAC is pleased with this change but believe the phrase, "instructing third party" would provide even more clarity under the requirements.

Proposal 2.6 – Application of Large Cash Transaction Obligations

The Government is giving consideration to amending the *PCMLTFR* to provide that reporting entities would be required to record and report large cash transactions of $10,000 or more, even where the cash would be received on behalf of the reporting entity by an agent or affiliated entity.

Most IIAC members no longer deal in cash; however, we would appreciate some clarity surrounding cash equivalents such as bank drafts and money orders and how these would be classified. For instance, it would be helpful if the proposal explicitly set out where the responsibility for reporting would fall, either with the bank who issues the draft and/or money order or with the securities dealer who receives it.

Proposal 2.9 – The 24-Hour Rule

Proposal 2.9 would amend the description of "single transaction" in the *PCMLTFR* to include all transactions, regardless of their amount, collected on behalf of the same person or entity within a 24-hour period where the combination of those transactions would total at least $10,000.

The IIAC does not have issue with this amendment and we agree it would provide greater transparency with respect to multiple transactions.

Proposal 3.3 – Non-Compliance with Reporting Obligations

Proposal 3.3 contemplates amending the *Proceed of Crime (Money Laundering) and Terrorist Financing Act* (*PCMLTFA)* to provide FINTRAC with an additional tool to ensure that FINTRAC receives the reports that entities are required submit.
The IIAC does not have issue with this requirement.

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Proposal 3.4 – Reasonable Measures

Proposal 3.4 is considering requiring reporting entities to document and keep a record of any "reasonable measures" they are required to take under the *PCMLTFA*.

The IIAC would appreciate clarification as to how this proposal would be applied. This proposal seems contrary to a risk-based approach as it would be very difficult to determine "reasonable measures". As outlined above, it is our position that a risk-based approach is most appropriate and should be applied in such circumstances, as simply determining "reasonable measures" is very vague. IIAC members currently have strict record keeping requirements and therefore, should already be meeting a "reasonable measures" test.

Proposal 6.1 – Broadening the Requirements to Report Suspicious Transactions

Proposal 6.1 would broaden the requirement to report suspicious transactions to encompass activities conducted for the purpose of a financial transaction.

The IIAC would appreciate clarification as to the breadth of this requirement. Currently, our members are required to report any suspicious transactions or any attempted suspicious transaction, and we are unclear whether the proposed requirement goes beyond what our members currently report. Does the requirement attempt to capture an individual who attempts to open an account but is not yet a client?

Conclusion

Thank you for considering our submission. We would be pleased to respond to any questions that you may have in respect of our comments.

The IIAC consents to the Department of Finance posting this submission and names on their website.

Yours sincerely,

"Michelle Alexander"

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Appendix 1

United Kingdom – Joint Money Laundering Steering Group Guidance, Part 1[1]

5.3.121 In respect of other financial services firms (including their nominee companies) which are subject to the ML Regulations or equivalent, and which are regulated in the UK by the FSA, or in the EU or an equivalent jurisdiction, by an equivalent regulator, simplified due diligence may be applied (see section 5.4).

5.3.122 Firms must, however, have reasonable grounds for believing that the customer qualifies for the treatment in paragraph 5.3.121.

5.3.123 Having reasonable grounds might involve:

- checking with the home country central bank or relevant supervisory body; or
- checking with another office, subsidiary, branch or correspondent bank in the same country; or
- checking with a regulated correspondent bank of the overseas institution; or
- obtaining from the relevant institution evidence of its licence or authorisation to conduct financial and/or banking business.

To assist firms, a list of the regulatory authorities in EU and FATF member states is available at www.jmlsg.org.uk.

5.3.124 Firms should record the steps they have taken to check the status of the other regulated firm.

5.3.125 Firms should take appropriate steps to be reasonably satisfied that the person they are dealing with is properly authorised by the customer.

5.4 Simplified due diligence means not having to apply CDD measures. In practice, this means not having to verify the customer's identity, or, where relevant, that of a beneficial owner, nor having to obtain information on the purpose or intended nature of the business relationship. It is, however, still necessary to conduct ongoing monitoring of the business relationship. Firms must have reasonable grounds for believing that the customer, transaction or product relating to such transaction falls within one of the categories set out in the Regulations, and may have to demonstrate this to their supervisory authority. Clearly, for operating purposes, the firm will nevertheless need to maintain a base of information about the customer.

[1] Received Treasury Ministal approval for the purposes of section 330 and 331 of the Proceeds of Crime Act 2002, section 21A of the Terrorism Act 2000, and regulations 42 and 45 of the Money Laundering Regulations 2007.

Appendix 2

France – Art. L. 561-9 of Code Monetaire et financier

I.-Lorsque le risque de blanchiment des capitaux et de financement du terrorisme leur paraît faible, les personnes mentionnées à l'article L. 561-2 peuvent réduire l'intensité des mesures prévues à l'article L. 561-6. Dans ce cas, elles justifient auprès de l'autorité de contrôle mentionnée à l'article L. 561-36 que l'étendue des mesures est appropriée à ces risques.

II.-Les personnes mentionnées à l'article L. 561-2 ne sont pas soumises aux obligations prévues aux articles L. 561-5 et L. 561-6, pour autant qu'il n'existe pas de soupçon de blanchiment de capitaux ou de financement du terrorisme, dans les cas suivants :

1° Pour les clients ou les produits qui présentent un faible risque de blanchiment de capitaux ou de financement du terrorisme, dont la liste est définie par décret en Conseil d'Etat ;

2° Lorsque le client est une personne mentionnée aux 1° à 6° de l'article L. 561-2, établie ou ayant son siège en France, dans un autre Etat membre de l'Union européenne ou dans un pays tiers imposant des obligations équivalentes de lutte contre le blanchiment et le financement du terrorisme. La liste de ces pays est arrêtée par le ministre chargé de l'économie.

Les personnes mentionnées à l'article L. 561-2 recueillent des informations suffisantes sur leur client à l'effet de vérifier qu'il est satisfait aux conditions prévues aux deux précédents alinéas.

Art. L.561-6

Avant d'entrer en relation d'affaires avec un client, les personnes mentionnées à l'article L. 561-2 recueillent les informations relatives à l'objet et à la nature de cette relation et tout autre élément d'information pertinent sur ce client.

Pendant toute sa durée et dans les conditions fixées par décret en Conseil d'Etat, ces personnes exercent sur la relation d'affaires, dans la limite de leurs droits et obligations, une vigilance constante et pratiquent un examen attentif des opérations effectuées en veillant à ce qu'elles soient cohérentes avec la connaissance actualisée qu'elles ont de leur client.

(Unofficial Translation)

Appendix 2

Art. L.561-9 of Monetary and Financial Code

I. -When they consider the risk of money laundering and terrorist financing to be low, the persons mentioned in article L.561-2 may decrease the intensity of the measures provided in article L.561-6. In such case, they shall justify to the supervising authority mentioned in article L.561-36 that the scope of the measures is appropriate to these risks.
II. -In as much as there exists no suspicion of money laundering or terrorist financing, the persons mentioned in article L.561-2 are not subject to the obligations provided under article L.561-5 and L.561-6 in the following cases:

1° For clients or products that present a low risk of money laundering or terrorist financing, the list of which shall be defined by Order-in-Council;

2° When the client is a person mentioned in paragraphs 1° through 6° of article L.561-2, is established or has its head office in France, in another Member State of the European Union, or in a third country that imposes equivalent obligations in the fight against money laundering and terrorist financing. The list of these countries shall be determined by the minister responsible for the economy.

The persons mentioned in article L.561-2 shall gather sufficient information on their clients, with the aim of verifying whether the latter meet the conditions provided in the previous two paragraphs.

Art. L.561-6

Before entering into a business relationship with a client, the persons mentioned in Art. L.561-2 shall gather information relative to the object and nature of this relationship, as well as any other pertinent information on this client.

For the entire duration of the relationship and under the conditions set by Order-in-Council, these persons shall exercise constant vigilance with respect to this business relationship, within the limits of their rights and obligations, and shall carefully examine the transactions that are effected, ensuring that they are consistent with their updated knowledge of their client.

Appendix 3

United States – Section 326 of the Patriot Act, 31 CFR Part 103 Chapter X, Section 1023.220 of the Transfer and Reorganization of Bank Secretary Act Regulations; Final Rule

§ 1023.220 Customer identification programs for broker-dealers.

(a) *Customer identification program:*
minimum requirements—(1) *In general.* A broker-dealer must establish, document, and maintain a written Customer Identification Program (‘‘CIP’’) appropriate for its size and business that, at a minimum, includes each of the requirements of paragraphs (a)(1) through (a)(5) of this section. The CIP must be a part of the broker-dealer’s anti-money laundering compliance program required under 31 U.S.C. 5318(h).

(2) *Identity verification procedures.* The CIP must include risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. The procedures must enable the broker-dealer to form a reasonable belief that it knows the true identity of each customer. The procedures must be based on the broker dealer’s assessment of the relevant risks, including those presented by the various types of accounts maintained by the broker-dealer, the various methods of opening accounts provided by the broker-dealer, the various types of identifying information available and the broker-dealer’s size, location and customer base. At a minimum, these procedures must contain the elements described in this paragraph (a)(2).

(i)(A) *Customer information required.*
The CIP must contain procedures for opening an account that specify identifying information that will be obtained from each customer. Except as permitted by paragraph (a)(2)(i)(B) of this section, the broker-dealer must obtain, at a minimum, the following information prior to opening an account:
(*1*) Name;
(*2*) Date of birth, for an individual;
(*3*) Address, which shall be:
(*i*) For an individual, a residential or business street address;
(*ii*) for an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of a next of kin or another contact individual; or
(*iii*) for a person other than an individual (such as a corporation, partnership or trust), a principal place of business, local office or other physical location; and
(*4*) Identification number, which shall be:
(*i*) For a U.S. person, a taxpayer identification number; or
(*ii*) for a non-U.S. person, one or more of the following: A taxpayer identification number, a passport number and country of issuance, an alien identification card number, or the number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.