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**The Certified General Accountants Association of Canada
Statement delivered before the Senate Standing Committee on
Banking, Trade and Commerce**

**Five Year Statutory Review of the
Proceeds of Crime (Money Laundering) and Terrorist Financing Act**

June 22, 2006

Introduction

Mr. Chair, Honourable Senators:

On behalf of the Certified General Accountants Association of Canada (CGA-Canada) and our 64,000 members, we wish to thank you for this opportunity to appear before you and give voice to our thoughts and concerns on the five year statutory review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

By way of background, I am Everett Colby, FCGA, Chair of the CGA-Canada's Tax and Fiscal Policy Committee. I am also a public practitioner. My client base is principally small and medium size businesses as well as individuals.

Mr. Chair, I would like to start with some brief remarks about what we think about the current legislation as well as the direction that the Department of Finance has taken with the June 2005 White Paper called Enhancing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime. I will then be happy to answer any questions.

Legitimate business cannot be punished

As an association of professional accountants, CGA-Canada recognizes that we have a role to play in assisting Canada's law enforcement agencies in their efforts to combat illicit activities such as money laundering and terrorist financing.

That being said, CGAs, like other professionals, enjoy a privileged relationship with their clients. Although not formally recognized by the courts as an inherent right, clients expect their communications with their accountants as well as their files to remain within the boundaries of the professional relationship.

Indeed, the CGA Code of Ethical Principles and Rules of Conduct embody this principle. According to the professional Code, CGAs are obligated to safeguard the interests of their clients and/or employers, and to keep all information obtained in the pursuit of their duties, confidential. While we have amended the CGA Code to allow CGAs to comply with the act and regulations, it is CGA-Canada's contention that access to the professional's files should be limited as much as possible and any access granted should relate only to the respective file that triggered the search. All else must remain confidential and should not be subject to arbitrary examination by FINTRAC.

This is even more apparent now given the government's proposal to give FINTRAC more flexibility to turn over information from our clients to a government agency like the Canada Revenue Agency. Although this is not the intent of the White Paper's proposal, FINTRAC employees trained to recognize and analyze the criminal offence of money laundering or terrorist financing might also be expected to identify tax related offences and disclose this information to the Canada Revenue Agency.

Moreover, the Canada Revenue Agency will be able to use this disclosure to seek a production order to obtain additional information from FINTRAC. We caution the Committee to be sensitive in its deliberations to ensure that an appropriate balance is maintained between the mandate of FINTRAC along with privacy considerations.

Suspicious Attempted Transactions

Another significant change proposed by the Government's White Paper is to require our members to not only report suspicious transactions but to also report suspicious attempted transactions. Currently, professional accountants are called upon to exercise considerable judgment in recognizing whether a transaction is in fact money laundering or terrorist financing.

The addition of Suspicious Attempted Transactions will require accountants to be even more vigilant. This is a significant change in policy. Accountants should not be expected to become detectives as they attempt to establish the rationalization or intentions of their clients' actions and/or questions. CGA-Canada would contend that this proposal goes beyond the necessary professional good judgment required of our members.

Additionally, this increased burden on accountants will have a significant impact on client - accountant relationships and the transparency with which information is shared and collected. We would ask the Committee to be mindful of the professional relationship between practitioners and their clients and not introduce unnecessary skepticism or suspicion. After all, when a client comes to my office, they expect professional services, not an inquisition.

Without benefit of a review of the guidelines referred to in the White Paper, it is difficult for CGA-Canada to comment further on the enhanced regime proposed by the Department. CGA-Canada would nevertheless strongly recommend that the guidelines provide specific criteria for determining those characteristics and circumstances that might lead a professional accountant to conclude that a client is attempting to launder money or to finance terrorist activities.

Conclusion

In conclusion, Mr. Chair, we all want to do our part and help governments diminish funds from going to terrorist groups and organized crime. We would nevertheless suggest the Committee and the government find a balanced approach to protect Canadians from terrorists without treating Canadians like terrorists.

Mr. Chair, I welcome members' questions. Thank you.