

September 15, 2015

Policy & Legislation Division  
Ministry of Finance  
PO Box 9470 STN PROV GOVT  
Victoria, BC  
V8W 9V8

Subject: FIA and CUIA Review

Via Email

To whom it may concern,

On behalf of the BC Trust Companies working group, we would like to provide the following submission regarding the Financial Institutions Act ("FIA") upcoming review.

The BC Trust Companies group is an ad hoc committee comprised of four of the five active provincial Trust companies licensed under the BC FIA and all are non-deposit taking trusts providing executor, power of attorney and trustee services to British Columbians. The group consists of Solus Trust Company Limited, CrossonVoyer Trust Company Inc., Western Pacific Trust Company, and Community Western Trust Corporation.

The group's submission feedback is as follows;

1. Unregulated Activity

We are concerned with unregulated activities conducted by companies and individuals offering or providing services as trustees and executors or agents thereof, who are providing those services without the regulated oversight required of a traditional trust company. These would include certain individuals, various trusted professional advisors, and corporate entities providing services that should be subject to both regulatory oversight and capital requirements.

These unregulated activities present a risk to the consumer since none of these individuals or entities are subject to the independent oversight provided by FICOM and FINTRAC. They have no capital requirements, audit requirements, anti-terrorism/money laundering requirements, nor meet any of the business authorization requirements of the current FIA. We would propose that this type of work, as a professional executor/trustee, be defined and any individual or corporation deemed to be operating as a professional executor or providing trust services professionally be ordered to obtain a license or face administrative penalties.

2. Use of the word "Trust" in Corporate naming

The group notes that there has been a loosening of regulatory acceptance of non-licensed entities to allow the use of "trust" as a descriptor in both registered and doing business as names. Trust has a long and ancient connotation in corporate name history throughout the western world, one which is well

recognized by consumers as having specific government authorizations granted to perform certain fiduciary duties. The group recommends that, to reduce the risk of consumer confusion and subsequent unregulated activity, that the use of the word trust in the name of any sole proprietor, limited partnership or society operating as an executor or trustee in the province be restricted to licensed entities only. We understand that the use of the word trust in the name of a corporation requires the approval of the regulator and we believe this practice should continue.

### 3. Capital Requirements

The existing legislation in British Columbia restricts Trust Companies to non-deposit taking activities and they must retain .5% of assets under administration.

We suggest the capital, registration and regulation review requirements be extended to all entities that choose to provide trust services.

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We would welcome the opportunity to discuss these important matters with representatives of the Policy and Legislation Division given the overall operating importance of these topics. This would assist in ensuring that the defined business processes of Trust Companies best meet the defined needs of British Columbians while adhering to established business and regulatory guidelines.

Brian Peterson  
Director  
Community Western Trust Corporation

cc copies:

Alison Alfer, CEO, Western Pacific Trust Company  
John Blackmer, CEO, Solus Trust Company Limited  
John Robinson, CEO, Community Western Trust Corporation  
Ron Voyer, CEO, CrossonVoyer Trust Company Inc.  
Steven Youngman, Director, Western Pacific Trust Company

## Appendix: Specific responses to your questions:

### **Trust Sector Issue 1:**

Question 1 – No comment.

Question 2 – No change is proposed, but all parties providing trustee and executor services as a business should be regulated and subject to the same capital requirements.

Question 3 – No comment.

### **Trust Sector Issue 2:**

Question 1 – Include the comments in Point 1 of the letter, as suggested by John.

Question 2 – The legislation should generally capture all trustee and executor services within the regulatory framework , but should specifically exempt services that are already subject to regulatory or court oversight, sufficient to protect the public.

The legislation should not interfere with the rights of individuals to select friends, family or business associates as executors or trustees. Limitations should focus on parties soliciting or providing executor or trustee services as a business.

**Question 3** – No exemptions for other corporate entities have been identified.

**Question 4.** Yes.

**Question 5.** No.