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## **BRIEFING NOTE/NOTE D'INFORMATION**

**TO / DEST. :** Robert W. Ward  
President and Chief Executive Officer

**FROM / EXP. :** Compliance Division  
Lawyer Services and Payments Department

**DATE :** November, 2012

**SUBJECT / OBJET :** Status Updates on Deloitte and MNP Portal  
Review Reports

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### **Issue**

Status update on Deloitte and MNP reports recommendations.

### **Decision Required**

For information.

### **Background**

- Until 2005, LAO's lawyer account payment process was paper based requiring manual handling and examination of over 200,000 accounts submitted annually by lawyers resulting in payment delays, inefficiencies and information gaps;
- Effective April 1, 2005, a web based billing portal was introduced allowing lawyers to enter their accounts online. It stored information centrally enabling better data analytics;
- As part of the implementation of the billing portal, LAO established a Post Payment Examination (PPE) function to randomly select and review accounts;
- Over time, PPE statistics revealed that the error rates were increasing;
- These findings and concerns expressed by staff prompted LAO to perform a review of the billing portal;
- To perform qualitative and quantitative reviews, LAO engaged MNP and Deloitte;
- As part of the value-for-money audit in 2011, the Auditor General of Ontario acknowledged, in his December 2011 Report, LAO's progress in implementing the recommendations of the Deloitte report.



## Considerations

- MNP was engaged in 2009. The MNP engagement approach was comprised of interviews with staff, review of documents and procedures, and of assessing these against current best practices;
- The MNP Summary of Results, dated December 4, 2009, is attached as Appendix F;
- The MNP engagement did not include a statistical analysis to quantify the risks;
- Since, the risks identified by MNP were not quantitatively validated, LAO engaged Deloitte to quantify, through statistical analysis, billing and payment risks;
- In addition to the statistical analysis, the Deloitte report, dated April 13, 2010, which is attached Appendix D, analyzed billing process controls, and recommended improvements to increase efficiencies and effectiveness of the lawyer payment operations and enhancements to the billing portal.
- The Deloitte methodology used data analytics to “identify normative rates of specific types of billing activity, and then quantify the transaction and dollar amounts of billings activity that were anomalous with regard to these expected rates.” Deloitte further highlighted “that our observations and testing results are not specifically indicative of fraud.”;
- Based on data spanning 3 years, from April 1, 2006 to March 31, 2009, representing \$441.7M of billings comprised of 309,472 accounts billed by 4,912 lawyers, based on ten different data analytic tests, Deloitte found that about \$17.5 million or 3.95% over this three-year period “should be reviewed further”;
- Deloitte recommended that LAO “conduct a documentation review to determine what is driving the anomalous activities identified.” Attached as Appendix B is an analysis performed by Compliance and LSP of each of the risk areas, mitigation work performed and an assessment of the residual risk to the organization;
- Deloitte updated their data analytics component to include another year to March 31, 2010. Their addendum report dated December 10, 2010 is attached, Appendix E;
- LAO immediately began to implement the recommendations, including hiring external resources to support their implementation where necessary;
- In addition, LAO embarked on a review of the criteria to be used to assess payment of discretion, these new criteria are scheduled to be implemented this year;
- The attached status update on the recommendations made by MNP, Appendix C, and Deloitte, Appendix A, demonstrates the progress made.

## MNP Summary of Results

- MNP categorized risks into 8 areas and rated them qualitatively. A number of initiatives and actions have already been completed or are in progress – a **review of all of these risks has been completed, see Appendix C.**

## Deloitte Recommendations Summary – Appendix A

- Similar themes appeared in the Deloitte Report, which addressed strategic and organizational alignment, staff skills and capabilities, operations and technology, and included a data analysis of potential billing risks – **substantially completed;**
- Deloitte recommended furthering the work already begun to align compliance functions at LAO, particularly those related to billing, into a comprehensive program, so that open communication, coordination of value-added activities, better definition of roles and responsibilities, and common objectives would be assured, including developing a compliance management program - **substantially completed;**
- Deloitte identified the elements of an effective compliance framework and recommended LAO undertake risk management activities and also implement a whistleblower hotline - **substantially completed;**
- Each program area responsible for compliance work, those being (Post Payment Examination was renamed Audit and Compliance Unit (ACU)) , ACU, Investigations, and Internal Audit, was methodically assessed and given detailed recommendations. Additionally, operational recommendations for the Lawyer Services and Payments department were made. These included the need for staff to have appropriate competencies, skills and knowledge, to be appropriately performance managed using Key Performance Indicators, and for greater interdepartmental communications and collaboration to occur - **substantially completed;**
- Deloitte recommended a number of system based control recommendations – **in development;**
- The Deloitte report recommended a risk based approach for prioritizing work in ACU (previously PPE) and Investigations through the use of data analytics and targeted account reviews, as well as improving aspects of the auditing methodology, increasing use of ICON in verifying account information and tracking key risk indicators - **substantially completed;**
- The Deloitte report flagged the need for mandatory submission of dockets (**implemented**), tighter business logic on the portal (**implemented for block fees – in development for other certificates**), the mandatory capture of certain billing data (**implemented for block fees – in development for other certificates**), further control of discretionary payments (**completed and to be implemented October 15, 2012**), and more active management of the current lawyer panel list (**in progress - panel management project in place**).

## **Deloitte Data Analytics, Appendix B**

- The quantitative analysis of LAO's billing risks focused on areas of billing activity identified through interviews with staff. LAO subsequently verified these findings, cross-referenced them with results from contemporary audits and investigations and performed similar tests on current billing to assess risk. – **see appendix B for assessment of risk.**
- Deloitte found that in the context of the volume and dollar value of the billings they reviewed, LAO had “minimal financial exposure” with respect to potential anomalous billing practices;
- LAO has implemented a number of business practice and billing portal modifications to address issues raised by the findings;
- The introduction of Block Fees, Phase II, in May 2011, has reduced or, in some cases, eliminated the likelihood of certain billing risks;
- LAO is incorporating predictive analytics into its account audits and investigations in order to more cost-effectively target inappropriate billing and reduce its billing risks even further.

## **Conclusion**

- LAO has made significant progress in implementing the MNP and Deloitte recommendations with respect to how its compliance and monitoring accountabilities are organized and function, for example;
  - A Compliance Management program is underway;
  - Communication and collaboration between the compliance functions has improved;
  - Staff competencies have increased through new hires, staff training and review of decisions;
  - A shift to more risk-driven, targeted audits and investigations has occurred;
  - LAO has implemented an LAO Ethics Hotline;
  - LAO has implemented an organizational-wide risk reporting framework;
- The majority of the MNP and Deloitte recommendations related to other business processes have been or are being implemented.

## **Recommendation**

That the report entitled “Status Updates on Deloitte and MNP Portal Review Reports “ be received for information.

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