



Evaluation of the Integrated Market Enforcement Teams Reserve Fund

December 2016

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ISBN 978-0-660-07444-3
Cat. No. J2-440/2017E-PDF

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EXECUTIVE SUMMARY

1. Introduction

This document constitutes the final report for the evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. It covers all activities over the past five years (2010-11 to 2014-15). In accordance with the 2009 *Treasury Board Policy on Evaluation*, it addresses both the relevance and the performance of the Fund.

2. Description of Integrated Market Enforcement Teams Reserve Fund

The IMET Initiative is an interdepartmental initiative mandated to investigate serious *Criminal Code* capital market fraud (CMF) offences that are of regional or national significance and that may threaten investor confidence or economic stability in Canada. As a component of the Initiative, the IMET Reserve Fund is a Contribution Program designed to support prosecutions by Provincial Attorneys General of serious *Criminal Code* market fraud offences investigated by IMET by defraying exceptional costs associated with these prosecutions.

The Reserve Fund's objective is to support the IMET Initiative and contribute to effective prosecutions. The Fund is a transfer payment program administered by the Department of Justice that acts as a contingency fund in the event that these types of cases arise.

3. Description of the Evaluation

In order to address the questions included in the evaluation plan, the evaluation included a document review and key interviews with departmental officials and other stakeholders, as well as a review of the cases where the Fund was used.

A systematic review of relevant information related to the IMET Reserve Fund was conducted. Documents consulted include performance reporting within the Department of Justice, planning documents, audit reports, and the Terms and Conditions.

4. Evaluation Findings and Recommendations

4.1. Relevance

Evidence gathered as part of this evaluation indicates that the Reserve Fund is relevant. There is a continued need for the Fund and it aligns with federal and departmental priorities by ensuring that CMF prosecutions are not avoided due to extraordinary costs. However, limited knowledge of the Fund among Provincial Attorneys General prosecutors and the narrow scope of the Terms and Conditions has limited its uptake.

4.2. Performance

Outcome Achievement

During the period covered by this evaluation, the Reserve Fund received six applications for two cases from two provincial prosecution services. One provincial prosecution case achieved convictions and the other led to acquittals.

The Reserve Fund's challenge in fulfilling its objective of effective enforcement against serious criminal CMF offences in Canada is the low level of applications from Provincial Attorneys General.

Efficiency and Economy

Considering the Fund received limited applications, it nevertheless has been administered effectively and economically.

4.3. Recommendation

In order to strengthen both the contribution of the Reserve Fund and the efficiency of the Fund as a whole, and ensure the Fund's continued sustainability, the following recommendations are submitted:

- 1. That the Department consider amending the Terms and Conditions of the IMET Reserve Fund to expand the scope of the criteria for admissible expenses.**

- 2. That the Policy Implementation Directorate re-examine the intended outcomes of the IMET Reserve Fund with a view to ensuring that they can be realistically achieved.**

1. INTRODUCTION

This document constitutes the final report for the evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. The IMET Reserve Fund is a contribution-funding program that defrays exceptional costs associated with the prosecution, by Provincial Attorneys General, of capital market fraud (CMF) cases supported by the IMET program.

The Department of Justice administers the operational aspects of the Reserve Fund under its Grants and Contributions authority.

The Fund is intended to contribute to the following outcomes:

- Enhanced capacity of IMET;
- Increased effectiveness of IMET prosecutions;
- Improved integrity of Canada's capital markets; and
- Improved Canadian and international investor confidence in Canada's capital markets.

1.1. Context for the Evaluation

The Department of Justice Evaluation Division conducted the evaluation of the IMET Reserve Fund. The evaluation was conducted as part of the regular evaluation five-year cycle for all Government of Canada programs and initiatives.

1.2. Scope and Objectives of the Evaluation

The evaluation assessed the extent to which the Reserve Fund enhanced the capacity of the IMET Initiative and increased the effectiveness of its prosecutions. The evaluation included interviews with Justice Canada representatives, IMET Working Group members, Provincial Attorneys General, and subject matter expertise.

The evaluation covers all funding activities undertaken through the IMET Reserve Fund over the past five years (2010-11 to 2014-15). In accordance with the *Policy on Evaluation*, it addresses both the relevance and the performance of the Fund. Relevance focuses on continued need; alignment with government priorities; the Justice strategic outcome of *a fair, relevant and accessible Canadian justice system*; and alignment with federal roles and responsibilities. Performance focuses on effectiveness (extent to which the Fund has achieved its objectives), and efficiency and economy (degree to which appropriate and efficient means are being employed to achieve the desired outcomes).

Appendix A includes the complete list of evaluation issues and questions covered by the evaluation.

1.3. Structure of the Report

This report contains five sections, including this introduction. Section 2 provides a description of the Reserve Fund. Section 3 describes the methodology used to address the set of evaluation issues and questions. Section 4 summarizes the key findings that emerged from the data collection process, while section 5 provides the overall evaluation conclusions and recommendations.

2. DESCRIPTION OF THE INTEGRATED MARKET ENFORCEMENT TEAMS RESERVE FUND

The IMET Reserve Fund is designed to support prosecutions by Provincial Attorneys General of IMET-generated cases of serious *Criminal Code* market fraud offences that pose a genuine threat to investor confidence and economic stability in Canada's capital markets, by defraying exceptional costs associated with these prosecutions.

The Fund is part of the horizontal IMET Initiative. The Initiative was created in 2003 as a horizontal program that includes the participation of five federal partner organizations: the Department of Justice Canada, Finance Canada, Public Prosecution Service of Canada (PPSC), Public Safety Canada, and the Royal Canadian Mounted Police (RCMP). The Department of Public Safety leads the IMET Horizontal Initiative.

In 2003, the IMET was established as the federal government's response to corporate fraud that arose internationally that weakened investor confidence in capital markets around the world. The *Criminal Code* was amended to strengthen measures to investigate and prosecute CMF and concurrent jurisdiction to prosecute these offences. In order to conduct these prosecutions most effectively, the PPSC and the Provincial Attorneys General in British Columbia, Ontario and Alberta have signed coordinating prosecution protocols which provide provinces a right of first refusal for prosecuting IMET cases¹.

There is concurrent jurisdiction for IMET-type cases, meaning PPSC and/or a province can prosecute an IMET-generated case as a team, or each separately. A province has right of first refusal. Therefore, before the Reserve Fund can fund an IMET-generated case, there has to be a determination made as to who will prosecute (i.e. the province, PPSC, or a combination of both).

¹ There is an agreement in principle with the province of Québec.

2.1. Key Funding Activities

The IMET Reserve Fund uses the federal spending power to encourage Provincial Attorneys General to participate in the IMET strategy by assisting the provinces to enhance their prosecutorial capacity for IMET-generated cases. Terms and Conditions require the IMET Reserve Fund to be available to help defray exceptional costs associated with the prosecution of CMF cases, generated by the IMET program. For a contribution to be made, actual or anticipated expenses must fall within the categories of disclosure costs, specialized contracts, or technical or equipment expenses.

2.2. Management Structure and Financial Resources

The IMET Reserve Fund budget by fiscal year was \$2.25 million for 2010-11, 2011-12 and 2012-13. Measures introduced in the federal government's Economic Action Plan 2012 reduced the level of federal funding available for IMET prosecution cases to \$550,000 annually. The reduced allocation was for the 2013-14 and 2014-15 fiscal years.

The Reserve Fund is managed and administered by the Policy Implementation Directorate (PID) of the Department of Justice Programs Branch. The overall accountability for the Fund rests with the Director General of the Programs Branch.

2.3. Program Logic

The successful implementation of the Fund's activities is expected to contribute to the following outcomes:

- Enhanced capacity of IMET;
- Increased effectiveness of IMET prosecutions;
- Improved integrity of Canada's capital markets; and
- Improved Canadian and international investor confidence in Canada's capital markets.

Ultimately, the Reserve Fund has been established to support the IMET Initiative Component of the Strategy for Enhanced Protection of Canada's Capital Markets by assisting Provincial and Territorial Attorneys General to conduct prosecutions in cases that present exceptional challenges in terms of expenses. The Fund is intended to encourage Provincial and Territorial Attorneys

General to participate in the Strategy and to play a role in the prosecution of IMET-generated cases, subject to federal/ provincial/territorial prosecution agreements or coordinating protocols.

3. METHODOLOGY

This section provides a brief description of the methodology used to evaluate the IMET Reserve Fund.

3.1. Evaluation Approach

This evaluation focuses on the set of funding activities that the Department of Justice Canada undertakes in order to manage the Reserve Fund. The Department's IMET Reserve Fund mandate is to effectively manage the Fund by providing Provincial Attorneys General with adequate support and resources. The evaluation assessed the extent to which these activities have been successfully carried out, which in turn provides an assessment of the extent to which these activities have contributed to the Fund's expected outcomes.

In order to successfully address the evaluation issues and questions covered by the evaluation, some existing data and information collected throughout the program's implementation and ongoing management have been used. Additional evidence was collected through a document review and key informant interviews. The next subsection provides further details on the implementation of these research methods.

Both the data collection and analysis conducted as part of this evaluation align with the overall framework provided by the federal government's *Policy on Evaluation*, which expects evaluation to support ongoing accountability, inform government decisions on resource allocation, and support the ongoing management and improvement of the program².

All research activities undertaken as part of this evaluation were administered in accordance with normal practices in the field of program evaluation, including the guidelines provided in the *Code of Ethics* and the *Evaluation Standards* of the Canadian Evaluation Society³.

² Treasury Board of Canada. *Policy on Evaluation*, section 3.2.

³ The *Code of Ethics* and the *Evaluation Standards* of the Canadian Evaluation Society are available at: <http://www.evaluationcanada.ca/about-the-ce-designation>

3.2. Research Methods

In order to address the questions included in the evaluation matrix (see Appendix A), the evaluation included a document review and key informant interviews.

3.2.1. Document review

A systematic review of relevant information related to the IMET Reserve Fund was conducted. The goal of the document review was to support a thorough understanding of the Fund, and to address a number of the evaluation questions, particularly those pertaining to the Fund's relevance.

Documents consulted include internal material such as Fund-specific information, performance information, planning documents, and Terms and Conditions. Publicly available documentation was also consulted, including Speeches from the Throne, Departmental Performance Reports, and Reports on Plans and Priorities.

3.2.2. Key informant interviews

Key informant interviews were conducted to provide additional insights on the funding activities undertaken by the IMET Reserve Fund and to address evaluation questions related to the relevance and performance of the program. A total of seven individuals were interviewed, including two Justice Canada representatives, two IMET Working Group members, one subject matter expert, and two Provincial Attorneys General prosecutors from jurisdictions which received funding from the Reserve Fund.

These interviews were conducted in person and by telephone using a structured interview guide (Appendix B), which key informants received in advance of the interview.

Case Studies

As part of the case studies, numerous documentation such as internal emails and correspondence were reviewed, as well as court documents filed by Crowns and the defendants. Discussions with departmental officials and key informants were also important to understand the complexity of these cases.

3.3. Methodological Limitations

3.3.1. Broad outcomes of the IMET Reserve Fund

The main methodological limitation was that the broad nature of the intended outcomes of the Fund made it difficult to measure whether these had been achieved. For example, respondents believed there was insufficient evidence to determine whether the IMET Reserve Fund has contributed to deterrence of offenders, reduced occurrences of serious CMF, or increased Canadian and international investor confidence in the integrity of Canada's capital markets.

3.3.2. Similar responses from respondents

The interviews with key informants have the possibility of self-reported response bias. This occurs when individuals are reporting on their own activities and answer questions with the desire to affect outcomes. In order to mitigate these limitations, triangulation was used to check findings against other sources and perspectives. The evaluation was able to demonstrate how the Reserve Fund was spent and assessed results in general terms, by using evidence from the document review, file review, case studies and the views expressed by key informants.

3.3.3. Limited amount of IMET-related statistics for the evaluation period

Statistics on the overall cost of IMET-generated cases were limited and covered longer periods than the evaluation period. Documentation referred to the high cost to investigate, lay charges and eventually prosecute IMET cases, but these yearly specific amounts were not available for the evaluation period. Having these statistics would have provided information on the percentage the Reserve Fund represents in relation to the total cost of IMET prosecutions.

4. EVALUATION FINDINGS

This section of the report describes the evaluation findings related to the IMET Reserve Fund. The information is based on findings that emerged from both the document review and interviews.

4.1. Relevance of the Integrated Market Enforcement Teams Reserve Fund

The subsections below explore the relevance of the Reserve Fund over the period covered by this evaluation, as well as the expected demand for the Fund in the future. They also address the extent to which the program aligns with both the role of the federal government, and its current Strategy for Enhanced Protection of Canada's Capital Markets.

4.1.1. Demand for the IMET Fund

Overall, there were two IMET Reserve Fund cases during the evaluation period which included six applications for funding. Information on the number of IMET cases where charges were laid were available for years 2004 to 2014. These statistics provided by PID demonstrate that IMET cases are infrequent and that there is a strong correlation between the small number of IMET Reserve Fund applications and the small number of IMET cases where charges were laid. Ten cases were reported during the ten-year period and the numbers by region are as follows: two from British Columbia, one from Alberta, six from Ontario and one from Quebec. It is important to note that Ontario exercises its right of first refusal in most cases and will probably continue to have a majority of IMET cases. This can be explained by the fact that the Toronto region is the hub of the Canadian financial industry where the vast majority of the banks, investment firms, pension funds and insurance companies are headquartered.

During the evaluation period, the Ontario provincial Crown successfully applied for Reserve funding five different times for the same case. The total amount disbursed was \$283,012. The Alberta provincial Crown applied once and the total amount disbursed was \$160,674. The total amount spent to both provinces was \$443,686 during years 2010 to 2013. No monies were allocated during fiscal years 2013-14 and 2014-2015. All applications were approved for their full

amount, but the actual amount disbursed was less than the approved application amount because not all funds were spent by the provincial Crowns. Unspent funds were returned to the fiscal framework.

Table 1 shows the Reserve Fund's budget, allocations (application approved amount), amount spent and unspent by fiscal year during the evaluation period.

Table 1: IMET Reserve Fund, 2010-11 to 2014-15

	2010-11	2011-12	2012-13	2013-14	2014-15
Budgeted amount	\$2,250,000	\$2,250,000	\$2,250,000	\$550,000	\$550,000
Amount allocated	\$491,819	\$106,286	\$55,000	\$0	\$0
Unspent amount	\$137,315	\$44,567	\$27,536	\$0	\$0
Amount spent	\$354,504	\$61,719	\$27,464	\$0	\$0

The amount spent represented on average 6% of the Reserve Fund's total budget for the three first fiscal years of the evaluation period. The amount allocated and spent steadily declined in the first three years of the evaluation period, and the budgeted amounts for the last two years of the evaluation period were substantially reduced, in part because the Fund was underutilized. No Reserve Fund applications were received during the last two years.

Respondents emphasized that although the future demand for the IMET Reserve Fund is unpredictable, and that it is unknown when capital market investigations will result in charges laid, having resources available to fund subsequent prosecutions is necessary, given fiscal restraint felt at the provincial level. Key informants indicated that, despite lower than expected applications, provincial Crowns continue to feel funding pressure in prosecuting CMF cases.

4.1.2. Continued need for the IMET Reserve Fund

Key informants noted that there is an ongoing need for the Reserve Fund, but uncertainty existed about why the Fund was underutilized. They suggested that the lack of applications for the Reserve Fund could be due to the lack of awareness of the Fund and the restrictive nature of the Terms and Conditions application criteria. Key informants also pointed out that the Reserve Fund should be viewed as a contingency fund for provinces who needed more funding to defray additional and not only exceptional costs associated with IMET prosecutions. Several suggested that the funding criteria be expanded to advance the objective of the Fund. This could include other aspects of the prosecutorial process that would be helpful in building capacity and knowledge and improving the effectiveness of prosecutions. For example, conferences, webinars and training sessions on lessons

learned from previous prosecutions may help develop capacity and prosecutorial expertise. Some mentioned further expanding the Fund for salaries to hire lawyers but overall, there was consensus that the Fund's current activities are not necessarily the most appropriate.

The documentation reviewed as part of the evaluation indicates that CMF is a growing concern to Canada and other Organisation for Economic Co-operation and Development countries. The recent focused attention on tax evasion and the current government's renewed interest in CMF suggests that more IMET cases may arise in the future.

4.1.3. Alignment of IMET Reserve Fund with federal and departmental priorities

Speeches from the Throne early in the evaluation period (2010 and 2011) support the importance of combating CMF. The goals and objectives of the IMET Reserve Fund align with federal priorities, as noted in Speeches from the Throne. In the 2010 Speech from the Throne, the Government of Canada articulated the importance of sound securities regulation to attract investment and address issues related to capital market crime. In the 2011 Speech from the Throne, the Government of Canada identified a need to move forward with willing partners to establish a new national securities regulator, subject to the Supreme Court's decision on the extent of federal jurisdiction.

The Department's Program Alignment Architecture for 2015-16 considers the Fund under the "Criminal Justice and Legal Program". Funding, such as that for IMET, is made available to other partners in the justice system for specialized criminal justice programs and services to improve access to justice, and to develop public legal education resources to respond to the legal information needs of Canadians.

Respondents indicated that the Fund aligns with federal and departmental priorities by ensuring that CMF prosecutions are not avoided due to extraordinary costs.

4.1.4. Activities of the IMET Reserve Fund align with federal roles and responsibilities

Several key respondents referenced that provinces have primary jurisdiction for prosecution under the *Criminal Code*, but the determination of which level of government (federal or provincial) will prosecute a particular IMET case depends on many factors, including resource availability and the practical working relationship between the federal and provincial prosecution services.

Legislative amendments to s. 2 of the *Criminal Code* established concurrent federal-provincial jurisdiction to prosecute CMF offences. In order to conduct prosecutions of these offences most effectively, the PPSC and the Provincial Attorneys General in British Columbia, Ontario and Alberta have signed coordinating prosecution protocols which provide provinces a right of first refusal for prosecuting IMET cases.

Currently, the Reserve Fund only provides for coverage of exceptional prosecution costs (relating to exceptional disclosure, specialized contracts, or exceptional technical or equipment expenses). These restrictive criteria are viewed by some respondents as an impediment to provinces applying for funding. If a province decides not to prosecute, the PPSC could take on the prosecution, as per amendments to the *Criminal Code* and the prosecution protocols signed with certain provinces, but at a considerable expense to the federal government.

Respondents agreed that the Reserve Fund activities align with the federal government's roles and responsibilities, but the scope on extraordinary costs may need to be expanded to ensure prosecutions are not avoided due to cost issues. A potential addition could include other aspects of the prosecutorial process that would be helpful in building capacity and improving the effectiveness of prosecutions.

4.2. Performance and Effectiveness

4.2.1. Enhanced prosecution capacity

4.2.1.1 Enhanced capacity to prosecute serious capital market fraud

Interview findings suggest that there are few other opportunities or solutions to facilitate federal support for provincial prosecutions in the area of CMF. If the Reserve Fund was not available, it is possible that provincial prosecutions could be inhibited or would have to defer to federal prosecutions due to the high financial costs associated with these types of cases. This could be seen as a forced federal involvement in cases, but considered a necessity if no other options are available. In terms of enhancing the capacity of the provinces to prosecute serious market fraud, the evaluation found that the five Ontario projects that received funding assisted the Attorney General of Ontario in financing the costs associated with specialized contracts for forensic and expert accountants, expert witnesses, and disclosure database of the one IMET case that was the subject of the prosecution. Similarly, the Alberta project funded by the Reserve Fund assisted the

Attorney General of Alberta in financing the costs associated with an evidence database concerning the prosecutions related to their IMET project.

4.2.1.2 Success in encouraging provincial Crowns to take on serious capital market fraud prosecutions

The majority of the key informants believe that the Reserve Fund was not promoted enough to provincial Crowns. Prosecutors, and more specifically junior prosecutors, are not all aware of the Fund and do not fully understand its purpose. Others added that the administrative process may be seen as onerous to prosecution services who need financial assistance within a tight timeline.

The evaluation found that the limited number of applications is not necessarily an indicator that the Reserve Fund was not successful in encouraging provincial Crowns to take on serious capital fraud prosecutions because the number of IMET cases where charges are laid is small. As previously mentioned, there were only ten IMET cases where charges were laid during the ten-year period from 2004-2014. There was feedback that there was no need to apply because cases were either quickly resolved and/or resources were not needed at the time.

4.2.2. Improved prosecution of serious market fraud cases

4.2.2.1 Contributed to the improved effectiveness of prosecution

Key informants believe that successful prosecutions of CMF cases are important in terms of attaining all expected IMET outcomes.

The two cases listed below received IMET Reserve Fund assistance and were the only cases funded during the evaluation period. Both had long timelines because of complexity, which in turn delayed the speed of dispositions. According to Crown prosecutors who received Reserve Fund money, provincial Crowns would still have prosecuted their cases without this additional funding. The provincial prosecutors who successfully prosecuted their case noted that with Reserve Fund resources, they were able to access an electronic database which facilitated retrieval of documents and enhanced the efficiency of the prosecution.

The following is an overview of the two cases that received IMET Reserve funding.

Case 1:

The Ontario Crown received \$283,012 of IMET Reserve funding during the evaluation period. The charges evolved into a full investigation of a large multi-national telecommunications corporation. In June 2008, charges were laid against three executives. The trial commenced in January 2012, and the three accused were ultimately acquitted a year later. The Reserve Fund was utilized to cover costs associated with securing software that provided a searchable database due to an extraordinary number of documents (over 10 million documents).

Case 2:

The Alberta Crown received \$160,674 of IMET Reserve funding during the evaluation period. The Calgary IMET investigation determined that a company had perpetrated a classic “Ponzi” scheme that had raised \$36 million. In late 2006 or early 2007, the investors’ money stopped and the scheme collapsed. In 2010-11, the Alberta provincial Crown applied for a contribution from the IMET Reserve Fund to assist in fulfilling its disclosure obligations and ensure that the prosecution proceeds. According to the lead prosecutor, the Fund was very useful for that particular fraud case. They were able to access an electronic database which facilitated retrieval of documents and supported efficiency of prosecution. The case was successfully prosecuted, and a guilty verdict was returned.

4.3. Efficiency and Economy

This section focuses on the extent to which resource use has been minimized in the implementation and delivery of the IMET Reserve Fund.

The Department of Justice has allocated 1.5 FTE to PID to manage the IMET Reserve Fund contribution agreements (receive applications, negotiate funding agreements, ensure the terms of the agreements are met, and process claims for payment). Additionally, these FTEs provide support to the Senior Assistant Deputy Minister, Policy Sector, in his role as a member of the

IMET Executive Council Committee. This support is provided through the IMET Working Group. As a member of the IMET Working Group, PID staff:

- Support the Executive Council in fulfilling its mandate to ensure that the contributions of the program participants (RCMP, Department of Finance, Public Safety, PPSC and Justice Canada) are coordinated and aligned with the strategic direction of the IMET Initiative;
- Identify policy issues relevant to the IMET Initiative and brings forward policy options for consideration by the IMET Executive Council;
- Ensure action items assigned by the Executive Council are delivered upon within agreed timeframes;
- Prepare a reporting tool prior to each Executive Council meeting to support policy development and performance measurement;
- Obtain information and analyses data relevant to the IMET Initiative; and
- Contribute to program evaluation activities to satisfy Treasury Board requirements.

In light of the small number of applications to the Fund, the Directorate allocates most of its resources to the Secretariat function of the IMET Executive Council Committee.

4.3.1. Alternative ways to better achieve the objectives of the Fund

The Reserve Fund is intended to provide federal resources to provinces for exceptional prosecutorial costs incurred in IMET-generated cases. Disbursement of Reserve funding is subject to the Minister of Justice's approval, and requires the provinces to enter into a formal agreement with the Department of Justice Canada, specifying the Terms and Conditions for the funding, including the date on which eligible expenditures would be reimbursed, and the requirement for financial statements.

Since its inception, the Reserve Fund has lapsed funds and the overall allocation has been reduced twice. A recent report noted this spending shortfall and suggested that the Horizontal Initiative sponsor a federal-provincial conference on securities fraud to enhance provincial prosecutorial capacity.

Notwithstanding that there are few IMET cases where charges were laid, the lack of Reserve Fund applications was mentioned by all respondents. The most common suggestion from respondents

with regard to being able to access the Fund was to expand the Terms and Conditions of the Reserve Fund to include IMET learning activities or other capacity building activities for provincial prosecutors. This expansion would help to fully meet the broader IMET Initiative. Respondents indicated that prosecutors at federal and provincial levels need opportunities to share best practices and exchange knowledge on the few IMET cases that do occur.

4.3.1.1 Best practices and lessons learned in the administration of the IMET Reserve Fund

Prosecuting market fraud is an expensive undertaking. Those suspected and/or charged with CMF often have considerable financial resources and legal expertise at their disposal to defend charges. The prosecution rarely has similar resources at its disposal. Although this initiative may not match defence resources, it does seek to enhance prosecutorial capacity.

Respondents were not able to identify alternatives to the Reserve Fund and reinforced that it should be considered as a backstop source of funds for supporting the prosecution of CMF. They also added that the Fund's criteria established in the IMET Reserve Fund Terms and Conditions may be somewhat limited in scope. They suggested the need to open the criteria to access the Fund. Examples include promoting the Fund through training and seminars to ensure that the outcomes are being achieved.

According to respondents, it is in the national interest to encourage provinces to take on IMET cases, and the IMET Reserve Fund contributes to this effort. Eliminating the Fund is not necessarily a viable cost saving option since it could possibly discourage provinces from prosecuting IMET cases and force the federal government to prosecute cases. In addition, there would be a missed opportunity for federal and provincial prosecutors to share best practices and knowledge exchange on the few IMET cases that do occur. Documentation also indicates that there is a strong correlation between the small number of IMET Reserve Fund applications and the small number of IMET cases where charges were laid.

5. CONCLUSIONS AND RECOMMENDATIONS

This section of the report provides conclusions on each of the evaluation issues addressed in this report. Where appropriate, recommendations are included.

5.1. Relevance

The relevance of the IMET Reserve Fund resides as part of a continuum tools and measures that protect the integrity of Canada's capital markets, including securities regulation.

All respondents believed in the relevance of the Reserve Fund and indicated that the lack of applications was likely due to the narrow scope for admissible expenses in the IMET Reserve Fund Terms and Conditions.

With the Reserve Fund limited to specifically extraordinary costs, limited opportunities to access the Reserve funding are a direct outcome of the limited number of IMET prosecutions. Prosecutors at the federal and provincial levels could benefit from opportunities to share best practices and explore knowledge exchange activities on the few IMET prosecutions that do occur.

5.2. Performance

5.2.1. Outcome Achievement

During the period covered by this evaluation, the Reserve Fund only received six applications for two cases from two provincial Crowns, making the intended outcomes of the Fund difficult to measure.

A very substantive challenge that the Reserve Fund faces in fulfilling its objective is the absence of Reserve Fund applications from Provincial Attorneys General. Some of the reasons for the lack of applications can be attributed to limited number of IMET cases where charges are laid; a general lack of awareness that the Fund does exist; the restrictive Terms and Conditions; a lack of

understanding of what can be funded; and the perception of an onerous application process. The Reserve Fund acts as a backstop contingency fund for supporting the prosecution of CMF.

5.2.2. Efficiency and Economy

Considering that the Fund received limited applications, it nevertheless has been administered effectively and economically. The manager of the Fund also acts as the Secretariat for the Department of Justice representation at the IMET Executive Council Committee.

Document review and interviews emphasize the possibility of unpredictable future demand. The federal government's efforts to combat CMF combined with provincial economic downturns could possibly encourage provincial Crowns to apply more often to the Reserve Fund.

5.3. Recommendations

In order to strengthen the contribution of the Reserve Fund, the following recommendations are submitted:

- 1. The Department explore the possibility of amending the Terms and Conditions of the IMET Reserve Fund to expand the scope of the criteria for admissible expenses.**
- 2. The Policy Implementation Directorate re-examine the intended outcomes of the IMET Reserve Fund with a view to ensuring that they can be realistically achieved.**

Appendix A:

Evaluation Matrix

Evaluation Matrix — Evaluation of the IMET Reserve Fund

Issues/Questions	Indicators	Data Sources	Responsibility for Collecting
Relevance (Treasury Board core issues 1–3)			
1. Is there a continued need for the IMET Reserve Fund?	<ul style="list-style-type: none"> • IMET/capital market fraud continues to be a federal priority (identified in Throne speeches) 	<ul style="list-style-type: none"> • Document review • Key informant interviews 	Policy Implementation Directorate Department of Justice Evaluation Division
	<ul style="list-style-type: none"> • Perception of continued need to assist prosecutions in the provinces 	<ul style="list-style-type: none"> • Key informant interviews 	Department of Justice Evaluation Division
2. To what extent do the goals and objectives of the IMET Reserve Fund align with: 1) Government of Canada priorities 2) Justice Canada's strategic outcomes?	<ul style="list-style-type: none"> • Perception of whether IMET Reserve Fund goals and objectives align with federal priorities • Perception of whether IMET Reserve Fund goals and objectives align with the Department of Justice's strategic outcomes 	<ul style="list-style-type: none"> • Key informant interviews • Document review 	Department of Justice Evaluation Division
3. To what extent are the activities of the IMET Reserve Fund aligned with federal roles and responsibilities?	<ul style="list-style-type: none"> • Continued relevance of federal government involvement in supporting the provincial prosecution costs associated with capital market fraud cases 	<ul style="list-style-type: none"> • Key informant interviews • Document review/ departmental files 	Department of Justice Evaluation Division
Achievement of Expected Outputs/Outcomes (Treasury Board core issue 4) – The Fund provides assistance to provinces to help ensure an effective prosecution			
4. To what extent has the IMET Reserve Fund achieved its expected outputs/outcomes?	Immediate Outcome: Enhanced prosecution capacity		
	Enhanced capacity to prosecute serious capital market fraud <ul style="list-style-type: none"> • Extent/ways in which agreements with provinces have enhanced capacity to prosecute capital market fraud <ul style="list-style-type: none"> • Contribution agreements with the provinces (number of signed contribution agreements and nature and value of Reserve Fund agreements by province) • Information posted on Justice website • Number of inquiries and emails sent to provinces 	<ul style="list-style-type: none"> • Key informant interviews • Document review 	Department of Justice Evaluation Division

Issues/Questions	Indicators	Data Sources	Responsibility for Collecting
	<ul style="list-style-type: none"> Extent to which the Reserve Fund has been successful in encouraging provincial Crowns to take on serious capital market fraud prosecutions <ul style="list-style-type: none"> The perceived impact on prosecutions had funding through the Reserve Fund not have been available 	<ul style="list-style-type: none"> Key informant interviews Reserve Fund inquiries and applications/analysis 	Department of Justice Evaluation Division
Intermediate Outcomes: Improved prosecution of serious capital market fraud cases			
	The extent to which the IMET Reserve Fund contributed to the improved or increased effectiveness of prosecutions <ul style="list-style-type: none"> Nature and extent of funding provided Perception and examples from cases on the extent to which IMET Reserve Fund facilitated provincial prosecutions (i.e. timeliness, completeness of charges, and speed of disposition) 	<ul style="list-style-type: none"> Document review Key informant interviews Review of cases 	Department of Justice Evaluation Division
	The extent to which the IMET Reserve Fund contributed to the deterrence and reduced occurrences of serious capital market fraud <ul style="list-style-type: none"> Perception on the extent to which the Fund contributed to deterrence and reduced occurrence of serious capital market fraud 	<ul style="list-style-type: none"> Documents review Key informant interviews Review of cases 	Department of Justice Evaluation Division
	The extent to which the IMET Reserve Fund contributed to an improved integrity of Canada's capital markets <ul style="list-style-type: none"> Nature and extent of types of funding provided Perception on the extent to which IMET Reserve Fund assistance contributed to the improved integrity of Canada's capital markets 	<ul style="list-style-type: none"> Document review Key informant interviews Review of cases 	Department of Justice Evaluation Division

Issues/Questions	Indicators	Data Sources	Responsibility for Collecting
Ultimate Outcome and Departmental Strategic Outcomes			
	To what extent has the IMET Reserve Fund contributed to Canadian and international investor confidence in the integrity of Canada's capital markets <ul style="list-style-type: none"> Key stakeholders perceptions and examples of how the IMET Reserve Fund contribution 	<ul style="list-style-type: none"> Key informant interviews 	Department of Justice Evaluation Division
Efficiency and Economy (Treasury Board core issue 5)			
5. To what extent has the IMET Reserve Fund been administered efficiently and economically?	<ul style="list-style-type: none"> Evidence of strategies to achieve outputs and outcomes in the most cost-effective way Measures in place to manage efficiency Suggestions for improvement in efficiency of performance Alternative approaches to service delivery 	<ul style="list-style-type: none"> Key informant interviews Document review 	Department of Justice Evaluation Division
6. Are there alternative ways to better achieve the objectives of the Fund?	<ul style="list-style-type: none"> Perceptions of other ways similar objectives and outcomes could be achieved 	<ul style="list-style-type: none"> Key informant interviews 	
7. Are there any best practices or lessons learned in the administration of the IMET Reserve Fund?	<ul style="list-style-type: none"> Evidence of best practices and lessons learned 	<ul style="list-style-type: none"> Key informant interviews Review of cases Document review 	Department of Justice Evaluation Division

Appendix B:

Interview Guide

Interview Guide

Policy Implementation Directorate

The Department of Justice Evaluation Division is conducting an evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. This evaluation is part of the regular evaluation five-year cycle for all Government of Canada programs and initiatives. The purpose of this evaluation is to assess the extent to which the Reserve Fund helped defray exceptional costs associated with IMET prosecutions incurred by provincial prosecution services. The evaluation covers the period 2010 to 2015 and will focus on the relevance and performance of the IMET Reserve Fund. Relevance focuses on the continued need for the legal services; their alignment with government priorities and the Justice Canada's strategic outcome of *a federal government that is supported by high-quality legal services*, and with federal roles and responsibilities. Performance focuses on effectiveness in the extent to which the Reserve Fund has achieved its objectives, and efficiency and economy on the degree to which appropriate and efficient means are being employed to achieve the desired outcomes. It includes interviews with Justice Canada representatives, IMET Working Group members, Provincial Attorneys General and prosecutors directly involved in the cases funded by the Reserve Fund.

The information we gather through this interview will be summarized in aggregate form and will not be attributed to individual informants. You will have an opportunity to review our written summary of the interview and make any corrections or additions. Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

As the evaluation focusses on the 2010-2015 period, please consider your experience during those years in your responses.

Introduction

Please describe your roles and responsibilities with respect to the IMET Reserve Fund.

Relevance of the IMET Reserve Fund

1. In your view, is there a continued need for the IMET Reserve Fund? Please explain?

Performance - Effectiveness

1. Based on the type and nature of expenditures that are considered as eligible expenditures in the Terms and Conditions of the IMET Reserve Fund, what challenges and opportunities in

the past five years have had an impact (either positive or negative) on the accessibility of the Reserve Fund.

2. Based on your experience, what factors could, in your view, affect the future demand of the IMET Reserve Fund?
3. The outcomes of the IMET Reserve Fund are:
 - a) Enhanced capacity of IMET;
 - b) Increased effectiveness of IMET prosecutions;
 - c) Improved integrity of Canada's capital markets (not relevant to PID); and
 - d) Improved Canadian and international investor confidence in Canada's capital markets (not relevant to PID).

What factors, if any, have had an impact on the Fund's ability to achieve its expected outcomes?

Performance – Efficiency and Economy

4. To what extent has the Fund been administered efficiently and economically?
5. In your view, are there alternative ways to achieve the objectives of the IMET Reserve Fund?
6. Are there any best practices or lessons learned in managing the IMET Reserve Fund?

Thank you for your participation.

Interview Guide

Public Prosecution Service of Canada officials

The Department of Justice Evaluation Division is conducting an evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. This evaluation is part of the regular evaluation five-year cycle for all Government of Canada programs and initiatives. The evaluation will focus on the *relevance* and *performance* of the IMET Reserve Fund. Relevance focuses on continued need; alignment with government priorities and the Justice Canada's strategic outcome of *a fair, relevant and accessible Canadian justice system*; and alignment with federal roles and responsibilities. Performance focuses on effectiveness in the extent to which the Reserve Fund has achieved its objectives, and efficiency and economy, on the degree to which appropriate and efficient means are being employed to achieve the desired outcomes.

This evaluation will assess the extent to which the Reserve Fund encouraged provinces to participate in the Strategy for Enhanced Protection of Canada's Capital Markets, and how it played a role in the prosecution of IMET-generated cases by helping defray exceptional costs associated with IMET prosecutions incurred by provincial prosecution services. The evaluation includes interviews with Justice Canada representatives, IMET Working Group members, Provincial Attorneys General and prosecutors directly involved in the cases funded by the Reserve Fund.

The information we gather through this interview will be summarized in aggregate form and will not be attributed to individual informants. You will have an opportunity to review our written summary of the interview and make any corrections or additions. Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

As the evaluation focusses on the 2010-11 to 2014-15 period, please consider your experience during those years in your responses.

Introduction

1. Please describe your roles and responsibilities with respect to the IMET Reserve Fund.

Relevance of the IMET Reserve Fund

2. In your view, is there a continued need for the IMET Reserve Fund? Please explain.
3. Are the activities supported by the Reserve Fund the most appropriate to address these needs? Why do you say that?

Performance - Effectiveness

4. Based on your experience, what factors have affected the demand of the IMET Reserve Fund?
5. The Fund is intended to contribute to the following outcomes:
 - a) Enhanced capacity of IMET;
 - b) Increased effectiveness of IMET prosecutions;
 - c) Improved integrity of the Canadian capital markets; and
 - d) Improved Canadian and international investor confidence in Canada's capital markets.

What factors, if any, have had an impact on the Fund's ability to achieve its expected outcomes?

6. Considering the limited number of applications received to date, what factors, in your opinion, may have contributed to this?
 - a) In your view, to what extent are provincial prosecutors aware of the IMET Reserve Fund?
7. Are there areas or gaps where the Reserve Fund is not meeting existing or emerging needs related to prosecuting capital market fraud? If so, what are they?

Performance – Efficiency and Economy

8. In your view, are there alternative ways to achieve the objectives of the IMET Reserve Fund?
9. In your opinion, are the IMET Fund resources appropriate to ensure that the outcomes are being achieved and meet the demand? Please explain.
10. If the Reserve Fund did not exist, what would the impact be?

Conclusion

11. Do you have any further comments?

Thank you for your participation.

Interview Guide

IMET Working Group

The Department of Justice Evaluation Division is conducting an evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. This evaluation is part of the regular evaluation five-year cycle for all Government of Canada programs and initiatives. The evaluation will focus on the *relevance* and *performance* of the IMET Reserve Fund. Relevance focuses on continued need; alignment with government priorities and the Justice Canada's strategic outcome of *a fair, relevant and accessible Canadian justice system*; and alignment with federal roles and responsibilities. Performance focuses on effectiveness in the extent to which the Reserve Fund has achieved its objectives, and efficiency and economy, on the degree to which appropriate and efficient means are being employed to achieve the desired outcomes.

This evaluation will assess the extent to which the Reserve Fund encouraged provinces to participate in the Strategy for Enhanced Protection of Canada's Capital Markets, and how it played a role in the prosecution of IMET-generated cases by helping defray exceptional costs associated with IMET prosecutions incurred by provincial prosecution services. The evaluation includes interviews with Justice Canada representatives, IMET Working Group members, Provincial Attorneys General and prosecutors directly involved in the cases funded by the Reserve Fund.

The information we gather through this interview will be summarized in aggregate form and will not be attributed to individual informants. You will have an opportunity to review our written summary of the interview and make any corrections or additions. Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

As the evaluation focusses on the 2010-11 to 2014-15 period, please consider your experience during those years in your responses.

Introduction

1. Please describe your roles and responsibilities with respect to the IMET Reserve Fund.

Relevance of the IMET Reserve Fund

2. Describe the context with which you are working with respect to capital market fraud
 - a) In your view, is there a continued need for the IMET Reserve Fund? Please explain.

3. Are the activities supported by the Reserve Fund the most appropriate to address these needs?
Why do you say that?

Performance - Effectiveness

4. Based on your experience, what factors have affected the demand of the IMET Reserve Fund?
5. The Fund is intended to contribute to the following outcomes:
 - a) Enhanced capacity of IMET;
 - b) Increased effectiveness of IMET prosecutions;
 - c) Improved integrity of the Canadian capital markets; and
 - d) Improved Canadian and international investor confidence in Canada's capital markets.

What factors, if any, have had an impact on the Fund's ability to achieve its expected outcomes?

6. Considering the limited number of applications received to date, what factors, in your opinion, may have contributed to this?

In your view, to what extent are provincial prosecutors aware of the IMET Reserve Fund?

7. Are there areas or gaps where the Reserve Fund is not meeting existing or emerging needs related to prosecuting capital market fraud? If so, what are they?

Performance – Efficiency and Economy

8. In your view, are there alternative ways to achieve the objectives of the IMET Reserve Fund?
9. In your opinion, are the IMET Fund resources appropriate to ensure that the outcomes are being achieved and meet the demand? Please explain.
10. If the Reserve Fund did not exist, what would the impact be?

Conclusion

11. Do you have any further comments?

Thank you for your participation.

Interview Guide

Prosecutors involved in cases that received funding from the Reserve Fund

The Department of Justice Evaluation Division is conducting an evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. This evaluation is part of the regular evaluation five-year cycle for all Government of Canada programs and initiatives. The evaluation will focus on the *relevance* and *performance* of the IMET Reserve Fund. Relevance focuses on continued need; alignment with government priorities and the Justice Canada's strategic outcome of *a fair, relevant and accessible Canadian justice system*; and alignment with federal roles and responsibilities. Performance focuses on effectiveness in the extent to which the Reserve Fund has achieved its objectives, and efficiency and economy, on the degree to which appropriate and efficient means are being employed to achieve the desired outcomes.

This evaluation will assess the extent to which the Reserve Fund encouraged provinces to participate in the Strategy for Enhanced Protection of Canada's Capital Markets, and how it played a role in the prosecution of IMET-generated cases by helping defray exceptional costs associated with IMET prosecutions incurred by provincial prosecution services. The evaluation includes interviews with Justice Canada representatives, IMET Working Group members, Provincial Attorneys General and prosecutors directly involved in the cases funded by the Reserve Fund.

The information we gather through this interview will be summarized in aggregate form and will not be attributed to individual informants. You will have an opportunity to review our written summary of the interview and make any corrections or additions. Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

As the evaluation focusses on the 2010-11 to 2014-15 period, please consider your experience during those years in your responses.

Introduction

1. Please describe your roles and responsibilities with respect to the IMET related cases that were funded with the IMET Reserve Fund.

Relevance of the IMET Reserve Fund

2. In your view, is there a continued need for the IMET Reserve Fund? Please explain.

Performance – Effectiveness

3. Has there been more IMET prosecutions in the last 5 years?
4. Did you consider applying? Please explain.
5. The Fund is intended to contribute to the following outcomes:
 - a) Enhanced capacity of IMET;
 - b) Increased effectiveness of IMET prosecutions;
 - c) Improved integrity of the Canadian capital markets; and
 - d) Improved Canadian and international investor confidence in Canada's capital markets.

What factors, if any, have had an impact on the Fund's ability to achieve its expected outcomes?

6. Considering the limited number of applications received to date, what factors, in your opinion, may have contributed to this?
 - a) In your view, to what extent are provincial prosecutors aware of the IMET Reserve Fund?
7. Are there areas or gaps where the Reserve Fund is not meeting existing or emerging needs related to prosecuting capital market fraud? If so, what are they?

Performance – Efficiency and Economy

8. Do you have any suggestions for improving the way in which the Reserve Fund is being delivered?
9. Are there alternatives to this Fund?
10. If the Reserve Fund did not exist, what would the impact be?

Conclusion

11. Do you have any further comments?

Thank you for your participation.

Interview Guide

Subject Matter Expert

The Department of Justice Evaluation Division is conducting an evaluation of the Integrated Market Enforcement Teams (IMET) Reserve Fund. This evaluation is part of the regular evaluation five-year cycle for all Government of Canada programs and initiatives. The evaluation will focus on the *relevance* and *performance* of the IMET Reserve Fund. Relevance focuses on continued need; alignment with government priorities and the Justice Canada's strategic outcome of *a fair, relevant and accessible Canadian justice system*; and alignment with federal roles and responsibilities. Performance focuses on effectiveness in the extent to which the Reserve Fund has achieved its objectives, and efficiency and economy, on the degree to which appropriate and efficient means are being employed to achieve the desired outcomes.

This evaluation will assess the extent to which the Reserve Fund encouraged provinces to participate in the Strategy for Enhanced Protection of Canada's Capital Markets, and how it played a role in the prosecution of IMET-generated cases by helping defray exceptional costs associated with IMET prosecutions incurred by provincial prosecution services. The evaluation includes interviews with Justice Canada representatives, IMET Working Group members, Provincial Attorneys General and prosecutors directly involved in the cases funded by the Reserve Fund.

The information we gather through this interview will be summarized in aggregate form and will not be attributed to individual informants. You will have an opportunity to review our written summary of the interview and make any corrections or additions. Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

As the evaluation focusses on the 2010-11 to 2014-15 period, please consider your experience during those years in your responses.

Introduction

1. Please describe your roles and responsibilities with respect to the IMET related cases.

Relevance of the IMET Reserve Fund

2. In your view, is there a continued need for the IMET Reserve Fund? Please explain.
3. Are the activities supported by the Reserve Fund the most appropriate to address these needs? Why do you say that?

Performance - Effectiveness

4. Based on your experience, what factors have affected the demand of the IMET Reserve Fund?
5. The Fund is intended to contribute to the following outcomes:
 - a) Enhanced capacity of IMET;
 - b) Increased effectiveness of IMET prosecutions;
 - c) Improved integrity of the Canadian capital markets; and
 - d) Improved Canadian and international investor confidence in Canada's capital markets.

What factors, if any, have had an impact on the Fund's ability to achieve its expected outcomes?

6. Considering the limited number of applications received to date, what factors, in your opinion, may have contributed to this?
 - a) In your view, to what extent are provincial prosecutors aware of the IMET Reserve Fund?
7. Are there areas or gaps where the Reserve Fund is not meeting existing or emerging needs related to prosecuting capital market fraud? If so, what are they?

Performance – Efficiency and Economy

8. In your view, are there alternative ways to achieve the objectives of the IMET Reserve Fund?
9. In your opinion, are the IMET Fund resources appropriate to ensure that the outcomes are being achieved and meet the demand? Please explain.
10. If the Reserve Fund did not exist, what would the impact be?

Conclusion

11. Do you have any further comments?

Thank you for your participation.