

## Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

# Global Affairs Canada Introduces SME Funding for CanExport Activities

By Cyndee Todgham Cherniak on January 5th, 2016

Posted in Canada's Federal Government, Export Controls & Economic Sanctions, Exports



On January 5, 2016, Canada's Trade Minister, Chrystia Freeland, announced a new program (CanExport) to increase the competitiveness of Canadian companies. CanExport will make available up to \$50 million over five years in direct financial support to small and medium-sized enterprises (SMEs) in Canada seeking to develop new export opportunities, particularly in high-growth priority markets and sectors. Applicants may seek a minimum contribution of \$10,000 per application (requires that the total cost of eligible activities be at least \$20,000) and a maximum contribution of \$99,999 per application (which requires that the total cost of eligible activities be at least \$199,998). Applicants can only have one active CanExport project at any given time and will only be able to reapply once their current CanExport activities have been conducted and all claims have been processed. Therefore, the maximum amount that an SME can obtain in any given year is \$99,999.

### Eligibility

To be considered for possible funding, a firm must meet the following basic criteria:

- Be a for-profit company;
- Be an incorporated legal entity or a limited liability partnership (LLP);
- Have a Canada Revenue Agency (CRA) business identifier number;
- Have a minimum of one full-time equivalent (FTE) employee and a maximum of 250 FTE employees;
- Have no less than \$200,000 and no more than \$50 million in annual revenue declared in Canada.

### Eligible Activities

The Applicant's Guide to the CanExport Program sets out eligible activities, ineligible and eligible expenses.

To be eligible for CanExport funding, activities must aim to promote international business development and must go beyond the applicant's core activities, represent new or expanded initiatives and provide an opportunity to yield incremental results. For illustrative purposes, these activities could include:

- Business travel;

- Participation at trade fairs;
- Market research;
- Adaptation of marketing tools for a new market; and
- Legal fees associated with a distribution/representation agreement.

Presumably (but needs to be confirmed) legal advice on the protection of intellectual property rights and export controls would also be eligible. However, it may be that this type of advice will be considered to be core business-related.

### **Application**

SMEs must file an application in order to obtain funding. A business case will need to be submitted as part of the application. Since the preparation of the business case will be pre-approval, the expense cannot be reimbursed under the program.

### **Comments**

It is a great idea to assist SMEs to pursue new export opportunities in overseas markets. If the application process is not overly onerous, SMEs may take advantage of the opportunities. It appears that manufacturers of goods, distributors of goods and services providers are all eligible.

What would assist SMEs would be if Global Affairs Canada also funds a wide range of legal services that SMEs will need. For example, SMEs may need information about how to comply with Canadian laws when exporting. SMEs may need legal advice about protecting intellectual property rights. SMEs should not be encouraged to run into new markets with the promise of funding without also being presented with guidance on how to pursue opportunities smartly. Funding for legal advice in connection with the preparation of the distribution contract is not enough. SMEs need legal advice before they get to the stage of drafting a distribution agreement – their IPR may be stolen by then.

Tags: CanExport, exports, Freeland, Global Affairs Canada

This Blog/Web Site is made available by the lawyer or law firm publisher for educational purposes only as well as to give you general information and a general understanding of the law, not to provide specific legal advice. By using this blog site you understand that there is no attorney client relationship between you and the Blog/Web Site publisher. The Blog/Web Site should not be used as a substitute for competent legal advice from a licensed professional attorney in your state.

The postings on this Blog/Web Site should not be attributed to McMillan LLP or Mitchell Silberberg & Knupp LLP. Some of the articles are posted by law students, and readers should use caution when relying on any post of a law student.

Cyndee Todgham Cherniak  
c/o LexSage Professional Corporation  
The Gooderham “Flatiron” Building, 49 Wellington Street East, Suite 501  
Toronto, Ontario  
M5E 1C9  
Phone: 416-307-4168  
Fax: 416-760-8999

Susan Kohn Ross  
c/o Mitchell Silberberg & Knupp LLP  
11377 W. Olympic Boulevard  
Los Angeles, California  
90064  
Phone: 310-312-3206  
Fax: 310-231-8406

Copyright © 2016, Canada-U.S. Blog. All Rights Reserved. Strategy, design, marketing & support by LexBlog