Federal financial institutions legislative and regulatory reporter – March 2021

May 10, 2021

The Reporter provides a monthly summary of Canadian federal legislative and regulatory developments of relevance to federally regulated financial institutions. It does not address Canadian provincial financial services legislative and regulatory developments, although this information is tracked by BLG and can be provided on request. In addition, purely technical and administrative changes (such as changes to reporting forms) are not covered.

March 2021

Institution	Published	Title and Brief Summary	Status
Canadian Payments Association	Canada Gazette, Part II, Volume 155, Number 7, March 15, 2021	Canadian Payments Association By-law No. 1 — General — By-law Amending Canadian Payments Act, SOR/2021-37. The amendments to the by-law makes changes to the operation of the board of directors and moves a number of prescriptive details regarding the Stakeholder Advisory Council (SAC), so that Payments Canada can more rapidly change the composition of the SAC in order to keep	Subdivision B in force April 2, 2021, see SI/2021-12

		pace with the rapidly changing payments ecosystem.	
Payments Canada		Changes to our rules and standards The following amendments were approved by the board and the Department of Finance and come into effect on April 26, 2021: ACSS Rule E3 - Amendments to update the definitions of “Severity 1 Contingency Situations” (now “Direct Participant Incidents”), “Severity 2 Contingency Situations” (now “CSN Incident”) and notification requirements for those incidents to reflect operational practices. Approved by the board February 25, 2021, effective April 26, 2021.	**Effective April 26, 2021**
FSB	March 31, 2021	Evaluation of the effects of too-big-to-fail reforms: Final report The Financial Stability Board (FSB) published the final report on its evaluation of the effects of too-big-to-fail (TBTF) reforms for systemically important banks (SIBs). The evaluation examines the extent to which the reforms have reduced the systemic and moral	

		hazard risks associated with SIBs, as well as their broader effects on the financial system. See also: • Evaluation of the effects of too-big-to-fail reforms: Overview of responses to the public consultation • Evaluation of the effects of too-big-to-fail reforms: Addendum to the technical appendix	
OSFI	March 30, 2021	Notice of changes to minimum base assessments Pursuant to Section 3(2) of the Assessment of Financial Institutions Regulations, 2017, the minimum base assessments applicable to federally regulated financial institutions will be adjusted for the 2021/22 fiscal year (April 1, 2021 – March 31, 2022).	
OSFI	March 29, 2021	Implementation of policy for remission of service fees The Office of the Superintendent of Financial Institutions (OSFI) charges fees	

		for services in accordance with the *Service Fees Act* (the Act). The Act requires the implementation of service standards for the delivery of services that are subject to a fee. When service standards are not met, Section 7 of the Act requires OSFI to remit all or part of the fee paid to the payer before July 1, of the following fiscal year. OSFI reviews service standards for all service fees quarterly and will remit fees in the form of a refund for service standards missed in the subsequent quarter in accordance with the table in this notice. Please note that interest is not paid on pending remissions.	
OSFI	March 29, 2021	OSFI seeks comments on revisions to the vested asset regime for foreign insurance branches **Background** In November 2019, following a review of the responsibilities and general operating activities of the Securities Administration and Approvals Reporting Unit (SAAR), OSFI announced the first in a	**Comments by** April 23, 2021

		series of steps to modernize and improve its Securities Administration regime and processes. This letter introduces proposed procedural updates to branch requirements intended to reduce administrative requirements on a risk-adjusted basis and ensure OSFI is efficiently collecting the information it needs. **Proposed amendments** The *Insurance Companies Act* requires foreign companies to maintain in Canada an adequate margin of assets in respect of its insurance business in Canada. These assets must be vested in trust in a Canadian financial institution. The vested assets provide assurance that the foreign company is able to meet its obligations to Canadian policyholders. The Standard Trust Agreement (STA) is the agreement that establishes the account to hold such assets, and the contractual means for OSFI to obtain information from the Canadian trustee in respect of such assets. The STA consists of	

		two forms: • Form 541 - The Standard Form Trust Agreement • Form 542 - The Terms and Conditions of the Standard Form Trust Agreement Three amendments are proposed for review. Stakeholders were invited to provide comments on the above proposals by email at SAAR@OSFI-BSIF.gc.ca by April 23, 2021. OSFI expects to publish its final amendments and implementation schedule in spring 2021.	
FINTRAC	March 23, 2021	Foreign branches, foreign subsidiaries and affiliates requirements This guidance explains the foreign branches, foreign subsidiaries and affiliates requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and associated regulations that apply to financial entities, life insurance companies and securities dealers.	**Effective June 1, 2021**

		This guidance comes into effect on June 1, 2021.	
FINTRAC	March 23, 2021	Update: Know your client requirements **When to verify the identity of persons and entities** This guidance explains when reporting entities to FINTRAC are required to verify the identity of persons and entities. The requirement to verify the identity of your clients (persons or entities) is determined by the type of transaction or activity they are undertaking. FINTRAC provides separate guidance of KYC obligations for each type of reporting entity (*e.g.*, accountants, casinos, financial entities, securities dealers, and money services businesses). For further FINTRAC guidance on related KYC obligations, please see the links below: Methods to verify the identity of persons and entities Business relationship requirements	**Effective June 1, 2021**

		Ongoing monitoring requirements **Beneficial ownership requirements** **As of June 1, 2021, all reporting entity** sectors will have beneficial ownership obligations when verifying the identity of an entity. Beneficial owners are the individuals who directly or indirectly own or control 25 per cent or more of a corporation or an entity other than a corporation. In the case of a trust, they are the trustees, the known beneficiaries and the settlors of the trust. Beneficial ownership requirements **Third party determination requirements** A third party is a person or entity who instructs another person or entity to conduct a transaction or activity on their behalf. Third party obligations are applicable to reporting entities in all sectors, but only for certain transactions and activities. Third party determination requirements	

		Know your client requirements include determining whether a person is a foreign or domestic politically exposed person (PEP), head of an international organization (HIO), or a family member or close associate of a foreign PEP. The reporting entity sectors with this obligation include **financial entities, securities dealers, money services businesses and life insurance companies.** • Politically exposed persons and heads of international organizations – financial entities • Politically exposed persons and heads of international organizations – life insurance • Politically exposed persons and heads of international organizations – money service businesses • Politically exposed persons and heads of international organizations – securities	

		dealers As of June 1, 2021, all reporting entity sectors will have politically exposed person (PEP) and head of an international organization (HIO) obligations. These obligations include determining whether a person is a foreign or domestic PEP, HIO, or a family member or close associate of a foreign or domestic PEP, as applicable. These obligations are explained in the following: • Politically exposed persons and heads of international organizations guidance • Politically exposed persons and heads of international organizations guidance for account-based reporting entity sectors • Politically exposed persons and heads of international organizations guidance for non-account-based reporting entity sectors • Politically exposed	

		persons and heads of international organizations guidance for life insurance companies, brokers and agents	
FINTRAC	March 23, 2021	Updated: Record keeping requirements FINTRAC has updated its sector-specific guidance for federal anti-money laundering record keeping requirements to reflect the new rules that will come into force this June 1, 2021: • Record keeping requirements for accountants • Record keeping requirements for departments and agents of the Crown • Record keeping requirements for British Columbia notaries • Record keeping requirements for casinos • Record keeping requirements for dealers in precious metals and precious stones • Record keeping requirements for financial entities	**Effective June 1, 2021**

		• Record keeping requirements for life insurance companies, brokers and agents • Record keeping requirements for money services businesses and foreign money services businesses • Record keeping requirements for real estate brokers or sales representatives, and real estate developers • Record keeping requirements for securities dealers	
FINTRAC	March 23, 2021	Updated: Correspondent banking relationship requirements This guidance explains the correspondent banking relationship requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and associated regulations that apply to financial entities It answers the following questions:	**Effective June 1, 2021**

		1. What is a correspondent banking relationship? 2. What must I do to meet the correspondent banking relationship requirements? 3. What correspondent banking relationship records do I need to keep? 4. What must I do if the client of a foreign financial institution has direct access to services I provide? 5. What are the exceptions to correspondent banking relationship requirements?	
Bank of Canada	March 23, 2021	Bank of Canada announces the discontinuation of market functioning programs introduced during COVID-19 As overall financial market conditions continue to improve in Canada, use of the Bank of Canada's programs that were introduced in 2020 in response to the shock from COVID-19 to support the functioning of key Canadian financial markets, has	

		declined significantly. Reflecting the continued improvement in the general functioning of Canadian financial markets, the bank is announcing the discontinuation of the Commercial Paper Purchase Program (CPPP), the Provincial Bond Purchase Program (PBPP), and the Corporate Bond Purchase Program (CBPP) on their originally announced end date. These programs were each active for a term of 12 months. The CPPP will be discontinued effective April 2, 2021, the PBPP will be discontinued effective May 7, 2021, and the CBPP will be discontinued effective May 26, 2021. The bank does not currently plan to sell any of the securities acquired under these programs. In addition, the bank is announcing changes to its Term Repo operations and the Contingent Term Repo Facility (CTRF). Term Repo operations, currently conducted bi-weekly, will be suspended effective	

		May 10, 2021 with the last operation scheduled on May 4, 2021. The Bank activated the CTRF for a period of 12 months and this facility will also be deactivated effective April 6, 2021 at the end of this period. Finally, the bank will publish transaction-level data from its discontinued asset purchase programs, including the names of individual issuers purchased, on June 29, 2021. Specifically, transaction-level data will be disclosed for the CPPP, PBPP, CBPP, Provincial Money Market Purchase Program (PMMP) and Bankers' Acceptance Purchase Facility (BAPF). The bank will continue to monitor market conditions and remains committed to providing liquidity as required to support the functioning of the Canadian financial system. Any of the discontinued facilities can be re-started if necessary.	
FATF	March 19, 2021	Public consultation on FATF draft guidance on a risk-based approach to virtual assets and virtual asset service providers	**Comments by April 20, 2021**

		The Financial Action Task Force (FATF) is updating its guidance on the risk-based approach to virtual assets (VAs) and virtual asset service providers (VASPs). The FATF originally published this guidance in June 2019 when the FATF finalized changes to its standards to clearly place anti-money laundering and counter terrorist financing (AML/CTF) obligations on VAs and VASPs. In July 2020, the FATF committed to update this guidance as set out in its 12-month review report and report to G20 on so-called stablecoins. The changes to the FATF's pre-existing guidance aim to maintain a level playing field for VASPs, based on the financial services they provide in line with existing standards applicable to financial institutions and other AML/CTF-obliged entities, as well as minimizing the opportunity for regulatory arbitrage between sectors and countries. The FATF is consulting private sector stakeholders before finalizing the revisions to the guidance. They welcome views on the	

		areas of focus, in addition to specific proposals on the proposed revisions to the text of the guidance. They primarily seek views from representatives from the VA community, including academics and policy bodies, VASPs, technology developers and providers (particularly in relation to the travel rule), other regulated entities (such as banks), but also welcome views from authorities. Separate to this process, the FATF is also considering the implementation of the revised FATF Standards on VAs and VASPs. Relevant issues identified in this public consultation may be considered through that review. The FATF will consider the report of this review in June 2021. Responses were provided to FATF.Publicconsultation@fatf-gafi.org with subject-line "Comments of [author] on the draft revised VASP Guidance", prior to the deadline of April 20, 2021 (18:00 UTC).	
OSFI	March 17, 2021	Implementation Notice: OSFI unwinds regulatory adjustments for banks subject to	

		market risk capital adequacy rules The Office of the Superintendent of Financial Institutions (OSFI) announced the unwinding of regulatory adjustments to the market risk capital requirements for banks, effective May 1, 2021. One year ago, OSFI introduced extraordinary regulatory adjustments to support the financial and operational resilience of federally regulated financial institutions (FRFIs) in response to the initial wave of the COVID-19 pandemic. OSFI's regulatory and supervisory adjustments will continue to be credible, consistent, necessary and fit-for-purpose in the Canadian context. OSFI will closely monitor conditions and remains ready to take any further action, including unwinding temporary measures, as required. For specific guidance, please see the letter issued to federally regulated deposit-taking institutions (DTIs) subject to market risk capital requirements.	

FATF	March 17, 2021	Mitigating the unintended consequences of the FATF Standards In February 2021, the Financial Action Task Force (FATF) launched a new project to study and mitigate the unintended consequences resulting from the incorrect implementation of the FATF Standards. The project will focus on four main areas: • **De-risking**, or the loss or limitation of access to financial services. This practice has affected non-profit organisations (NPOs), money value transfer service providers, and correspondent banking relationships, in particular; • **Financial exclusion** a phenomenon whereby individuals are excluded from the formal financial system and denied access to basic financial services;	

		• **Suppression of NPOs or the NPO sector as a whole** through non-implementation of the FATF's risk-based approach; • **Threats to fundamental human rights** stemming from the misuse of the FATF Standards or AML/CFT assessment processes to enact, justify, or implement laws, which may violate rights such as due process or the right to a fair trial. The FATF will conduct the project in two phases: (1) research and engagement, and (2) solutions. The FATF welcomes input to inform this project, including, for example: scholarly research; industry and civil society perspectives; and documented instances of unintended consequences. Information may be sent to pscf@fatf-gafi.org. While contributions are welcome for the duration of the project, they would be most	

		relevant for Phase One if submitted on or before April 20, 2021.	
OSFI	March 15, 2021	Revised OSFI Capital Ruling for Limited Recourse Capital Notes OSFI has published an update to its July 18, 2020 capital ruling on the Limited Recourse Capital Notes (LRCNs). The revised ruling now addresses LRCN issuances from institutions of all sizes and across different industry sectors. The revisions include a number of clarifications to the ruling's conditions and limitations, which are part of OSFI's prudent approach to assessing the quality and quantity of financial instruments used as regulatory capital. This is consistent with our mandate to protect the rights and interests of depositors, policyholders and financial institution creditors, while also allowing financial institutions to compete effectively and take reasonable risks. The ruling continues to conclude that federally regulated financial institutions may recognize the LRCNs as regulatory capital subject to the capital	

		treatment, conditions and limitations set out in the revised ruling.	
Bank of Canada	March 12, 2021	Bank of Canada announces changes to securities repo operations In line with its objectives to support core-funding markets and to foster the well-functioning of the Government of Canada securities market, the Bank of Canada is announcing changes to securities repo operations (SROs). The maximum total bidding amount across all securities in the SRO will increase to $2,000 million for each eligible participant effective Monday, March 15, 2021. The maximum bid rate will remain at 15bps. The bank may further adjust the size of the SROs in line with its intention at the start of the program in July 2020 to improve the availability of its holdings of Government of Canada securities. The terms and conditions of the SRO provide operational details. The SROs provide a temporary source of Government of Canada nominal bonds and treasury bills to primary dealers and the	

		increase in size announced here will help support liquidity in the securities financing market. The bank, at its discretion, may adjust the sizing, pricing and other parameters of the program to achieve its objectives.	
FATF	March 11, 2021	Trade-based money laundering: Risk indicators The FATF/Egmont report on trade-based money laundering risk indicators will help the public and private sector identify suspicious activity in international trade. In December 2020, the FATF and Egmont Group of FIUs published a report on trade-based money laundering – trends and developments. The report provided detailed insight into emerging risks. It also outlined a number of best practices to help authorities mitigate this money laundering threat The trade-based money laundering: risk indicators supplement this report and will help public and private sector identify possible trade-based money laundering.	

OSFI	March 8, 2021	Public consultation: Draft application paper on macro-prudential supervision The IAIS has developed a draft "Application Paper on Macroprudential Supervision" (Paper). This Paper aims to help with practical application of the supervisory material related to macro-prudential supervision in Insurance Core Principle (ICP) 24. As part of the holistic framework for the assessment and mitigation of systemic risk in the insurance sector (Holistic Framework), the IAIS revised ICP 24 to more explicitly address, among other topics, the build-up and transmission of systemic risk at the individual insurer and sector-wide level. The Holistic Framework and ICP 24 were adopted by the annual general meeting in November 2019. Under IAIS procedures, an application paper can provide additional material related to ICPs or ComFrame that help with practical application, but does not establish new standards. Application papers can provide examples of good	**Comments due by May 7, 2021**

		practices, as well as further advice and recommendations on how ICPs and/or ComFrame may be implemented. The IAIS is now seeking feedback on this Paper through public consultation. Feedback is invited by Friday, May 7, 2021. Feedback received by this deadline will enable the IAIS to further develop the Paper for finalization. After this deadline, the consultation tool will be closed and it will no longer be possible to submit any further comments. In addition, a public background session will be held via webinar on Tuesday, March 23, 2021 to present the Paper and answer any questions from stakeholders.	
FATF	March 4, 2021	Guidance on risk-based supervision FATF encourages countries to move beyond a tick-box approach in monitoring the private sector's efforts to curb money laundering and terrorist financing. FATF guidance on risk-based supervision helps supervisors address the full spectrum of risks and focus resources where the	

		risks are highest. A risk-based approach is less burdensome on lower risk sectors or activities, which is critical for maintaining or increasing financial inclusion. Transitioning from rules-based supervision to risk-based supervision takes time and can be challenging. It requires a change in supervisory culture. Supervisors need to work across government and with the private sector to develop an in-depth understanding of the risks that their regulated entities face. This is important because every business operates differently and faces different risks. Supervisors need to have appropriate powers, skills and resources as well as political and organisational support. They need to continuously update their understanding of risk and adjust and improve their supervisory approach. The guidance is composed of three parts: • Part 1 – The high-level guidance on risk-based	

		supervision, which explains how supervisors should assess the risks their supervised sectors face and prioritise their activities, in line with the FATF Standards' risk-based approach. • Part 2 – Strategies to address common challenges in risk-based supervision & jurisdictional examples, including examples of strategies for supervising non-financial businesses and professions and virtual asset service providers. • Part 3 – Country examples from across the global network, of supervision of the financial sector, virtual asset service providers and other private sector entities. The guidance has benefitted from extensive input by the FATF Global Network	

		of FATF members and FATF-style regional bodies, a total of 205 jurisdictions, and informal consultation with private sector representative bodies and financial inclusion stakeholders.	
FATF	March 1, 2021	Public consultation on FATF guidance on proliferation financing risk assessment and mitigation The Financial Action Task Force (FATF) is developing guidance to help both public and private sectors in implementing the new requirements to identify, assess, understand and mitigate proliferation financing risk as defined in Recommendation 1 and its interpretive note. The guidance seeks to assist both sectors in conducting a risk assessment in the context of proliferation financing, and applying corresponding risk mitigation measures. The FATF is consulting private sector stakeholders before finalizing the guidance. Please provide your response, including any drafting proposals to FATF.Publicconsultation@fatf-gafi.org with the subject-line	**Comments by April 9, 2021**

		"Comments of [author] on the draft Guidance on Proliferation Financing Risk Assessment and Mitigation", by April 9, 2021. At this stage, the FATF has not approved the draft guidance. The FATF will consider the views received and revise the text of the Guidance for discussions at its June 2021 meetings.	
FCA	March 1, 2021	Open banking review: FCAC submission to the Advisory Committee on open banking FCAC's submission to Canada's Advisory Committee on open banking is available for review.	

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