Federal financial institutions legislative and regulatory reporter – December 2021

January 31, 2022

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. In addition, purely technical and administrative changes (such as changes to reporting forms) are not covered.

December 2021

Published	Title and Brief Summary	Status
Office of the Superintendent of Financial Institutions (OSFI)		
December 20, 2021	Use of the Standardized Approach for Operational Risk Capital by Category I SMSBs The Office of the Superintendent of Financial Institutions' (OSFI) revised *Capital Adequacy Requirements* (CAR) Guideline will come into effect fiscal Q2-2023. Under Chapter 3 - *Operational Risk* - of the revised CAR Guideline, Category I Small and Medium-Sized Deposit-Taking	

	Institutions (SMSBs) with Annual Adjusted Gross Income greater than $1.5 billion must use the Standardized Approach (SA) when determining their operational risk capital charge. Category I SMSBs with Annual Adjusted Gross Income of less than $1.5 billion will, by default, use the Simplified Standardized Approach (SSA) but may apply to OSFI for the use of the SA if they have a minimum of five years of high-quality internal operational risk loss data. To support the implementation of the Standardized Approach (SA), OSFI has developed data maintenance expectations and a related assessment tool for operational risk capital data used in the SA. Operational risk data includes both internal operational risk loss data and the components of the Business Indicator that are used to calculate operational risk capital. This letter sets out the general application and assessment process that Category I SMSBs with less than $1.5 billion of Annual Adjusted Gross Income need to follow in	

	seeking approval from OSFI to use the SA. If approved, these institutions will have their Internal Loss Multiplier (ILM) floored at one until OSFI can confirm that the institution has 10 years of high-quality internal operational risk loss data. For a Category I SMSB with less than $1.5 billion of Annual Adjusted Gross Income and 10 years of internal loss data, OSFI may require the ILM to be adjusted (floored at one or greater than one) based on its assessment of the quality of the institution's internal operational risk loss data.	
December 10, 2021	Operational Resilience Consultation Results Summary On July 6, 2021, OSFI issued an industry letter to federally regulated financial institutions (FRFIs) on operational resilience. OSFI received a number of responses from FRFIs, industry associations and a technology company. While many respondents identified a FRFI's culture as an important driver of effective operational resilience, some argued culture would not be best addressed	Prospective consultation on culture and reputation risk in Q1 2022

	through an operational resilience framework. Further, several respondents viewed reputation risk as an outcome of operational and financial risk management, as opposed to a stand-alone risk. Based on this feedback, OSFI proposes to revise *Guideline E-21* to shift the focus of the Guideline towards operational resilience, while continuing to reinforce OSFI's expectations in relation to operational risk management. The revised Guideline will complement other OSFI guidelines that focus on specific risks and support operational resilience. The revised Guideline E-21 will be proportionate to FRFIs of different size, nature, scope, and complexity of operations. OSFI also intends to issue a consultative document on culture and reputation risk in Q1 2022. Respondents will have an additional opportunity to provide feedback on specific OSFI proposals on operational risk and resilience, including draft revisions to	

	Guideline E-21 in 2022.	
December 17, 2021	OSFI confirmed that the minimum qualifying rate for uninsured mortgages will remain the greater of the mortgage contract rate plus 2 percent or 5.25 percent. Lenders were reminded to test their borrowers to ensure that mortgages can continue to be paid during more adverse conditions.	Announced each December, at minimum
December 10, 2021	OSFI announced that the Domestic Stability Buffer (DSB) will remain at 2.50% of total risk-weighted assets. The DSB is part of a comprehensive supervisory and capital regime that influences banks' resilience to vulnerabilities.	Reviewed and set every June and December, at minimum
Bank of Canada		
December 16, 2021	CARR Publishes White Paper on the Recommended Future of CDOR In October 2020, the Canadian Alternative Reference Rate (CARR) working group was tasked with analyzing the current status of the Canadian Dollar Offered Rate (CDOR) and to make recommendations based on that analysis.	

	CARR has published a White Paper summarizing its findings and conclusions. CARR has recommended that the administrator of CDOR, Refinitiv Benchmark Services (UK) Limited (RBSL), cease publication of all of CDOR's remaining tenors after the end of June 2024. However, the decision to cease CDOR ultimately lies solely with RBSL and CARR's recommendation does not constitute a public statement or publication of information that CDOR has ceased or will cease permanently or indefinitely.	
Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)		
December 15, 2021	Consultation on a Proposed Guideline on Whistleblowing Policies and Procedures for Banks and Authorized Foreign Banks The Financial Consumer Agency of Canada (FCAC) invites comments on a proposed *Guideline on Whistleblowing Policies and Procedures for Banks and Authorized Foreign Banks* (Guideline) in support of the implementation of the new Financial Consumer Protection	Comment by January 29, 2022

	Framework (FCPF) in the *Bank Act*. The FCPF introduces new or enhanced consumer protection measures that will further empower and protect consumers in their dealings with banks and authorized foreign banks (Banks). = This is the third in a series of consultations on guidelines that FCAC has developed to help banks comply with their obligations in the *Bank Act* and the new *Financial Consumer Protection Framework Regulations*, which will come into force on June 30, 2022. A first consultation on a proposed Guideline on Complaints Handling Procedures ended on December 11, 2021. A second consultation on a proposed Guideline on Appropriate Products and Services is in progress until January 6, 2022. FCAC invites all interested parties to express their views by submitting their comments by email to FCAC.Consultation.ACFC@fcac-acfc.gc.ca or by using the following form.	

December 2, 2021	**Update to Reporting Entities on Expectations as of December 1, 2021** On June 1, 2021, amendments to certain regulations enacted under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) (the amended Regulations) came into force. Per FINTRAC's May 18, 2021 Notice on the assessment of amended Regulations, reporting entities (REs) had until December 1, 2021 to update their compliance programs and systems. On April 1, 2022, FINTRAC will begin assessing compliance with the amended Regulations. Understanding there may be challenges related to bringing some systems and operations into compliance within this timeline, FINTRAC will be reasonable in its assessment and enforcement approach. Where progress cannot be demonstrated, FINTRAC will undertake compliance assessment activities and REs may be subject to follow-up and enforcement measures.	

	Important dates **December 1, 2021:** Deadline for REs to complete the implementation of large virtual currency transactions (LVCT) and electronic funds transfer (EFT) reporting systems and begin reporting transactions conducted as of this date, as well as to begin retroactively reporting transactions dated between June 1 and November 30, 2021. **March 31, 2022:** Deadline for REs to complete the retroactive submission of all LVCT and EFT reports received between June 1, 2021 and November 30, 2021 that are not impacted by the travel rule impediments mentioned in the body of FINTRAC Notice. Over-reported transactions must be deleted as soon as possible and no later than this date. Up to March 31, 2022, FINTRAC is issuing observations for all non-compliance with the amended Regulations pertaining to the compliance program requirements. **April 1, 2022:** FINTRAC will begin assessing	

	compliance with the Regulations in force on June 1, 2021; any non-compliance observed will be cited as deficiencies, except in the specific circumstances noted above.	
Payments Canada		
December 16, 2021	Upcoming Changes to Rules, Procedures & Standards • Rules F1 and F4: Amendment to clarify the notification period for updating the Account Number Format and Validation Criteria document. • Rule L3:Amendments to change methodology used to calculate the ACSS Collateral for a New Direct Clearer. • Rule H1: Amendments to update the Pre-Authorized debit (PAD) rule. The proposed revised framework for PADs is currently under public	Target Rule Effective Date: January 31, 2022. Target Rule Effective Date: April 11, 2022. Target Rule Effective Date: May 2, 2022. Status: Public Consultation

	consultation.	
Financial Stability Board (FSB)		
December 17, 2021	Call for Papers: Systemic Risks in Non-Bank Financial Intermediation (NBFI) and Policies to Address Them The Financial Stability Board invites submissions of papers for a conference on systemic risks in non-bank financial intermediation (NBFI) and policies to address them. The conference, which will take place in June 2022, will contribute to the FSB's work to develop a systemic approach to NBFI. It will feature presentations of analytical work and research that advances the understanding of systemic risks in NBFI and specific policies and approaches that may be used to address them. Submissions should be made by **March 31, 2022** to NBFI.Conference@fsb.org.	Submissions by March 31, 2022
December 16, 2021	Global Monitoring Report on Non-Bank Financial Intermediation 2021	

	The Financial Stability Board (FSB) has published the *Global Monitoring Report on Non-Bank Financial Intermediation 2021*. The report presents the results of the FSB's annual monitoring exercise to assess global trends and risks in non-bank financial intermediation (NBFI). This report presents NBFI developments up to end-2020, the first year of the COVID-19 pandemic, covering 29 jurisdictions that account for approximately 80 per cent of global GDP. The FSB focuses in the report particularly on those parts of NBFI that may pose bank-like financial stability risks and/or regulatory arbitrage (the so-called narrow measure of NBFI). As part of its work program to enhance the resilience of the NBFI sector, the FSB will consider further enhancements to the annual monitoring exercise in light of the COVID-19 experience.	
December 13, 2021	Bail-in Execution Practices Paper The FSB has published a *Practices Paper on the Execution of Bail-in*.	

	Bail-in is at the core of resolution strategies for global systemically important banks (G-SIBs). Set out in the *Key Attributes of Effective Resolution Regimes for Financial Institutions*, it is an important tool enabling an orderly resolution that minimizes any impact on financial stability and ensures the continuity of critical functions, without exposing taxpayers to loss. Operationalizing bail-in is a critical part of resolution planning for G-SIBs and other firms where bail-in is part of the resolution strategy. Since the adoption of the FSB's *Principles on Bail-in Execution*, resolution planning has progressed, and authorities have developed approaches and practices in accordance with their respective jurisdictions' legal frameworks, securities law and exchange requirements. The FSB will continue to facilitate the sharing of practices amongst authorities and efforts to address these issues, including by continuing its engagement with stakeholders as part of the work of its Resolution Steering	

	Group and Bank Cross-Border Crisis Management Working Group.	
December 13, 2021	**A Draft Framework for Money Laundering/Terrorist Financing Risk Assessment of a Remittance Corridor** This draft framework by the IMF and World Bank staff provides a contribution to the FSB's *Roadmap for Enhancing Cross-Border Payments* that was endorsed by G20 Leaders in 2020 and that aims to achieve faster, cheaper, more transparent, and more inclusive cross-border payment services. The endorsed roadmap comprises 19 building blocks (Building Blocks). The IMF and the World Bank were assigned to cover building block 7, on "safe payment corridors". Accordingly, this draft framework for remittance corridors' risk assessments is the first action under building block 7, the goal of which is to promote "safe payment corridors", and contains two phases: i. The development of a framework and methodology for the	

	assessment of the money laundering and terrorist financing (ML/TF) risks in remittance corridors and the identification of potential "lower risk corridors," as part of or consistent with a country's national ML/TF risk assessment. ii. The proposed framework is expected to be piloted in some corridors with a view to testing and further refining the assessment methodology. This assessment framework can be applied jointly or separately by the sender and the recipient corridor countries.	
December 10, 2021	FSB Seeks Feedback on How Existing National and Regional Data Frameworks Affect Cross-Border Data Flows The FSB is conducting a survey as part of its work under Building Block 6 of the *Roadmap for enhancing Cross-border Payments* (in	Submissions by January 14, 2022

	other words, reviewing the interaction between data frameworks and cross-border payments) The FSB wishes to gather stakeholders' feedback in order to better understand how requirements applicable to data could affect (either enabling or impeding) cross-border payments, by potentially affecting cost, speed, access, security of cross-border payments, or interoperability of cross-border payment networks. Stakeholder views are also requested on what any potential frictions are, as well as which policies are most effective. Many of the frictions contributing to these challenges arise from their cross-jurisdictional nature. One of the key topics to consider is how existing national and regional data frameworks interact with and affect the functioning, regulation and supervision of cross-border payment arrangements. **In particular, the FSB invites feedback from banks, non-banks, financial market infrastructures, academics and**	

	industry associations on the following issues: 1. How, in your view, do data-specific requirements or objectives of existing national and regional data frameworks, such as those listed above, currently affect (either positively or negatively): 2. More specifically, what barriers to cross-border use of data do you see in existing data frameworks that will impede our ability to address the four challenges faced by cross-border payments? 3. What areas of improvement could you suggest in data frameworks in order to overcome these barriers? Are there effective practices you would highlight to the FSB membership? 4. Can approaches to data	

	frameworks in one jurisdiction impact the provision or supervision of cross-border payments services in other jurisdictions? Are there particular issues that you would like to highlight? 5. Are there particular payment corridors (especially related to emerging markets) that you wish to highlight to the FSB as facing specific challenges relating to data frameworks? Responses to the survey will support FSB member authorities in the analysis of the constraints on cross-border data flows imposed by existing national and regional data frameworks. Feedback via the online survey is open until January 14, 2022.	
December 7, 2021	2021 Resolution Report: "Glass half-full or still half-empty?" This year's Resolution Report commemorates the tenth anniversary of the FSB Key Attributes of	

	Effective Resolution Regimes for Financial Institutions (Key Attributes) which were adopted by the FSB Plenary in October 2011 and endorsed by the G20 at the Cannes Summit in November 2011. Since their adoption ten years ago, the *FSB Key Attributes of Effective Resolution Regimes* have set the standard for the reform of resolution regimes and resolution planning across all sectors. While progress towards resolvability has been significant, the FSB´s recent evaluation of the "too big to fail" reforms found that a number of gaps need to be addressed to fully realize the benefits of the resolution reforms. Looking ahead, emerging themes in resolution planning relate to digital innovation, including in relation to reliance on third-party service providers and cloud services and the need to assess resolvability of non-traditional market participants. The FSB has also published the data underpinning the Resolution Reform Index which is used in Graph 5 of the Resolution Report. The index illustrates the progress of FSB jurisdictions in adopting comprehensive bank resolution reforms since the global financial crisis. A detailed description of the RRI can be found in Annex F of the March 2021 FSB Report on the Evaluation of Too-Big-To-Fail Reforms.	

Disclaimer

This Reporter is prepared as a service for our clients. It is not intended to be a complete statement of the law or an opinion on any subject. Although we endeavour to ensure its accuracy, no one should act upon it without a thorough examination of the law after the facts of a specific situation are considered.

By

Cindy Y. Zhang, Donna Spagnolo

Expertise

Banking & Financial Services, Financial Services, FinTech, Insurance, Financial Services Regulatory

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.