Federal financial institutions legislative and regulatory reporter - June 2023

July 27, 2023

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.

June 2023

Published	Title and brief summary	Status
Office of the Superintendent of Financial Institutions (OSFI)		
June 30, 2023	Technology and Cyber Incident Reporting OSFI has issued a draft advisory on technology and cyber incident reporting, which describes its expectations for reporting technology and cyber security incidents that affect federally regulated private pension plans (FRPPs). The advisory links to a draft Technology and Cyber Incident Report, and provides: • Scope and definition of technology or cyber security incident; • Criteria for reporting an incident, which includes a list of characteristics of	**Comments are due Sept. 30, 2023**

	such incidents; and • Notification requirements. It notes that failure to report incidents as outlined in the advisory may increase a plan's rating and result in additional supervisory oversight.	
June 28, 2023	OSFI Issues Draft Climate Risk Returns for Consultation OSFI, in partnership with the Bank of Canada and Canada Deposit Insurance Corporation, has published draft Climate Risk Returns for Federally Regulated Financial Institutions (FRFIs) for consultation. They consist of two documents: • Draft Business Specifications for the Climate-Related Risk Returns for Deposit-Taking Institutions • Draft Business Specifications for the Climate-Related Risk Returns for Insurers The returns will collect climate-related emissions and exposure data directly from FRFIs, informing OSFI's policy development, regulation, and prudential supervision as it pertains to climate risk management.	**Comments are due Sept. 30, 2023**
June 26, 2023	Statement from the Superintendent on Royal Assent of Bill C-47 "On June 22, 2023, Parliament passed Bill C-47, the *Budget Implementation Act* (BIA), which expands the OSFI's mandate. These changes will enhance the strong oversight of FRFIs that	

	underpins a sound and stable Canadian financial system. Starting January 1, 2024, FRFIs will be required to have and adhere to adequate policies and procedures to protect themselves from threats to their integrity and security, including foreign interference. OSFI will examine each FRFI's policies and procedures to determine if they are adequate and will annually report on these examinations to the Minister of Finance."	
June 9, 2023	Life Insurance Capital Adequacy Test 2023 – Adjustments and clarifications OSFI has published adjustments and clarifications to the Life Insurance Capital Adequacy Test (LICAT) 2023 guideline and associated instructions and forms. The adjustments and clarifications are with respect to the following: • Volatility adjustment (LICAT section 2.1.1); • Owner-occupied property (LICAT sections 2.1.1 and 5.3.1); • Cryptoassets (Page 20.300 of the LICAT Quarterly Return); • Capital composition and limitations (LICAT section 2.3); • Outstanding premiums and agents' debit balances for branches (LICAT section 12.2.5); • Reduction in negative reserves deduction / assets required for stop-loss arrangements.	

June 1, 2023	OSFI Launches Public Consultations on Solo Capital Requirements and Solo Total Loss Absorbing Capacity (TLAC) Requirements OSFI has released two draft frameworks for open public consultation: • Parental Solo TLAC Framework for Domestic Systemically Important Banks (D-SIBs) • Parental Solo Capital Framework for Federally Regulated Life Insurers Solo capital, or solo TLAC in the case of D-SIBs, is a measure of the loss-absorbing capacity available to the stand-alone, or solo, parent bank or operating life insurer. While OSFI's Total Loss Absorbing Capacity (TLAC) Guideline applicable to D-SIBs and its Life Insurance Capital Adequacy Test (LICAT) Guideline applicable to Life IAIGs measure loss-absorbing capacity on a group consolidated basis, solo requirements focus on the loss-absorbing capacity of the parent only. When the parent of an internationally active financial group is adequately capitalized on a stand-alone basis, its capacity to protect the interests of its depositors, policyholders, and creditors from losses in times of stress is greatly enhanced. In addition, such capitalization allows the parent to function as a source of strength to its subsidiaries and foreign branches. These outcomes are aligned with OSFI's mandate of protecting	**Comments were due June 30, 2023**

	the interests of depositors, policyholders, and creditors. The Framework itself is considered by OSFI to be consistent with its international commitments pertaining to the regulation and supervision of financial institutions.	
May 10, 2023	Liquidity Adequacy Requirements (LAR) Guideline Review for Wholesale Funding Sources with Retail-like Characteristics OSFI is launching a review of the liquidity treatment provided in the Liquidity Adequacy Requirements (LAR) Guideline for wholesale funding sources with retail-like characteristics, such as high-interest savings account exchange traded funds (HISA ETFs). In a rising rate environment, these products have seen significant growth as they aim to mimic traditional savings accounts through an ETF structure while offering higher yields. The higher yield is supplemented by the product's liquidity, as clients' withdrawals are usually not subject to restrictions. This review aims to assess the need for new wholesale funding categories to appropriately reflect the risks of such retail-like wholesale products. OSFI will also analyze any similar types of products with retail characteristics, but which banks access via a financial institution's intermediation. OSFI requests feedback about the liquidity treatment of wholesale funding products with retail-like characteristics.	**Comments due June 21, 2023**

Bank of Canada		
May 8, 2023	Bank of Canada Launches Public Consultations on a Digital Dollar The Bank of Canada launched an online consultation on the features that could be included in a digital dollar. The Bank is interested in hearing about the following with respect to a digital dollar: • How people would likely use it • What security features are important • What concerns people have about accessibility and privacy. The Bank will publish a report summarizing the consultation later in 2023. For BLG's previous insights on the digital dollar, please see our team's three-part series: • Spotlight on stablecoins and CBDCs: Part 1 • Spotlight on stablecoins and CBDCs: Part 2 • Spotlight on stablecoins & CBDCs: Part 3 (Examining the implications of central bank digital currencies worldwide)	**Comments were due June 19, 2023**
Finance Canada		
June 9, 2023	Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime Finance Canada has launched a public consultation to examine	**Comments are due Aug. 1, 2023**

	ways to improve Canada's Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) Regime. The consultation paper is intended to support the 2023 Parliamentary Review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and consult on potential policy measures, some of which may be considered for future legislative and regulatory amendments, including to the PCMLTFA and the *Criminal Code*. Part I of the paper provides an overview of Canada's AML/ATF Regime and government efforts to combat money laundering and terrorist financing. Part II explores ways to enhance the operational effectiveness of the AML/ATF Regime to investigate and prosecute money laundering and terrorist financing and deprive criminals of the proceeds of crime. Part III considers the legislative and regulatory framework of the PCMLTFA. Part IV discusses national and economic security. The paper also contains an annex of further technical proposals to modernize and enhance the AML/ATF legislative and regulatory framework.	
Financial Action Task Force (FATF)		
June 29, 2023	Public Consultation on the Revision of Recommendation 8 and its Interpretive Note FATF has proposed a draft amendment text of Recommendation 8 of the FATF Standards and its Interpretive Note (R.8/INR.8), which is	**Comments are due Aug. 18, 2023**

	intended to protect non-profit organizations (NPOs) from possible terrorist financing abuse. One question of particular interest is that examples of measures provided in a paragraph of the Interpretative Note that countries can apply to NPOs according to their terrorist financing risk exposure may have been perceived by some countries or jurisdictions as compulsory. The draft amendment text attempts to remedy this, amongst other issues.	
June 29, 2023	Public Consultation on the FATF Best Practice Paper to Combat the Abuse of Non Profit Organisations Undertaken in parallel with the Public Consultation on the Revision of Recommendation 8 (R.8) and its Interpretive Note, FATF has proposed an updated FATF Best Practice Paper to Combat the Abuse of NPOs (non-profit organizations) for consultation. FATF is particularly interested in input with respect to: • Mitigating TF risk at an NPO individual level (section 3.2 and Annex B of the Best Practice Paper (BPP)); • Implementing good governance at an NPO individual level to meet R.8 objectives (section 3.4 and Annex B of the BPP); • Financial institutions' initiatives to ensure access of legitimate NPOs to financial services, including risk-based mitigating	**Comments are due Aug. 18, 2023**

	measures (section 4.2 and Annex C of the BPP); • NPOs and donors' initiatives to ensure access of legitimate NPOs to financial services (section 4.3 and Annex C of the BPP); and • Examples of misapplication of R.8, to identify avoidable practices and to help countries, financial institutions and NPOs correctly implement the risk-based approach.	
Financial Stability Board (FSB)		
June 22, 2023	Enhancing Third-Party Risk Management and Oversight: A toolkit for financial institutions and financial authorities - Consultative document The FSB has responded to concerns over the risks related to outsourcing and third-party service relationships, which have grown in recent years as part of the digitalisation of the financial services sector, with this consultative document. Enhancing Third-Party Risk Management and Oversight is a toolkit intended to: • Reduce fragmentation in regulatory and supervisory approaches to financial institutions' third-party risk management across jurisdictions and different areas of the financial services sector; • Strengthen financial institutions' ability to	**Comments are due Aug. 22, 2023**

	manage third-party risks and financial authorities' ability to monitor and strengthen the resilience of the financial system; and • Facilitate coordination among relevant stakeholders (i.e., financial authorities, financial institutions and third-party service providers). To facilitate this, the toolkit includes: • A list of common terms and definitions to improve clarity and consistency across financial institutions and to improve communication among relevant stakeholders; • Tools to help financial institutions identify critical services and manage potential risks throughout the lifecycle of a third-party service relationship; and • Tools for supervising how financial institutions manage third-party risks, and for identifying, monitoring and managing systemic third-party dependencies and potential systemic risks.	
International Association of Insurance Supervisors (IAIS)		
June 23, 2023	Public Consultation on Insurance Capital Standard as a Prescribed Capital Requirement IAIS has issued a consultation document seeking feedback with respect to the global Insurance	**Comments are due Sept. 21, 2023**

	Capital Standard (ICS) ahead of its adoption as a group Prescribed Capital Requirement (PCR) for Internationally Active Insurance Groups (IAIGs) at year-end 2024. The document includes the Insurance Capital Standard itself, as envisaged by the IAIS pending stakeholder comments.	
June 23, 2023	Public Consultation on Insurance Core Principles: ICP 14 (Valuation) and ICP 17 (Capital Adequacy) IAIS has issued consultations on draft revised ICP 14 (Valuation), draft revised ICP 14 related terms, draft revised ICP 17 (Capital Adequacy), and draft revised ICP 17 related terms. ICP 14 establishes supervisory requirements for the valuation of asset and liabilities for solvency purposes. ICP 17 establishes regulatory capital resources and requirements. ICP 14 and ICP 17 were not included in the ICP revision of 2019, recognizing that work was on-going on the Insurance Capital Standard (ICS).	**Comments are due Sept. 21, 2023**
May 23, 2023	IAIS publishes Issues Paper on Insurance Sector Operational Resilience Issues Paper on Insurance Sector Operational Resilience identifies issues impacting operational resilience in the insurance sector and provides examples of how supervisors are approaching these developments, with consideration of lessons learnt during the Covid-19 pandemic. It	

	addresses three topics: • Cyber resilience • Third-party outsourcing • Business Continuity Management IAIS had released a previous version of the Issues Paper for comment; it incorporated this feedback in the current Issues Paper. The summary of feedback, and IAIS' responses, are available here.	
Payments Canada		
June 23, 2023	Payments Canada Standards Updated Retail Batch Payment System: • Rule B9 – Manual Balancing for the Purposes of Settlement (Administrative amendment to Appendix IV, to update Bank of Canada contact information) • Rule F1 – Rules applicable to Automated Funds Transfer (AFT) Transactions (Administrative amendment to remove an outdated section reference)	**Effective June 23, 2023**
May 3, 2023	Payments Canada Standards Updated Retail Batch Payment System: • Rule A10 – Image Rule (Amendments to subsection 25(c), section 29 and subsection 30(a) to update section references and to	**Effective May 3, 2023**

	remove references to Regional Image Streams “I” and “R” and include National ICP and ICP Return Streams “O” and “S”) • Rule B2 – Manual Preparation of Clearing Logs (Amendments to remove streams “I” and “R”) • Rule B9 – Manual Balancing and Settlement (Amendments to remove streams “I” and “R” from Appendix I and III) • Rule K1 – Bulk Exchange and Settlement of U.S. Dollar Items (Amendments to remove streams “I” and “R”) • Rule K5 – U.S. Bulk Exchange System - Manual Balancing and Settlement (Amendments to remove streams “I” and “R” from Appendix III) • Rule K8 – U.S. Dollar Automated Funds Transfer System (Amendments to add the requirement for the retention of File Creation Numbers for USD AFT Files) • Rule F1 – Rules applicable to Automated Funds Transfer (AFT) Transactions (Amendments to Appendix IV to introduce new lead time requirements for new AFT Transaction Codes or Return Reason Codes) • Rule F4 – Rules applicable to Automated	

	Funds Transfer (AFT) Transactions using ISO 20022 messages (Amendments to Appendix VII to introduce new lead time requirements for new AFT Transaction Codes and Return Reason Codes) High-Value Payment System – Lynx • Rule 14 – Claims and Compensation (Amendments to section 11 to update the definition of the lower limit of Operating Band)	
Legislation		
June 30, 2023	Proclamation: Unclaimed Asset Regime *Order Fixing June 30, 2023, as the Day on Which Certain Provisions of the Budget Implementation Act, 2021, No. 1 Come into Force,* SI/2023-22, was published in the Canada Gazette Part II on July 5, 2023. The Order brings into force legislative amendments that update the unclaimed asset regime by expanding it to include foreign denominated assets and making it easier for owners of unclaimed assets to become aware of their accounts and claim them. The following Acts are amended: • The *Bank of Canada Act*, to create an explicit authority for the Bank of Canada to publish unclaimed asset	**Amendments take effect June 30, 2023**

	information online; • The *Trust and Loan Companies Act* and the *Bank Act* to (1) expand the definition of unclaimed assets to include foreign denominated deposits and instruments; (2) require financial institutions to notify asset owners by electronic means (such as email) in addition to mail; (3) require financial institutions to disclose more information to the Bank of Canada, namely social insurance number and date of birth to facilitate the validation of claims.	
June 24, 2023	[Proposed] *Regulations Amending the Pension Benefits Standards Regulations, 1985 (Negotiated Contribution Plans)* The proposed Regulations would exempt negotiated contribution plans from solvency funding requirements and set out enhanced going concern funding standards as well as the information requirements for plan governance and funding policies. The stated rationale for these proposed Regulations is that they would allow negotiated contribution plans to offer more sustainable benefit levels and enhance the retirement security of plan members and retirees. If finalized, the Regulations would come into force on the day Division 8 of the *Budget Implementation Act, 2021,*	**Comments are due July 24, 2023.**

	*No. 1*comes into force, but if they were registered after that day, they would come into force on the day on which they are registered.	
June 24, 2023	[Proposed] *Regulations Amending the Pension Benefits Standards Regulations, 1985 (Persons who Cannot be Located)* The proposed Regulations would set out the information required to be provided to and published by the entity designated to receive and hold the unclaimed pension balances from terminated federally regulated pension plans. The proposed Regulations would also specify who qualifies as an eligible claimant of unclaimed pension assets and establish the period for how long the designated entity can administer the unclaimed assets before the funds are transferred to the Crown. If finalized, the Regulations would come into force on the day section 142 of the *Budget Implementation Act, 2021, No. 1*comes into force, but if they were registered after that day, they would come into force on the day on which they are registered.	**Comments are due July 24, 2023**
June 22, 2023	*Budget Implementation Act, 2023, No. 1*, SC 2023, c. 26 *Budget Implementation Act, 2023, No. 1,* SC 2023, c. 26(Bill C-47), received Royal Assent on June 22, 2023. Part 4, Division 1 amends the *Bank Act* to strengthen the regime for dealing with	**Part 4, Division 1 in force on June 22, 2023.** **Part 4, Division 3 in force on June 22, 2023.** **Part 4, Division 3, Subdivision A in force on June 22, 2023, except ss. 181, 182, 185, 186, 192, 205, 206 in force on proclamation; s. 203, 204(2) in force June 22, 2024.**

	complaints against banks and authorized foreign banks by, among other things, providing for the designation of a not-for-profit body corporate to be the sole external complaints body. Consequential amendments are also made to the *Financial Consumer Agency of Canada Act* and related amendments to the *Financial Consumer Protection Framework Regulations*. Part 4, Division 3, Subdivision A amends the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to, among other things: • Require persons or entities referred to in section 5 of that Act to report to the Financial Transactions and Reports Analysis Centre of Canada information that is related to a disclosure made under the *Special Economic Measures Act* or the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*; • Strengthen the registration framework for persons or entities referred in paragraphs 5(h) and (h.1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, which are often referred to as money services businesses; • Create two new offences relating to persons or entities who engage in activities for which they are not registered under	**Part 4, Division 10 in force on June 22, 2023.** **Part 4, Division 29 in force on June 22, 2023.** **Part 4, Division 33 in force on June 22, 2023, with the exceptions of s section** 518, subsections 523(1) and (3), sections 539 and 543, subsections 544(1) and (3) and 556(1) and (3), sections 568, 578, 582 and 583, subsections 585(1) and (3) and section 598**, which come into force on January 1, 2024.** **Part 4, Division 37 in force on June 22, 2023, except for subsection 626(2) and section 628, which come into force on April 30, 2024.**

	that Act and the structuring of financial transactions undertaken to avoid reporting obligations under that Act, as well as a new offence relating to reprisals by employers against employees who fulfill obligations under that Act; • Facilitate the sharing, between the Minister of Finance, the Office of the Superintendent of Financial Institutions and the Financial Transactions and Reports Analysis Centre of Canada, of information that relates to their respective mandates; and • Authorize the Minister of Finance to issue directives to persons and entities referred in section 5 of that Act in respect of risks relating to the financing of threats to the security of Canada. Part 4, Division 10 further amends the amends the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, along with the *Special Economic Measures Act*, and the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* to strengthen Canada's ability to take economic measures against certain persons. Part 4, Division 29 establishes the Canadian Dental Care Plan. Part 4, Division 33 amends the *Office of the Superintendent*	

	of Financial Institutions Act, the *Trust and Loan Companies Act*, the *Bank Act* and the *Insurance Companies Act* to, among other things: • Expand the mandate of the Office of the Superintendent of Financial Institutions to include the supervision of federal financial institutions, to determine whether they have adequate policies and procedures to protect themselves against threats to their integrity or security; and • Expand the Superintendent of Financial Institutions' powers to issue directions to, and to take control of, a federal financial institution in certain circumstances. Part 4, Division 37 amends the *Canada Deposit Insurance Corporation Act* to clarify that the Canada Deposit Insurance Corporation may administer any contract related to deposit insurance entered into by the Minister of Finance and to allow the Minister to increase the deposit insurance coverage limit until April 30, 2024.	
May 6, 2023	[Proposed] *Form of Proxy (Banks and Bank Holding Companies) Regulations* The proposed regulations would repeal and replace the current *Form of Proxy (Banks and Bank Holding Companies) Regulations* (the Regulations) with the *Form of Proxy (Banks and Bank Holding Companies)*	

	Regulations, 2023 (the proposed Regulations). Under this proposal, out-of-date references in the Regulations would be replaced by provisions that directly reference National Instrument 51-102, *Continuous Disclosure Obligations*, and Form 51-102F5 (Information Circular) of National Instrument 51-102. This would follow a similar approach taken in the revised *Canada Business Corporations Regulations* (CBCR). In making these changes, certain requirements will be added to the proposed Regulations to reflect the approach taken in the revised CBCR and to incorporate the National Instruments. **If finalized, Regulations would be effective on date of registration.**	

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, Matthew Connors

Expertise

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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

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