# Federal Financial Institutions Legislative and Regulatory Reporter

**April 24, 2020**

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.

## February 2020

| Institution | Published | Title and Brief Summary | Status |
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| International Association of Insurance Supervisors | February 27, 2020 | Issues Paper on the Implementation of the Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD)<br><br>The International Association of Insurance Supervisors (IAIS) and Sustainable Insurance Forum (SIF) published an Issues Paper on the Implementation of the Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD).<br><br>A vast majority of insurers expect climate change to affect their business; however, while the largest | |

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| | | globally active insurers have made progress on implementation of TCFD-aligned disclosures, implementation is low across the sector as a whole.<br><br>The paper identifies a number of areas where supervisors can encourage strengthened disclosures through the application of existing supervisory tools.<br><br>To support supervisors' efforts to assess the impact of climate-related risks to the insurance sector and help resolve challenges, including around public disclosure, the IAIS and SIF will do further work on climate-related risk in the insurance sector over the course of 2020, focussing specifically on topics such as enterprise risk management, corporate governance, investment and disclosure. | |
| OSFI | February 26, 2020 | Guideline A: 2020 Life Insurance Capital Adequacy Test (LICAT): Public Consultation<br><br>Guideline A: *Life Insurance Capital Adequacy Test* (LICAT) became effective on January 1, 2018. Since its implementation, OSFI has been monitoring insurer results to assess whether the test is operating as intended. | Comments by **March 26, 2020** |

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| | | As communicated by OSFI in its November 24, 2017 letter, any issues uncovered may be modified, as appropriate. Recently, OSFI identified an aspect of the test that, due to the methodology, causes some unwarranted volatility in interest rate risk requirements for participating (par) products. To address this, today, OSFI is proposing to update the LICAT framework and publish a 2020 version of the LICAT (2020 LICAT). Updates that are being proposed affect the requirement for the par credit floor (see LICAT sections 5.1.2, 9.1.2 and 9.3). Recognizing that the change could result in an initial increase in capital requirements for some insurers, OSFI is proposing that the impact be phased-in over six quarters.<br><br>OSFI also notes that the current wording of the guideline may lead to a misinterpretation of OSFI's expectations for how an insurer would meet the conditions for claiming par credit, as well as the treatment of negative dividend stabilization reserves or other similar experience leveling mechanisms (see LICAT sections 2.1.2.10 and 9.1.1). Therefore, OSFI proposes clarifying these expectations in the | |

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| | | 2020 LICAT guideline.<br><br>OSFI will consider all comments in finalizing the 2020 LICAT guideline. A summary of industry comments received along with OSFI's responses may be posted on OSFI's website when the final guideline is released, planned for mid-2020. It will become effective on that date. | |
| House of Commons | January 29, 2020 | Bill C-4, *Canada–United States–Mexico Agreement Implementation Act, 1st Session, 43rd Parliament* was introduced in the House of Commons on January 29, 2020.It received 2nd reading and referral to the Standing Committee on International Trade on February 6, 2020. The Bill C-4 enactment implements the agreement between Canada, the United States of America and the United Mexican States, done in Buenos Aires on November 30, 2018, as amended by the protocol of amendment to that agreement, done in Mexico City on December 10, 2019.<br><br>The general provisions of the enactment set out rules of interpretation and specify that no recourse is to be taken on the basis of sections 9 to 20 or any order made under those sections, or on the basis of the provisions of the | |

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| | | agreement, without the consent of the attorney general of Canada.<br><br>Bill C-4 amends legislation including, but not limited to: the *Bank Act*, *Canada Deposit Insurance Corporation Act*, *Financial Administration Act*, *Insurance Companies Act*, and the *Trust and Loan Companies Act*. | |
| OSFI | January 2020 | Control in Fact (Revised)<br><br>This advisory provides guidance on factors that OSFI considers in determining whether control in fact exists in a particular situation. The factors reviewed in this advisory are not exhaustive and no factor is necessarily definitive in making a determination. | Effective |
| OSFI | January 2020 | Corporate Names, Registered Names and Trade Names (Revised)<br><br>This advisory sets out factors that the superintendent generally considers as part of the assessment of whether: (a) the corporate or trade name of a Canadian federally regulated entity is prohibited; (b) the corporate, registered or trade name of a foreign regulated entity is prohibited; and (c) a regulated entity should be directed not to use a particular trade name. | Effective |

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| OSFI | January 2020 | Mergers Involving Foreign Entities<br><br>OSFI has published a new advisory that sets out OSFI's general views and expectations regarding mergers of approved foreign entities (AFE) under the laws of their home jurisdictions with other entities. It also sets out OSFI's general understanding of such mergers, and related requirements of the *Bank Act* and the *Insurance Companies Act*. Mergers discussed in this advisory result in one or more of the merging entities ceasing to exist, despite any amalgamation-like language contained in related merger agreements. For the reasons noted in this advisory, in a merger where the absorbed entity is an AFE, the surviving entity must also be, effective on or before the merger, an AFE. | Effective |
| Financial Stability Board | January 30, 2020 | Correspondence with ISDA on pre-cessation triggers<br><br>In November 2019, the co-chairs of the FSB's Official Sector Steering Group (OSSG) wrote to the International Swaps and Derivatives Association (ISDA) to encourage it to add a "pre-cessation" trigger alongside the cessation trigger as standard language in the definitions for new derivatives and in | |

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| | | a single protocol without embedded optionality, for outstanding derivative contracts referencing key Interbank Offered Rates (IBORs). This would help to reduce systemic risk and market fragmentation by ensuring that as much of the swaps market as possible falls back to alternative rates in a coordinated fashion.<br><br>In December 2019, ISDA responded to the letter from the OSSG co-chairs. ISDA asked, amongst other things, for a statement from the UK's Financial Conduct Authority (FCA) and the ICE Benchmark Administration that the "reasonable period" during which a "non-representative" LIBOR would be published would be minimal (*i.e.*, a number of months not years) after the FCA announces that LIBOR is no longer representative. This letter sets out the FCA's response to describe the laws relevant to this situation and provide clarity on how the FCA intends to apply them. ISDA also received a response to its letter from ICE Benchmark Administration and the London Clearing House has announced a rulebook consultation process regarding the inclusion of an automatic trigger. | |

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| | | In December 2019, the FSB published its annual progress report on implementation of recommendations to reform major interest rate benchmarks. The report emphasizes that the continued reliance of global financial markets on LIBOR poses risks to financial stability and it calls for significant and sustained efforts by the official sector and by financial and non-financial firms across many jurisdictions to transition away from LIBOR before end-2021. | |
| Payments Canada | January 30, 2020 | Exchange of Point-of-Service Delayed Authorization Debit Payment Items for the Purpose of Clearing and Settlement.<br><br>Merchants can now more easily offer debit option as an alternative to cash for small purchases like transit. Though Canada is a global leader in debit card use, Canadian consumers have not been able to use their debit cards for certain everyday purchases, such as transit payments. To offer more flexibility in payment methods for Canadian consumers and merchants, Payments Canada today announced a new rule to enable broader point-of-sale (POS) debit card acceptance. Current debit acceptance requirements, as defined by Payments | Effective |

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| | | Canada's existing rules, require merchants to have consistent online connectivity to accept debit payments making debit impractical for some high-volume, time-sensitive transactions, such as paying bus fare.<br><br>The new Payments Canada rule, Rule E5, titled *Exchange of Point-of-Service Delayed Authorization Debit Payment Items for the Purpose of Clearing and Settlement* offers flexibility through delayed authorization, which removes the requirement for immediate online connectivity. Public transit operators, whose business models require quick authorization, were a key reason behind the development of Rule E5.<br><br>With delayed authorization, a merchant can now opt to provide a service before a payment transaction is authorized. In the example of a transit operator, this will support a passenger being able to pay and ride without having to wait for payments authorization. Beyond transit, Rule E5 is designed to enable other possible use cases, for example payment at parking meters, payment for on-board purchases (airline/train/ferry) and payment for vending machine purchases. As with other Canadian debit transactions, debit | |

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| | | payments in these new scenarios will still be cleared and settled via Payments Canada's systems.<br><br>Data from Payments Canada's annual Canadian Payments Methods and Trends Report reveals that debit card use continued to outpace cash in 2018, where Canadians used debit cards for nearly 35 per cent more transactions than cash. Canadians are also now using their debit cards more frequently for their everyday lower value purchases and this trend will only continue with changes to the underlying rule framework. | |
| Bank of Canada | January 21, 2020 | Central bank group to assess potential cases for central bank digital currencies<br><br>The Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank, the Sveriges Riksbank and the Swiss National Bank, together with the Bank for International Settlements (BIS), have created a group to share experiences as they assess the potential cases for central bank digital currency (CBDC) in their home jurisdictions. The group will assess CBDC use cases; economic, functional and technical design choices, including cross-border | |

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| | | interoperability; and the sharing of knowledge on emerging technologies. It will closely coordinate with the relevant institutions and forums – in particular, the Financial Stability Board and the Committee on Payments and Market Infrastructures (CPMI). The group will be co-chaired by Benoît Cœuré, head of the BIS Innovation Hub, and Jon Cunliffe, deputy governor of the Bank of England and chair of the CPMI. It will include senior representatives of the participating institutions. | |
| OSFI | January 20, 2020 | Implementation Timeline for Basel III Operational Risk Capital Requirements<br><br>After further consultation, and in a letter addressed to banks, bank holding companies, and federally regulated trust and loan companies, the OSFI has decided that the domestic implementation of the revised Basel III operational risk capital requirements will move from Q1 2021 to Q1 2022 to coincide with the implementation of the final Basel III credit risk and leverage ratio requirements. | Effective Q1 2022 |
| Financial Stability Board | January 19, 2020 | Global Monitoring Report on Non-Bank Financial Intermediation 2019<br><br>This report presents the results of the FSB's annual monitoring exercise to assess global | |

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| | | trends and risks from non-bank financial intermediation (NBF). | |
| OSFI | January 2020 | Filing and Reporting Requirements for Defined Benefit Pension Plan Terminations<br><br>The Office of the Superintendent of Financial Institutions (OSFI) has drafted an Instruction Guide to inform the pension industry of the filing and reporting requirements for a non-insured defined benefit pension plan that has terminated, in whole or in part, under the *Pension Benefits Standards Act, 1985* (PBSA). These requirements also apply to plans with both a defined benefit and a defined contribution component. This Instruction Guide replaces the previous version, issued in March 2016, and includes updates to clarify OSFI's expectations and to reflect amendments made to the *Assessment of Pension Plans Regulations* that came into effect April 1, 2019. The PBSA and the *Pension Benefits Standards Regulations, 1985* (PBSR) are the authoritative source for requirements applicable to plans that are terminating or that have terminated. If there is a discrepancy between this Instruction Guide and the legislation, the legislation | Effective |

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| | | prevails. OSFI may require documentation not mentioned in this Instruction Guide. | |

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By

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