BC Financial Services Authority's rule-making powers and procedure now in force

July 28, 2020

On June 22, 2020, Order in Council No. 341 brought certain provisions into force from the *Financial Institutions Amendment Act*, S.B.C. 2019, c. 39 (*FIA Act*). In addition, the Order introduced the *Financial Services Authority Rule-Making Procedure Regulation*, outlining how the BC Financial Services Authority (BCFSA) can publish rules under its rule-making powers. This is the next incremental step in introducing BC's new regulatory framework for financial institutions. For a comprehensive review of the regulatory changes coming in BC from the *FIA Act*, please see our article here.

Now that the BCFSA's rule making procedure is established, financial institutions can expect there will be many new rules implemented that further change the way in which they are regulated.

Financial Institutions Amendment Act, 2019

A number of provisions were brought into force by Order in Council No. 341. Of these provisions, the following are important to note:

- BCFSA's rule-making powers now authorize it to make rules in several important areas of financial institution regulation.
- A credit union needs the BCFSA's written consent before engaging in certain activities, if the amount of its capital base fails to meet prescribed requirements.
- A new process allows for redeeming shares in a credit union held by the holder of an inactive deposit and treating those shares as part of the inactive deposit.
- Extra-provincial corporations must file a report outlining their financial affairs, market conduct and risk management practices as well as corporate governance with the Superintendent of Financial Institutions. The Superintendent may specify the intervals in which these filings need to be made. These may be different for extra-provincial credit unions, extra-provincial corporations and extra-provincial trust corporations.
- Unincorporated associations are eligible to be members of a credit union only if the directors, a committee of the directors, or a nominee of the directors approve their application as well as if the unincorporated association subscribes and pays for the minimum number of membership shares required under the rules of the credit union.

Financial services authority rule-making procedure regulation

The BCFSA's rule-making power brings a new dimension to financial institution regulation in BC.

The good news for financial institutions is that as part of its rule-making procedure, the BCFSA must publish any proposed rules for public comment before they can be made, amended or repealed. Further, the proposed rules must explain the need for and the anticipated effect of any proposed rule. This provides financial institutions with the ability to comment on and prepare for any proposed rules prior to their enactment. In addition, the minister must consent to any rules or changes, providing another layer of checks and balances for stakeholders.

With the minister's written consent, the BCFSA may bring urgent rules into force within 10 days and bypass the standard rule-making procedure. However, rules brought into force in accordance with this procedure are revoked on the 275th day after the day it was published.

If you have any questions about how these provisions will impact your company reach out to any of the contacts listed below.

By

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