Federal financial institutions legislative and regulatory reporter – February 2022

March 18, 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, 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 2022

Published	Title and Brief Summary	Status
Office of the Superintendent of Financial Institutions (OSFI)		
February 24, 2022	OSFI starts consultation process for the draft Instruction Guide for the registration of a defined contribution pension plan The OSFI has issued a draft Instruction Guide to assist plan administrators of defined benefit pension plans in completing form *OSFI 48DB – Application form for the Registration of a Defined Benefit Pension Plan*. This Instruction Guide and Application form also apply to plans with both a defined benefit and a defined contribution component. Once a plan is established to provide benefits to employees in	

	included employment, it falls under federal jurisdiction and is subject to the federal *Pension Benefits Standards Act, 1985* (PBSA). These plans must, with certain exceptions, be registered with OSFI. This Instruction Guide does not replace the PBSA, the *Pension Benefits Standards Regulations, 1985* (PBSR), the *Directives of the Superintendent pursuant to the Pension Benefits Standards Act, 1985* (the Directives), or any guidelines that OSFI has issued or may issue regarding the administration of plans subject to the PBSA. If there is a discrepancy between this Instruction Guide and the legislation, the legislation prevails. OSFI may require documentation not mentioned in this Instruction Guide or the Application form. OSFI highly recommends that all plan administrators and consultants subscribe to the email notification service to receive important updates and pension-related news including Info*Pensions*, their semi-annual newsletter. A copy of the pension legislation, the Directives and OSF-issued guidelines can be found on OSFI's website.	
February 16, 2022	Release of final 2023 liquidity returns and consultation on draft NCCF reporting instructions Following its January 31, 2022 release of revisions to the *Liquidity Adequacy Requirements* (LAR) Guideline, OSFI released final reporting templates for the Net Cumulative Cash Flow (NCCF);	**Comments or feedback by March 31, 2022**

	the Comprehensive NCCF for domestic systemically important banks (DSIBs) and Category I small and medium-sized deposit-taking institutions (SMSBs); Streamlined NCCF for Category II SMSBs; and the Operating Cash Flow Statement (for Category III SMSBs). OSFI is also releasing draft NCCF reporting instructions for consultation. **Feedback on the draft reporting instructions should be sent to OSFI by email at Consultations@osfi-bsif.gc.ca no later than March 31, 2022.** • Comprehensive NCCF Template (XLSX, 5.50 MB) • Streamlined NCCF Template (XLSX, 871 KB) • Operating Cash Flow Statement Template (XLSX, 52 KB) • Draft – NCCF Reporting Instructions The Comprehensive NCCF is scheduled to transition to XML filing format from the current .xlsx filing format effective for the guideline's implementation starting April 1, 2023. The Streamlined NCCF will transition to XML filing the following year. These transitions will support enhancements to OSFI's data collection and analytics. OSFI will support this transition by providing clear specifications, guidance and tools prior to implementation.	
February 11, 2022	OSFI publishes revised guidelines on reinsurance practices	**Effective January 1, 2025**

	OSFI concluded its review of reinsurance practices by issuing final revised versions of Guideline B-3, *Sound Reinsurance Practices and Procedures*, and Guideline B-2, *Property and Casualty Large Insurance Exposures and Investment Concentration*. These revised guidelines reflect changes in industry practices over the past 10 years and come into effect on January 1, 2025. The revised Guideline B-3 sets out OSFI's expectations for federally regulated insurers (FRIs) to better identify and manage risks arising from the use of reinsurance, particularly counterparty risk. The revised Guideline B-2 will require property and casualty FRIs to be able to cover the maximum loss related to a single insurance exposure on any policy it issues, assuming the default of its largest unregistered reinsurer on that exposure. **FRIs' existing insurance business should continue to comply with the Guideline B-3 and Guideline B-2 currently in force until January 1, 2025**. This nearly three-year transition period permits FRIs time to effectively adjust their business practices to comply with the new guidelines before they come into force. OSFI will hold industry information sessions in the coming months to provide additional clarity regarding OSFI's expectations and	

	supervisory approach.	
February 4, 2022	Actuarial Report (17th) on the Old Age Security Program as at 31 December 2018 Tabled before Parliament on February 4, 2022.	
February 2, 2022	Register of OSFI-regulated internationally active insurance groups In November 2019, the International Association of Insurance Supervisors (IAIS) announced the adoption of the Common Framework (ComFrame). ComFrame establishes supervisory standards and guidance focusing on the effective group-wide supervision of internationally active insurance groups (IAIGs). ComFrame also sets out the following criteria for determining whether an insurer is an IAIG: • The insurer is internationally active whereby: o Premiums are written in three or more jurisdictions; and o Gross written premiums outside of the home jurisdiction are at least 10% of the group's total gross written premiums. • The insurer is of a size (based on a three-year rolling average) whereby:	

- Total assets are at least US $50 billion; or
- Total gross written premiums are at least US $10 billion.

Given these criteria, there are four Canadian IAIGs identified under OSFI's supervision:

Canada Life Assurance Company

Intact Financial Corporation

Manufacturers Life Insurance Company

Sun Life Assurance Company of Canada.

The list is for informational purposes only, will be reviewed by OSFI on an annual basis, and updated as needed.

Like all federally regulated insurers, IAIGs continue to be subject to OSFI's comprehensive approach to group-wide supervision, as outlined in its Supervisory Framework, as well as the prudential requirements set out in OSFI's insurance capital framework. As such, disclosing the names of the four Canadian IAIGs does not introduce any new expectations from OSFI.

Although it is the responsibility of the relevant national regulator that supervises the insurance group (*i.e*. "group-wide supervisor") to identify its IAIGs, the IAIS began publishing a

	register of publicly identified IAIGs in July 2020. At a minimum, the register, which is available on the IAIS website, will be updated annually. Should you have questions, please contact Lisa Peterson, Managing Director, Insurance Capital by email at lisa.peterson@osfi-bsif.gc.ca.	
January 31, 2022	OSFI completes Basel III reforms, releases final capital and liquidity rules to protect Canadians OSFI announced revised capital, leverage, liquidity and disclosure rules that incorporate the final Basel III banking reforms with additional adjustments to make them suitable for federally regulated deposit-taking institutions (DTIs). These revised rules will help ensure that Canadian DTIs can effectively manage risks through adequate levels of capital and liquidity, thereby helping to bolster the resilience of these institutions. OSFI's implementation of these rules reflects three key principles: introducing rules that are fit for Canada, setting the right incentives, and tailoring capital and liquidity requirements to better reflect the unique nature of small and medium-sized banks. The internationally agreed-upon Basel III reforms provide a sound foundation for a resilient banking system in Canada. OSFI's domestic implementation of these reforms will help to promote continued public confidence in the Canadian	

	financial system by reinforcing the overall safety and soundness of Canadian banks. Most of these revised rules will take effect in the second fiscal quarter of 2023, with those related to market risk and credit valuation adjustment risk taking effect in early 2024.	
Department of Finance Canada		
February 28, 2022	Canada and G7 partners prohibit Russian Central Bank transactions The Honourable Chrystia Freeland, Deputy Prime Minister and Minister of Finance, announced that, effective immediately, all Canadian financial institutions are prohibited from engaging in any transaction with the Russian Central Bank. In addition, Canada is imposing an asset freeze and a dealings prohibition on Russian sovereign wealth funds. This follows the Prime Minister's February 26, 2022 joint statement with the European Commission, France, Germany, Italy, the United Kingdom and the United States to implement further restrictive economic measures on Russia. Banks in countries implementing this sanction are barred from transacting with the Russian Central Bank in any manner, which will prevent Russia from deploying its international currency reserves.	
February 15, 2022	Canada invokes the *Emergencies Act* to limit funding of illegal blockades and restore public order	

	The Government of Canada declared a public order emergency and enacted an *Emergency Economic Measures Order* (Order) and related *Emergency Measures Regulations* (Regulations) under the *Emergencies Act*, effective February 15, 2021. These measures apply across Canada and target the financing of the truck convoy and blockades. The measures were revoked by proclamation on February 23, 2022. The Order and Regulations are no longer in force. For an assessment of the Order and Regulations that were in effect, please see obligations of financial services providers and payment services providers under the Emergencies Act Order.	
Payments Canada		
Ongoing	Upcoming changes to rules, procedures and standards • Rules B5, B9, D4, E3, and K5 - Administrative amendments to reflect the addition of a new ACSS Direct Clearer. o Meeting date: unavailable o Target rule effective date: April 11, 2022 o Status: member review • Rule H1 - Amendments to update the Pre-Authorized debit rule. o Meeting date: May 13, 2022 o Target rule effective date: July 12, 2022	**See status to each bylaw, rule or standard in review**

	o Status: Public consultation. • Rule L3 - Amendments to change methodology used to calculate the ACSS Collateral for a New Direct Clearer. o Newly published. • Rules F1 and F4 - Amendment to clarify the notification period for updating the Account Number Format and Validation Criteria document. o Newly published.	
February 23, 2022	ISO 20022 messages for the Real-Time Rail now available ISO 20022 messages for the Real-Time Rail (RTR), Canada's new real-time payment system coming in 2023, are now available on Payments Canada's ISO 20022 Resource Centre. These specifications will allow RTR participants to prepare their existing applications to leverage the value of the ISO 20022 messaging standard at RTR go-live. Vendors that support Canada's payments ecosystem can use the published messages to update their applications and develop new services for RTR participants and the wider ecosystem. ISO 20022 messaging will allow for access to enhanced remittance data, support for global interoperability, and improved transparency in payment	

	details. Launching in 2023, the RTR will support faster payments 24/7/365 that are irrevocable, and use the ISO 20022 financial messaging standard for all transactions. The RTR will also act as a platform for innovation, allowing for the development of new products and services by third-party providers that will give Canadians new and faster ways to pay and transfer money. Additional information related to the RTR ISO 20022 messages is available on Payments Canada's ISO 20022 Resource Centre and SWIFT's MyStandards web platform.	
Bank for International Settlements		
February 21, 2022	Basel III Monitoring Report This report presents the results of the Basel Committee's latest Basel III monitoring exercise, based on June 30, 2021 data. It sets out the impact of the Basel III framework including the December 2017 finalization of the Basel III reforms and the January 2019 finalization of the market risk framework.	
Financial Consumer Agency of Canada (FCAC)		
February 24, 2022	Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks The FCAC has developed its *Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks* to set out its expectations with respect to banks' (including federal credit unions) and	**Effective June 30, 2022**

	authorized Foreign banks' (Banks) implementation of the appropriate product or service provisions in the *Bank Act* and the *Financial Consumer Protection Framework Regulations*, largely brought by amendments under Bill C-86. Pursuant to the amendments, which come into force on June 30, 2022, Part XII.2 of the *Bank Act* will establish the provisions that apply to Banks regarding products and services offered or sold by Banks. A Bank must establish and implement policies and procedures to ensure that the products or services in Canada that it offers or sells to a natural person other than for business purposes are appropriate for that person, having regard to their circumstances, including their financial needs (Policies and Procedures). FCAC encourages other federally regulated financial entities, such as trust and loan companies and insurance companies, to review this Guideline to develop and improve their appropriate product or service Policies and Procedures. A Bank is responsible for ensuring it meets the requirements established in the *Bank Act* including ensuring the compliance of any parties subject to the requirements in s. 627.15 of the *Bank Act* (Third Parties). FCAC recognizes that Banks may tailor their Policies and Procedures to align with the nature, size and complexity of	

	their business, distribution channels, and products and services. Each Bank may adapt its existing processes to comply with its obligations under s. 627.06 and s. 627.07. This Guideline should be read in conjunction with all applicable legislation and regulations.	
January 27, 2022	Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks The FCAC has developed its *Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks*. The Guideline sets out its expectations with respect to banks' (including federal credit unions) and authorized foreign banks' (Banks) implementation of the complaint-handling provisions in the *Bank Act* and the *Financial Consumer Protection Framework Regulations* largely brought by amendments under Bill C-86. Pursuant to the amendments, which come into force on June 30, 2022, Part XII.2 of the *Bank Act* will establish the provisions that apply to Banks for dealing with complaints by any person who is an actual or potential customer of that Bank (Consumer). FCAC encourages other federally regulated financial entities, such as trust and loan companies and insurance companies, to review this Guideline to develop and improve their policies and procedures.	**Effective June 30, 2022**

	A Bank is responsible for ensuring it meets the requirements established in the *Bank Act* and that its complaint-handling Policies and Procedures are satisfactory to the Commissioner. A Bank, and any parties subject to the requirements in s.627.15 of the *Bank Act* (Third Parties), must ensure that Consumers have access to the Bank's complaint-handling Policies and Procedures. FCAC recognizes that Banks may tailor their complaint-handling Policies and Procedures to align with the nature, size and complexity of their business, distribution channels, and products and services. This Guideline should be read in conjunction with legislation and regulations.	
Financial Stability Board (FSB)		
February 22, 2022	Approaches to debt overhang issues of non-financial corporates: Discussion paper This discussion paper indicates that the extraordinary policy response by public authorities has been key to limiting the economic fallout of the COVID-19 pandemic. At the same time, the massive public credit provision (both directly and through loan guarantees) has resulted in an unprecedented level of debt of non-financial companies. Debt overhang of non-financial companies could create a drag on economic recovery of	**Comment by April 8, 2022**

	jurisdictions and pose risks to the financial stability through: • underinvestment by viable companies due to excessive indebtedness; • misallocation of resources to unviable companies; and • lower productivity due to loss of entrepreneurial capacity. There might also be a risk of widespread defaults and insolvencies, giving rise to financial stability risks. This discussion paper looks at debt overhang issues from three angles: 1. assessing companies' viability in the context of COVID-19; 2. facilitating and incentivising timely restructuring and refinancing of the debt of viable companies and how to facilitate exit of unviable companies; and 3. dealing with a large number of companies with debt restructuring needs, with a particular view to small and medium-sized enterprises (SMEs) and micro companies. This Discussion Paper discusses debt overhang issues by exploring some of the specific challenges in a COVID-19 or post COVID-19 environment and it refers to several examples of policy approaches put in place in FSB member jurisdictions to date and emerging industry	

	practices. The FSB invites comments on this Discussion Paper and the questions set out here. **Responses should be sent to fsb@fsb.org by Friday, April 8, 2022 with the subject line "Approaches to Debt Overhang Issues of Non-Financial Corporates".** Responses will be published on the FSB's website unless respondents expressly request otherwise.	
February 16, 2022	Assessment of risks to financial stability from crypto-assets This report examines developments and associated vulnerabilities relating to three segments of the crypto-asset markets: unbacked crypto-assets (such as Bitcoin); stablecoins; and decentralized finance (DeFi) and other platforms on which crypto-assets trade. These three segments are closely interrelated in a complex and constantly evolving ecosystem and need to be considered holistically when assessing related financial stability risks. The report notes that although the extent and nature of use of crypto-assets varies somewhat across jurisdictions, financial stability risks could rapidly escalate, underscoring the need for timely and pre-emptive evaluation of possible policy responses. Crypto-asset market capitalization grew by 3.5 times in 2021 to $2.6 trillion, yet crypto-assets remain a small portion of overall global financial	

	system assets. Direct connections between crypto-assets and systemically important financial institutions and core financial markets, while growing rapidly, are limited at the present time. Nevertheless, institutional involvement in crypto-asset markets, both as investors and service providers, has grown over the last year, albeit from a low base. If the current trajectory of growth in scale and interconnectedness of crypto-assets to these institutions were to continue, this could have implications for global financial stability. DeFi has recently become a fast-emerging sector, providing financial services using both unbacked crypto-assets and stablecoins. Moreover, a relatively small number of crypto-asset trading platforms aggregate multiple types of services and activities, including lending and custody. Some of these platforms operate outside of a jurisdiction's regulatory perimeter or are not in compliance with applicable laws and regulations. This presents the potential for concentration of risks, and underscores the lack of transparency on their activities. Partly due to the emergence of DeFi, stablecoin growth has continued, despite concerns about regulatory compliance, quality and sufficiency of reserve assets, and standards of risk management and governance. At present, stablecoins are used mainly as a bridge between traditional fiat currencies and crypto-assets, which has implications for the stability and	

	functioning of crypto-asset markets. Were a major stablecoin to fail, it is possible that liquidity within the broader crypto-asset ecosystem (including in DeFi) could become constrained, disrupting trading and potentially causing stress in those markets. This could also spill over to short-term funding markets if stablecoin reserve holdings were liquidated in a disorderly fashion. The report highlights a number of vulnerabilities associated with crypto-asset markets. These include increasing linkages between crypto-asset markets and the regulated financial system; liquidity mismatch, credit and operational risks that make stablecoins susceptible to sudden and disruptive runs on their reserves, with the potential to spill over to short term funding markets; the increased use of leverage in investment strategies; concentration risk of trading platforms; and the opacity and lack of regulatory oversight of the sector. The report also notes wider public policy concerns related to crypto-assets, such as low levels of investor and consumer understanding of crypto-assets, money laundering, cyber-crime and ransomware. The FSB will continue to monitor developments and risks in crypto-asset markets. It will explore potential regulatory and supervisory implications of unbacked crypto-assets, including the actions FSB jurisdictions have taken, or plan to take, to address associated financial stability threats. The	

	FSB will also continue to monitor and share information on regulatory and supervisory approaches to ensure effective implementation of its high-level recommendations for the regulation, supervision and oversight of so-called "global stablecoin" arrangements.	
Legislation		
February 26, 2022	Government Notice: BANK ACT, Schedules I, II and III (Canada Gazette, Part I, Volume 156, Number 9) Notice is hereby given, pursuant to subsections 14(3) and 14.1(3) of the *Bank Act*, that Schedules I, II and III, as amended, were as shown as at December 31, 2021.	
February 23, 2022	Proclamation Revoking the Declaration of a Public Order Emergency: SOR/2022-26 Proclamation revoking the declaration of a public order emergency made by proclamation on February 14, 2022, throughout Canada, effective on the day on which this proclamation is issued.	
February 19, 2022	Government Notice: BANK ACT, The Huntington National Bank — Approval to have a financial establishment in Canada (Canada Gazette, Part I, Volume 156, No. 8) Notice is hereby given, pursuant to subsection 522.21(1) of the *Bank Act*, that the Minister of Finance approved, on June 24, 2021, The Huntington National Bank to have a financial establishment in	

	Canada.	
February 15, 2022	Proclamation Declaring a Public Order Emergency: SOR/2022-20 Declaration that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency.	
February 15, 2022	Emergency Measures Regulations, Registration: SOR/2022-0021 The Emergency Measures Regulations are registered in order to 1) designate critical infrastructure and protected places; 2) prohibit public assembly expected to lead to a breach of the peace; 3) prohibit a person from causing a minor to be involved in such an assembly; 4) prohibit entry in Canada by a foreign national for the purposes of participating in such an assembly; and 5) direct that persons make available essential goods and services if directed to do so by the Commissioner of the Royal Canadian Mounted Police.	
February 15, 2022	Emergency Economic Measures Order, Registration: SOR/2022-22 The Emergency Economic Measures Order are registered to prohibit individuals and entities from engaging in financial transactions supporting activities prohibited by the Emergency Measures Regulations.	

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.

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