Federal financial institutions legislative and regulatory reporter – June 2021

July 22, 2021

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.

June 2021

Institution	Published	Title and Brief Summary	Status
IAIS	June 30, 2021	Resolutions to Public Consultation Comments on Development of Liquidity Metrics: Phase 1 – Exposure Approach The International Association of Insurance Supervisors (IAIS) has published the "Resolutions to Public Consultation Comments on Development of Liquidity Metrics: Phase 1 – Exposure Approach."	
FSB	June 30, 2021	FSB Seeks Feedback on its Policy Proposals	Comments by August 16, 2021

		to Enhance Money Market Fund Resilience The Financial Stability Board (FSB) published a consultation report with policy proposals to enhance money market fund (MMF) resilience. The proposals form part of the FSB's work programme on non-bank financial intermediation (NBFI). The FSB's "Holistic review of the March 2020 market turmoil" highlighted structural vulnerabilities in MMFs and related stress in short-term funding markets. MMFs are susceptible to sudden and disruptive redemptions, and they may face challenges in selling assets, particularly under stressed conditions. These features can make individual MMFs, or even the entire MMF sector, susceptible to runs, and may also give rise to system-wide vulnerabilities. The policy options in the report aim to address these vulnerabilities and are intended to inform jurisdiction-specific reforms and any necessary adjustments to the policy recommendations for MMFs issued by the	

		International Organization of Securities Commissions (IOSCO). Enhancing MMF resilience will help address systemic risks and minimize the need for future extraordinary central bank interventions to support the sector. The consultation report sets out (among other matters) considerations on how different policy options could be selected and combined to address all the vulnerabilities arising from different types of MMFs. The optimal combination should take account of jurisdiction-specific circumstances and policy priorities, as well as cross-border considerations including to prevent regulatory arbitrage that could arise from adopting divergent approaches across jurisdictions. Responses to the public consultation should be sent to fsb@fsb.org by August 16, 2021 with "MMF policy proposals" in the subject line. All responses will be published on the FSB website unless respondents request otherwise. The final report will be published in October 2021.	

FATF	June 28, 2021	Financial Action Task Force (FATF): Money Laundering from Environmental Crime This FATF Report identifies methods that criminals use to launder proceeds from environmental crime, but also tools that governments and private sector can apply to disrupt this activity. When properly implemented, the FATF Recommendations provide effective tools to go after these illicit financial flows. Building on the FATF's 2020 report on money laundering from the illegal wildlife trade, this report shows that criminals are making enormous profits by using front companies to mix legal and illegal goods and payments early in the resource supply chains. They also rely on corruption, trade-based fraud, and offshore corporate structures to conceal the ultimate criminals benefitting from these crimes. As a priority, countries should: 1. Consider the risks of criminals misusing their domestic financial and	

		non-financial sectors to conceal proceeds from environmental crimes. 2. Countries must also strengthen inter-agency cooperation between financial investigators and environmental crime agencies, to detect and pursue financial investigations into environmental crimes. The private sector also has an important role in detecting financial flows from environmental crimes. The FATF's study identifies good practices and risk indicators to help financial and non-financial sectors detect potential cases. Going forward, FATF will continue its focus on environmental crime, including exploring whether further policy work is needed. In September 2021, FATF plans to hold a public webinar for non-government stakeholders to discuss the findings of this new study.	

FATF	June 29, 2021	[Guidance on Proliferation Financing Risk Assessment and Mitigation] This guidance will help countries, financial institutions, designated non-financial businesses and professions and virtual asset service providers effectively identify, assess, understand and mitigate their proliferation financing risks. The guidance, which builds on earlier engagement with stakeholders since 2018 and reflects the input from a public consultation in March 2021, explains how both public and private sectors should conduct risk assessments in the context of proliferation financing, and how they can mitigate the risks they identify. It provides an updated list of indicators of the potential breach, non-implementation or evasion of proliferation financing targeted financial sanctions. Assessment and mitigation of proliferation financing risks requires co-operation between public and private sectors. Ongoing public-private engagement, including during the different	

		stages of risk assessment, will enhance the analysis, and facilitate the development of appropriate mitigation tools. To this end, the FATF will continue its efforts to promote understanding of the new FATF requirements on counter proliferation financing and this guidance through the Private Sector Consultative Forum, with webinars on this subject planned for later in 2021.	
OSFI	June 28, 2021	OSFI finalizes its Guideline on Foreign Entities Operating in Canada on a Branch Basis The Office of the Superintendent of Financial Institutions (OSFI) issued the final version of Guideline E-4, "Foreign Entities Operating in Canada on a Branch Basis." This guideline replaces existing guidelines E-4A, "Role of the Chief Agent and Record Keeping Requirements and E-4B Role of the Principal Officer and Record Keeping Requirements." Guideline E-4 places greater emphasis on the expectations of the foreign entity operating in Canada, and better reflects the	

		responsibilities of the foreign entity and its management in overseeing the day-to-day operations of its business in Canada. As a result, OSFI is reissuing other guidance documents with references to any requirements for chief agents and principal officers removed. The revised guidelines and advisories have been posted to OSFI's website. There is a six-month transition period for compliance with Guideline E-4. As such, OSFI expects all foreign entities operating in Canada on a branch basis to be compliant by January 2022.	
FSB	June 28, 2021	FSB Launches Thematic Peer Review on Corporate Debt Workouts and Invites Feedback From Stakeholders The Financial Stability Board (FSB) is seeking feedback from stakeholders as part of its thematic peer review on corporate debt workouts. The objective of the review is to support COVID-19 response efforts by examining FSB member jurisdictions' practices, experiences and lessons from out of court debt workouts	Comments by August 9, 2021

		(OCWs), and the implications for financial stability. The Summary Terms of Reference provide more details on the objectives, scope and process for this review. The FSB has circulated a questionnaire to its member jurisdictions to collect information in this area. In addition, as part of this peer review, the FSB invites feedback from financial institutions, corporates, insolvency practitioners and other stakeholders on out of court corporate debt workouts. Feedback should be sent to fsb@fsb.org by August 9, 2021 under the subject heading "FSB Thematic Peer Review on Corporate Debt Workouts." Individual submissions will not be made public. The peer review report will be published in early 2022.	
OSFI	June 22, 2021	Transition from LIBOR Consistent with international efforts, the following outlines OSFI's expectations of federally regulated financial institutions (FRFIs) as they transition away from LIBOR.	

		With confirmation of cessation dates for LIBOR settings, we are entering into a critical phase in the transition to risk-free rates globally. We expect that FRFIs with transactions linked to LIBOR will complete their efforts to ensure a seamless transition to new reference rates prior to the cessation dates. For most LIBOR currencies, FRFIs should have already stopped entering into new transactions using LIBOR as a reference rate. For USD LIBOR settings, which will be published until June 30th, 2023, OSFI expects FRFIs to stop using LIBOR as a reference rate as soon as possible and that FRFIs will not enter into transactions using LIBOR as a reference rate after December 31, 2021. Any transaction entered into before December 31, 2021 using USD LIBOR as a reference rate should include robust fallback language that includes a clearly defined alternative reference rate after LIBOR's discontinuation. OSFI expects that FRFIs prioritize system and model updates to accommodate risk-free	

		rates by the end of 2021, and that FRFIs are fully prepared to transact in risk-free rates that are available in jurisdictions or markets in which the FRFI operates by the end of 2021. In addition, OSFI expects that FRFIs have an adequate contingency plan to respond to potential issues that may emerge at cessation. For FRFIs with material exposure to LIBOR, OSFI will be considering LIBOR transition efforts and project delivery in supervisory risk assessments, and taking supervisory actions where needed if there are significant deficiencies in transition efforts or processes.	
OSFI	June 21, 2021	Assessing the Financial Sustainability of the Base Canada Pension Plan through Actuarial Balance Sheets: Actuarial Study No. 21 This is the twenty-first actuarial study to be published by the Office of the Chief Actuary (OCA). All the findings in this study are based on the 30th Actuarial Report on the Canada Pension Plan as at December 31, 2018 ("30th CPP Actuarial	

		Report”). The purpose of this study is to provide further information regarding the base CPP actuarial balance sheet figures shown in the 30th CPP Actuarial Report, including analysis regarding the use of alternative methodologies. The 30th CPP Actuarial Report is the first triennial actuarial report on both components of the CPP - the base plan and the new enhancement to the CPP, the additional plan, which took effect January 1, 2019. Given that the additional plan is a new component of the CPP with little experience to date, the update of information in this study pertains only to the base plan. Over time, once more experience develops regarding the additional CPP, future studies on methodologies to assess the financial sustainability of the CPP will examine both the base and additional components.	
OSFI	June 21, 2021	[Industry Consultation: Draft Insurance Capital Guidelines 2023]() International Financial Reporting Standard 17 – *Insurance Contracts*	

		(IFRS 17) will become effective on January 1, 2023, replacing its predecessor IFRS 4. In support of a robust implementation of IFRS 17 by insurers, OSFI is working with the industry and other relevant stakeholders to revise its existing capital frameworks for the new accounting standard. Following the consultation and considering all input received, OSFI will issue the final guidelines along with a summary of comments received and OSFI's responses.	
OSFI	June 18, 2021	OSFI Issues Proposed Regulatory Changes to the Treatment of Credit Valuation Adjustments OSFI launched an industry consultation on proposed regulatory changes to the treatment of credit valuation adjustments (CVA) and market risk hedges of other valuation adjustments of over-the-counter derivatives referred to as XVA. The proposed revisions affect OSFI's Capital Adequacy Requirements (CAR) Guideline, Chapter 8 on CVA risk. Key changes in the draft CAR Guideline, Chapter 8 include:	Comments by July 30, 2021

		enhanced risk sensitivity, in particular expanded scope of coverage towards market risk factors of CVA; greater robustness by aligning CVA sensitivities with the standardized approach for market risk; and a revised scope of application of OSFI's CVA capital requirements to only those deposit-taking institutions that are subject to OSFI's market risk capital requirements. The proposed changes are a continuation of OSFI's industry consultation on proposed regulatory changes to incorporate the latest and final round of Basel III reforms into its capital, leverage and related disclosure guidelines for banks announced in March 2021. OSFI's proposals are in line with the international standards set by the Basel Committee on Banking Supervision (BCBS), while reflecting the Canadian market. OSFI is seeking input on these proposals until July 30, 2021. OSFI will publish a summary of comments with the release of its final guidance in late 2021.	

OSFI	June 18, 2021	Proposed Operational Risk Capital Data Management Expectations OSFI is releasing for consultation two documents on the proposed management of operational risk capital data for institutions required, or those applying, to use the Basel III Standardized Approach for Operational Risk (SA) capital in Canada: 1. "Data Maintenance Expectations for Institutions Using the Standardized Approach for Operational Risk Capital Data" (DME); and 2. "Assessment Tool - Operational Risk Capital Data" (AT) The Data Maintenance Expectations (DME) outlines data management principles that OSFI expects institutions using the SA to adhere to, which includes the Basel Committee on Banking Supervision's "**Principles for Effective Risk Data Aggregation and Risk Data Reporting**" (RDARR). The AT	Comments by July 30, 2021

		summarizes OSFI's detailed expectations based on Chapter three of the draft Capital Adequacy Requirements Guideline, RDARR principles, and the DME. Together, the DME and AT aim to ensure that institutions have effective management of current and historical operational risk capital data. In addition, OSFI has reviewed the existing implementation notes and self-assessment templates for institutions using TSA/AMA in light of the new requirements for the Basel III SA. As such, OSFI are proposing to rescind the existing governance and data maintenance implementation notes for AMA/TSA institutions as well as the TSA & AMA self-assessment template upon implementation of the revised CAR guideline in 2023. These would be replaced by the aforementioned proposed DME and related AT. Please provide comments on the DME and AT by July 30, 2021. Questions and comments may be addressed via email at	

		datamaintenance-tenuedesdonnees@osfi-bsif.gc.ca.	
OSFI	June 7, 2021	Proposed Revisions to Public Disclosure Requirement Related to the Identification of Global Systemically Important Banks OSFI is releasing proposed revisions to its Advisory: "Global systemically important banks – Public disclosure requirements" published in September 2015. In July 2018, the Basel Committee on Banking Supervision (BCBS) released an updated assessment methodology that is used annually by the BCBS and the FSB to identify global systemically important banks (G-SIBs). The updated assessment methodology will take effect for the 2022 G-SIB assessment exercise. The draft revised advisory addresses changes to the disclosure requirements included in the updated assessment methodology. Direct comments on the draft revised advisory to Lindsay Cheung, Senior Analyst, Capital Division, by July 16,	Comments by July 16, 2021

		2021. OSFI expects to issue the final advisory later in 2021, along with a non-attributed summary of comments received, and OSFI's response to these comments.	
FINTRAC	June 6, 2021	FINTRAC signs a Memorandum of Understanding with the Organisme d'autoréglementation du courtage immobilier du Québec Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) announced that it has signed a memorandum of understanding with the Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ) to help strengthen the compliance of the Québec real estate sector with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and to reduce duplication of effort and compliance burden for real estate brokerages in Québec. Under this memorandum of understanding, FINTRAC and the OACIQ will share compliance-related information such as lists of persons and entities subject to their respective acts and	

		regulations as well as compliance examination plans, resulting in more coordinated and risk-informed examinations. The sharing of compliance-related information facilitated by this memorandum of understanding will also help to enhance the knowledge and expertise of each organization regarding new and evolving risks and trends in the real estate sector in Québec and across Canada.	
FSB	June 2, 2021	Interest Rate Benchmark Reform: Overnight Risk-Free Rates And Term Rates Interest rate benchmarks play a key role in global financial markets. To ensure financial stability, benchmarks which are used extensively must be especially robust. Consistent with this, the FSB, working through the Official Sector Steering Group (OSSG) it set up to coordinate international work to review and reform interest rate benchmarks, welcomes the progress that has been made by public authorities and private sector working groups in transitioning to overnight risk-free, or nearly risk-free,	

		rates (RFRs) that are sufficiently robust for such extensive use. Some of the working groups on RFRs have considered the development of forward-looking term rates derived from overnight RFRs (also described as “RFR-derived term rates”). However, in many markets, notably the largest part of the interest rate derivative markets, transition to the new overnight RFRs, rather than to these types of term rates, remains particularly important for a number of interconnected reasons. The derivatives industry has recognized the importance of these issues, and, where IBORs are ending, has developed mechanisms to transition cleared derivatives to overnight RFRs via CCP rule changes, and uncleared derivatives to overnight RFRs via the International Swaps and Derivatives Association (ISDA) Protocol. The FSB has recognized that in some cases there may be a role for RFR-derived term rates and	

		sets out the circumstances where the limited use of RFR-based term rates would be compatible with financial stability.	
FSB	June 2, 2021	Global Transition Roadmap for LIBOR FSB has identified that continued reliance of global financial markets on LIBOR poses clear risks to global financial stability. On March 5, 2021, ICE Benchmark Administration (IBA) and the UK Financial Conduct Authority (FCA) formally confirmed the dates that panel bank submissions for all LIBOR settings will cease, after which representative LIBOR rates will no longer be available. The majority of LIBOR panels will cease at the end of this year, with a number of key US dollar (USD) settings continuing until end of June 2023, to support rundown of legacy contracts only. This updated Global Transition Roadmap (GTR) is intended to inform those with exposure to LIBOR benchmarks of some of the steps they should be taking now and over the remaining period to LIBOR cessation dates to successfully mitigate these risks. These are	

		considered prudent steps to take to ensure an orderly transition by end-2021 and are intended to supplement existing timelines/milestones from industry working groups and regulators. This does not constitute regulatory advice or affect any transition expectations set by individual regulators, which may require firms to move faster in some instances. It is important that all regulated financial institutions have an open and constructive LIBOR transition dialogue with their regulators, both home state and host state, throughout the transition period. As benchmark transitions vary across currency regions and legislation and other actions to promote transition are taking different paths in different jurisdictions, financial institutions, non-financial firms and others with exposure to LIBOR benchmarks should also monitor developments with regard to other IBORs relevant to their business.	
FINTRAC	June 1, 2021	Methods to Verify the Identity of Persons and Entities	Effective June 1, 2021

		This guidance explains the methods used to verify the identity of a person or an entity. For specific information on when to verify the identity of a person or an entity (the timing requirement), see your RE sector's guidance on "When to verify the identity of persons and entities." This guidance further contains five annexes: • Annex 1: Summary of the methods to identify persons and associated record keeping obligations • Annex 2: Summary of who can identify a person on your behalf • Annex 3: Summary of methods to identify an entity and associated record keeping obligations • Annex 4: Examples of acceptable photo identification documents • Annex 5: Examples of reliable sources of information for the dual-process	

		method	
FINTRAC	June 1, 2021	Guidance on Reporting Large Virtual Currency Transactions This guidance outlines the reporting obligations for submitting a large virtual currency transaction (LVCTR) and answers a number of questions in relation to virtual currencies themselves. In addition, FINTRAC has published the following LVCTR-related information: • Large Virtual Currency Transaction Report validation rules; • Large Virtual Currency Transaction Report form; and • LVCTR Upload information. Large virtual currency transactions have associated record keeping and client identification requirements. For more information, please see your sector's record keeping and client identification requirements in FINTRAC's "Record keeping requirements" and "When to verify the identity of persons and	Effective June 1, 2021

		entities" guidance. Failure to provide applicable reporting information will result in non-compliance and may lead to criminal or administrative penalties. To learn more about potential enforcement actions, please see Penalties for non-compliance. If you are unsure about your large virtual currency transaction reporting obligations, please contact FINTRAC by email at guidelines-lignesdirectrices@fintrac-canafe.gc.ca.	
FINTRAC	June 1, 2021	Regulatory Amendments in Force as of June 1, 2021 *and* The changes to associated regulations made under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* announced in the *Canada Gazette* in July 2019 and June 2020 are in force as of June 1, 2021. These changes help strengthen Canada's anti-money laundering (AML) and anti-terrorist financing regime by closing certain gaps, such as those stemming from technological	Effective June 1, 2021

		advances. The changes may have considerable impacts to reporting entities' (REs) compliance obligations under the AML regime, and we recommend every entity to review the amendments carefully, as well as FINTRAC's updated guidance on the changes, as relates to their activities and operations in Canada. We note that although FINTRAC expects REs to comply with the amendments, the regulator has acknowledged that many may face challenges in meeting these new obligations. For further information on how FINTRAC will assess compliance with the new requirements, please consult the May 18, 2021, "Notice on the assessment of obligations coming into force on June 1, 2021." Furthermore, additional flexibilities that are being provided by FINTRAC on an **exceptional and transitionary basis** can be found by consulting the November 16, 2020, "Notice on forthcoming regulatory amendments and flexibility."	

FINTRAC	June 2021	Special Bulletin on Ideologically Motivated Violent Extremism: a Terrorist Activity Financing Profile In February 2021, the Government of Canada added four ideologically motivated violent extremism (IMVE) organizations to the Criminal Code list of terrorist entities. Reporting entities should be aware of these new listings, as well as observed patterns in the financing behaviour of IMVE threat actors. This special bulletin (Reference number: 2021-SIRA-001) presents the results of FINTRAC's analysis of IMVE-related transaction reporting, supplemented by information from media reports and academic research.	

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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