

## OCTOBER 2018

Jurisdiction	Name of Law/Regulation	Brief Summary of Changes
<b>Commercial Lending</b>		
Federal	<i>Criminal Code</i>	<p><b>Criminal Interest Rate</b></p> <p>Bill S-237, <i>An Act to amend the Criminal Code (criminal interest rate)</i> was introduced on March 9, 2017 (with amendments adopted on April 19, 2018). The Bill would allow commercial lenders providing loans in excess of \$1,000,000 to charge an annual interest rate that exceeds 60% per year (which is the current criminal interest rate cap). This Bill is a private members bill. It is not in force and no in-force date has been announced.</p>
<b>Consumer Lending</b>		
Federal	<i>Criminal Code</i>	<p><b>Criminal Interest Rate</b></p> <p>Bill S-237, <i>An Act to amend the Criminal Code (criminal interest rate)</i> was introduced on March 9, 2017 (with amendments adopted on April 19, 2018). The Bill would reduce the current criminal interest rate of 60% per year to the Bank of Canada overnight rate plus 45% per year for consumer loans. This Bill is a private members bill. It is not in force and no in-force date has been announced.</p>
Alberta	<i>Consumer Protection Act</i>	<p><b>High Cost Credit</b></p> <p>Bill 31, <i>A Better Deal for Consumer and Businesses Act</i> sets out a new “high-cost” credit regime for consumer lenders in Alberta that will come into force on <b>January 1, 2019</b>. Highlights include:</p> <ul style="list-style-type: none"> <li>• Applies to credit agreements that provide for an annual interest rate (open credit) or APR (fixed credit) of 32% or more</li> <li>• License required</li> <li>• Imposes additional disclosure obligations</li> <li>• <a href="#">Regulations</a> implementing these changes, dated June 28, 2018, were published in July.</li> </ul>
British Columbia	<i>Business Practices and Consumer Protection Act</i>	<p><b>High Cost Credit</b></p> <p>The Ministry of Public Safety and Solicitor General is seeking feedback on high-cost credit products and the industry more generally. The deadline for submissions was August 17, 2018.</p>
Quebec	<i>Consumer Protection Act</i>	<p><b>Consumer Lending; High Cost Credit</b></p> <p>Bill 134 (now Statute 24), <i>An Act mainly to modernize rules relating to consumer credit and to regulate debt settlement service contracts, high-cost credit contracts and loyalty programs</i>, will impact consumer lenders in Quebec by requiring lenders to update their forms to include new disclosure requirements, requiring lenders to assess the borrower’s capacity to repay and implementing a new high-cost credit regime. Please see the following Blakes Bulletins for more details:</p>

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		<p><a href="#">Take Two: Quebec Introduces Bill 134 to Modernize the Consumer Protection Act</a></p> <p><a href="#">Quebec Unveils Draft Regulations, Proposes Changes to Further Strengthen Consumer Protections</a>. Note that this Bulletin deals with the draft regulations. Final regulations implementing these changes were published on July 18, 2018.</p> <p>Many of the relevant sections of Bill 134 and the related regulations will come into force on <b>August 1, 2019</b> (other provisions came into force on August 1, 2018 or will come into force on <b>February 1, 2019</b>).</p>
<b>Mortgage Lending</b>		
Quebec	<i>Consumer Protection Act</i>	<p>Bill 134 (now Statute 24) includes new requirements for mortgage lenders who lend to Quebec consumers. Please see <a href="#">Quebec Unveils Draft Regulations, Proposes Changes to Further Strengthen Consumer Protections</a> for more details. Note that this Bulletin deals with the draft regulations. Final regulations implementing these changes were published on July 18, 2018.</p> <p>Many of the relevant sections of Bill 134 and the related regulations will come into force on <b>August 1, 2019</b> (other provisions came into force on August 1, 2018 or will come into force on <b>February 1, 2019</b>).</p>
<b>Other</b>		
Federal	<i>Bank Act</i>	<p><b>***NEW***</b></p> <p><b>Use of the Words “Bank”, “Banker” and “Banking” by Non-Banks</b></p> <p>The Office of the Superintendent of Financial Institutions released the timelines for non-banks to comply with the updated restrictions on the use of “bank” words by non-banks. Please see our <a href="#">bulletin</a> on topic for more details.</p>
Federal	<i>Canadian Payments Act</i>	<p><b>Payments</b></p> <p>The Federal government is proposing to open up participation in the payments system to non-banks in certain circumstances, including the retail setting. This would allow lenders to participate more directly in the payments system, getting funds into the hands of consumers in real time. Please see the following Dentons bulletin for more details: <a href="https://www.dentons.com/en/insights/articles/2018/june/12/the-2018-review-of-the-canadian-payments-act">https://www.dentons.com/en/insights/articles/2018/june/12/the-2018-review-of-the-canadian-payments-act</a>. The period for comment closed on July 24, 2018.</p>
Federal	<i>Personal Information Protection and Electronic Documents Act</i>	<p><b>Privacy</b></p> <p>New privacy data breach reporting requirements will come into force on <b>November 1, 2018</b>. Please see <a href="#">Federal Data Breach reporting Regulations Published – Take Effect November 2018</a> for more details.</p> <p><b>***NEW***</b></p> <p>Additional guidance published on September 17, 2018. Please see our bulletin <a href="#">Privacy Commissioner Publishes Draft Guidelines for Mandatory Breach Reporting under PIPEDA</a> for more details.</p>
Federal	<i>Personal Information Protection and Electronic Documents Act</i>	<p><b>Privacy</b></p> <p>The Office of the Privacy Commissioner (OPC) issued the <a href="#">Guidelines for obtaining meaningful consent</a>. These guidelines set out seven principles for meaningful consent that will be need to be considered when an organization obtains consent to collect, use and disclose personal</p>

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		information. The OPC will begin to apply these guidelines on <b>January 1, 2019</b> .
Federal	<i>Personal Information Protection and Electronic Documents Act</i>	<b>Privacy</b> New Guidance on Inappropriate Data Practices is being applied as of July 1, 2018 ( <a href="https://www.priv.gc.ca/en/privacy-topics/collecting-personal-information/consent/gd_53_201805/">https://www.priv.gc.ca/en/privacy-topics/collecting-personal-information/consent/gd_53_201805/</a> )
Federal	<i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i>	<b>Anti-Money Laundering (AML)</b> On February 7, 2018, the Department of Finance released a consultation paper reviewing Canada's anti-money laundering and anti-terrorist regime. Among other things, the consultation paper contemplates that Canada's financing, leasing and factoring sector become covered by AML laws. The consultation period closed on May 18, 2018. No draft legislation has been released at this time.  Please see <a href="#">Department of Finance Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime</a> for more details.
Federal	N/A	<b>Open Banking</b> The 2018 federal budget included a proposal to undertake a review of the merits of open banking. The review would assess whether open banking would deliver positive results for Canadians with the highest regard for consumer privacy, data security and financial stability. Nothing has been published to-date.  <b>*** NEW ***</b>  On September 26, 2018, the Minister of Finance launched the Advisory Committee on Open Banking. On September 27, 2018, the Senate Banking, Trade and Commerce Committee was authorized to examine and report on the potential benefits and challenges of open banking. The report is due by February 22, 2019.

**The Fine Print:** This CLA Legal Update (this **Update**) has been prepared by Blake, Cassels & Graydon LLP exclusively for CLA members and may not be distributed to others or reproduced without our consent. This Update sets out key upcoming developments in the law that may be relevant to CLA members and that we are aware of as October 12, 2018. However, this Update is general in nature and is not intended to set out all of the legal developments that apply to your business and does not constitute legal or other professional advice. This Update should not be relied upon as accurate, reliable, complete, current, timely or fit for any particular purpose, without receiving advice from a lawyer or other relevant professional. No one should act, or not act, on the sole basis of this Update. For specific legal advice about any of the developments set out on this Update, please contact Elizabeth Sale at [elizabeth.sale@blakes.com](mailto:elizabeth.sale@blakes.com) or your legal counsel.