



# Your CLA Legal Update



JULY 2019

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>
Federal	<i>Bank Act</i>	<p><b>Federal Consumer Protection Framework for Banks</b></p> <p>Bill C-86, <i>Budget Implementation Act, 2018, No. 2</i>, the second omnibus budget bill of 2018 received Royal Assent on December 13, 2018. Among other things, Bill C-86 amends the <i>Bank Act</i> to provide for a financial consumer protection framework for banks and authorized foreign banks. While the bulk of the changes relate to retail products and services, some changes will affect commercial lines of business as well. Please see <a href="#">A New Federal Financial Consumer Protection Framework</a> for more details. The in-force date for the changes to the <i>Bank Act</i> is not yet known and regulations will be required to implement many of the changes.</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>
Federal	<i>Bank Act</i>	<p><b>Federal Consumer Protection Framework for Banks</b></p> <p>Bill C-86, <i>Budget Implementation Act, 2018, No. 2</i>, the second omnibus budget bill of 2018 received Royal Assent on December 13, 2018. Among other things, Bill C-86 amends the <i>Bank Act</i> to provide for a financial consumer protection framework for banks and authorized foreign banks. Please see <a href="#">A New Federal Financial Consumer Protection Framework</a> for more details. The in-force date for the changes to the <i>Bank Act</i> is not yet known and regulations will be required to implement many of the changes.</p>
British Columbia	<i>Business Practices and Consumer Protection Act</i>	<p><b>High Cost Credit</b></p> <p>On February 26, 2019, Bill 7 – Business Practices and Consumer Protection Amendment Act, 2019 (Bill) was introduced as part of British Columbia’s Consumer Financial Protection Action Plan. The Bill will amend the <i>Business Practices and Consumer Protection Act</i> to provide for a new high-cost credit</p>

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		regime. For more details, see <a href="#">And Then There Were Four: New High-Cost Credit Legislation Proposed in British Columbia</a> . The Bill has received Royal Assent but the sections on high-cost credit have not yet come into force.
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.</p> <p>Please see the following Blakes Bulletins for more details:  <a href="#">Take Two: Quebec Introduces Bill 134 to Modernize the Consumer Protection Act</a>  <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. 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 and February 1, 2019).</p>
Ontario	<i>Consumer Reporting Act</i>	<p><b>Decline Notices</b></p> <p>Bill 100, <i>Protecting What Matters Most Act (Budget Measures), 2019</i> amends the <i>Consumer Reporting Act</i> to clarify that decline notices may be sent by any manner if the sender can prove receipt of the notice or order. Previously, the only listed methods of delivering a decline notice that are sufficient under the Act are personal delivery, registered mail or ordinary mail. The relevant provisions came into force on May 29, 2019.</p>
<b>Mortgage Lending</b>		
Ontario	<i>Mortgage Brokerages, Lenders and Administrators Act, 2006</i>	<p>On October 22, 2018, Mr. Doug Downey, Parliamentary Assistant to the Minister of Finance, was appointed to conduct the legislative review of the <i>Mortgage Brokerages, Lenders and Administrators Act, 2006</i>. As part of the review, the government will consult with the public and stakeholders on finding efficiencies and reducing unnecessary regulatory burden, so that mortgage brokers can focus on helping their clients. The submission period closed on January 11, 2019.</p> <p>More information is available here:  <a href="https://www.ontariocanada.com/registry/view.do?postingId=28086&amp;language=en">https://www.ontariocanada.com/registry/view.do?postingId=28086&amp;language=en</a>  Please also see <a href="#">Ontario Seeks Input on Regulation of Provincial Mortgage Businesses</a>.</p>
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 and February 1, 2019).</p>

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<b>Other</b>		
Federal	<i>Bank Act</i>	<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. Compliance with these restrictions is expected by <b>August 31, 2019</b> for domain names and information contained on website, other electronic media and in print materials, and by <b>August 31, 2020</b> for information contained on physical signage. 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> <p>Payments Canada is seeking feedback on proposals to broaden access to Canada’s retail batch payments system, the Automated Clearing and Settlement System (ACSS). The period for comment closed January 18, 2019. For more information see <a href="#">Modernizing ACSS Access</a>.</p>
Federal	<i>Personal Information Protection and Electronic Documents Act</i>	<p><b>Privacy</b></p> <p>The Privacy Commissioner of Canada launched a consultation on transborder data flows in which they indicated that they were revisiting their long-held position that a transfer of personal information to a service provider for processing does not require consent. Please see our <a href="#">bulletin</a> on topic for more details.</p>
Federal	<i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i>	<p><b>Anti-Money Laundering (AML)</b></p> <p>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.</p> <p>Please see <a href="#">Department of Finance Reviewing Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime</a> for more details.</p> <p>The Standing Committee on Finance released its report <a href="#">Confronting Money Laundering and Terrorist Financing: Moving Canada Forward</a> in November 2018. The report made several recommendations on proposed modifications and additions to the AML framework. The report did not include any further suggestions that the financing, leasing and factoring sectors be covered by AML laws. Please see <a href="#">Confronting Money Laundering and Terrorist Financing: Canada Considers Vast Changes to AML Regime</a> for more details.</p> <p>Bill C-86, <i>Budget Implementation Act, 2018, No. 2</i> received Royal Assent on December 13, 2018. Changes to the <i>Canada Business Corporations Act</i> in respect of beneficial ownership came into force on June 13, 2019. Please see <a href="#">Beneficial Ownership: New Developments</a> for more details.</p>

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		<p><b>***NEW***</b></p> <p>Revised regulations to the AML laws were released in June 2019, however, the changes primarily relate to entities that are already regulated. New additions include expressly regulating prepaid cards issued by financial entities and the regulation of dealers in virtual currency as money services businesses. For more information, please see <a href="#">Revamping Canada's Anti-Money Laundering Rules: What's New, What's Changed and What it Means for Business</a>. Most amendments will come into force on either <b>June 1, 2020</b> or <b>June 1, 2021</b>.</p>
Federal	N/A	<p><b>Open Banking</b></p> <p>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.</p> <p>The Department of Finance requested input on a consultation paper entitled <i>A Review into the Merits of Open Banking</i>. The deadline for comments was February 11, 2019. Please see <a href="#">Canada Seeks Input on Open Banking Framework</a> for more details.</p> <p><b>***NEW***</b></p> <p>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 was published in June 2019 and is available <a href="#">here</a>. There are 10 recommendations, including that: the Financial Consumer Agency of Canada be the interim oversight body for screen scraping and open banking activities within federal jurisdiction, with the view that ultimately the Privacy Commissioner and the Commissioner of Competition will be responsible; a principles-based framework for open banking be developed; changes should be made to modernize privacy laws; and a registry of accredited providers should be created, along with an innovation sandbox.</p>
Ontario	N/A	<p><b>***NEW***</b></p> <p>On June 27, 2019, the Ministry of Government and Consumer Services announced the members of Ontario's Digital and Data Task Force and commenced the second phase of data strategy consultations. The consultations will take place over the summer of 2019.</p>

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