

## FEBRUARY 2021 CLA LEGAL UPDATE

| Jurisdiction            | Name of Law/Regulation                                  | Brief Summary of Changes  |
|-------------------------|---|---|
| <b>Consumer Lending</b> |   |   |
| Alberta                 | <i>Consumer Protection Act, Credit Unions Act</i>       | <p><b>Consumer Protection Regulations</b></p> <p>On December 15, 2020, Alberta Regulations 245/2002, 246/2020, and 247/2020 were published in the Alberta Gazette, Part II, make minor expiry date amendments and extend the expiration date of several regulations under the <i>Consumer Protection Act</i>, including the Credit and Personal Reports Regulation (AR 193/99), Direct Selling Business Licensing Regulation (AR 190/99), Energy Marketing and Residential Heat Submetering Regulation (AR 246/2005), Gift Card Regulation (AR 146/2008), Home Inspection Business Regulation (AR 75/2011), Internet Sales Contract Regulation (AR 81/2001), Prepaid Contracting Business Licensing Regulation (AR 185/99), Retail Home Sales Business Licensing Regulation (AR 197/99), and the Ticket Sales Regulation (AR 78/2018). Under the 247/2020 amendment, a collection agency or debt repayment agent can now deposit the money collected in a bank, loan corporation trust corporation, credit union or treasury branch in Canada (rather than just Alberta).</p> <p><b>Credit Unions</b></p> <p>On November 25, 2020 Alberta Regulation 240/2020 came into force. Under the Regulation, the Credit Union (Principal) Regulation (AR 249/89) was amended to allow a corporation to provide confidential information to the Bank of Canada for a purpose authorized by an agreement, contract, memorandum of understanding or other written arrangement made, with the prior approval of the Minister, between the Corporation and the Bank of Canada.</p> |
| Saskatchewan            | <i>The Credit Union Act, 1998</i>                       | <p><b>Credit Unions: Electronic Meetings</b></p> <p>Bill 22, <i>The Credit Union Amendment Act, 2020</i>, received first reading on December 10, 2020. The Act makes minor amendments to <i>The Credit Union Act, 1998</i> including by clarifying what must be included in the bylaws in relation to the manner and procedures by which the meeting of the credit union or board can vote, and by allowing a meeting and voting of members of a credit union to be held, in accordance with the regulations, if any, by means of a telephonic, electronic or other communication facility.</p>   |
| Ontario                 | <i>Consumer Protection Act, 2002, Payday Loans Act,</i> | <p><b>Ontario Review of the Consumer Protection Act</b></p> <p>On January 29, 2021, the <a href="#">Alternative Financial Services: High-Cost Credit Consultation Paper</a> was posted to Ontario's Regulatory Registry. The Government of Ontario is considering establishing new protections for users of alternative financial services (AFS). AFS are high-cost financial services provided outside of traditional financial institutions like banks and credit unions. Common AFS offerings include payday loans, instalment loans, lines of credit, and auto title loans. Ontario currently regulates payday loans. This consultation paper focuses on draft proposals and options intended to strengthen protections for borrowers and improve the regulation of high-cost credit agreements, other than payday loans. This paper is in addition to Ontario's comprehensive review</p>   |

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|              |   | of the Consumer Protection Act, 2002 (CPA). Comments are due March 30, 2021.   |
| <b>Other</b> |   |  |
| Federal      | Global Affairs Canada   | <p>Global Affairs Canada and the Canadian Trade Commissioner Service recently issued an <a href="#">advisory</a> to Canadian companies active abroad or with ties to Xinjiang, China (Advisory). The Advisory was issued in coordination with a similar announcement from the Government of the United Kingdom and was followed by an American order to detain certain products, originating in Xinjiang, from entering the United States, effective January 13, 2021.</p> <p>The Advisory does not amend Canadian legislation but sets clear compliance expectations for Canadian businesses with respect to forced labour and human rights involving Xinjiang, including adoption of voluntary best practices. The Advisory will be relevant to many Canadian businesses, including financial institutions, institutional investors and others. For more information on the Advisory, please see our January 2021 Blakes Bulletin: <a href="#">Government of Canada Sets Compliance Expectations for Canadian Businesses Linked to Xinjiang, China.</a></p>  |
| Federal      | Office of the Superintendent of Financial Institutions of Canada    | <p>On January 11, 2021, OSFI launched a three-month public consultation with the publication of its discussion paper <a href="#">Navigating Uncertainty in Climate Change: Promoting Preparedness and Resilience to Climate-Related Risks</a>. Given that the risks posed by climate change are accelerating, OSFI aims to identify and categorize climate-related risks and explore ways that Federally Regulated Financial Institutions (FRFIs) could prepare for and build resilience to such risks. OSFI is also seeking feedback on how it can facilitate FRFIs' preparedness for and resilience to climate-related risks. Comments and submissions on the discussion paper should be submitted in accordance with the instructions on OSFI's website by April 12, 2021.</p>  |
| Federal      | <i>Financial Consumer Agency of Canada Act</i>                      | <p><b>Mandatory Reporting Guide</b><br/>           In January 2021, the FCAC's <a href="#">Mandatory reporting guide for federally regulated financial institutions</a> (the Guide) was amended to specify that Tier 2 regulated entities are no longer required to file nil reportable complaints aggregate reports. Tier 2 regulated entities are federally regulated financial institutions whose activities generally do not trigger the market conduct obligations that are overseen by the FCAC. This change was intended to reduce the administrative burdens associated with nil reporting. However, Tier 2 regulated entities are still required to report compliance issues if they arise. In their yearly examination questionnaires, Tier 2 regulated entities will also now be required to confirm that they have met all complaint requirements for that year.</p> <p><b>Seniors Code</b><br/>           The Guide (above) also now incorporates Principles 6 and 7 of the Canadian Banking Association's (CBA) voluntary Code of Conduct for the Delivery of Banking Services to Seniors (Seniors Code). Although the Seniors Code was published in July 2019, many of its provisions were scheduled for implementation on January 1, 2021. For more information on the Seniors Code, please see our July 2019 Blakes Bulletin: <a href="#">Is CBA's New Voluntary Code of Conduct the Golden Rule for Banks Serving Canadians in Their Golden Years?</a></p> |
| Federal      | <i>Financial Transactions and Reports Analysis Centre of Canada</i> | <p><b>Risk Assessment Guidance</b><br/>           In January 2021, FINTRAC updated its <a href="#">Guidance on the risk-based approach to combatting money laundering and terrorist financing</a> (now titled Risk assessment guidance) to include previous legislative amendments and those that are scheduled to come into force on June 1, 2021. On that date, the previous</p>   |

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|  |  | <p>guidance and sector specific risk-based assessment workbooks will be removed from FINTRAC's website.</p> <p><b>Anti-Money Laundering</b></p> <p>On January 22, 2021, FINTRAC issued a <a href="#">plan</a> for its implementation of the regulatory amendments that will come into force on June 1, 2021. These amendments will create or change obligations for reporting entities (REs) that are subject to the <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the Act)</i>. The plan involves a staggered approach to the implementation of updated reporting obligations and the publication of updated guidance documents. Although FINTRAC expects reporting entities to comply with the new amendments, FINTRAC indicated that it will exercise flexibility in assessing and enforcing the amendments with respect to recordkeeping and reporting obligations in respect of electronic funds transfers and large cash transactions. For more information on the amendments, please see our February 2020 Blakes Bulletin: <a href="#">Yet More Amendments to the PCMLTFA Regulations</a> and our June 2020 Blakes Bulletin: <a href="#">Recent Developments: FINTRAC and the PCMLTFA</a>.</p> <p>Although many of the compliance obligations associated with virtual currencies and foreign money services business do not come into force until June 1, 2021, businesses that engage in these activities must be registered with FINTRAC. Further, they must comply with the requirements that currently apply to them under the PCMLTFA and its associated regulations, such as the requirement to have a compliance program and to report certain transactions. In that regard, FINTRAC now allows reporting entities to provide virtual currency transaction information in suspicious transaction reports and large cash transaction reports. In December 2020, FINTRAC also released new suspicious transaction reporting guidance specifically relating to virtual currency transactions: <a href="#">Money laundering and terrorist financing indicators - Virtual currency transactions</a>.</p> |
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**STATUS OF PRIOR 2021 UPDATES**

| Jurisdiction            | Name of Law/Regulation   | Brief Summary of Changes   |
|-------------------------|--|--|
| <b>Consumer Lending</b> |  |  |
| Alberta                 | <i>Credit Unions Act</i>   | <p><b>Credit Unions</b></p> <p>Bill 44, <i>Financial Statutes Amendment Act, 2020</i>, received third reading on December 1, 2020 and obtained Royal Assent on December 9, 2020. Under section 46 of the <i>Credit Unions Act</i> a credit union may now carry on business as an information management corporation - that is a corporation whose activities are limited to either or both of the following: (a) the collection, manipulation and transmission of information that is primarily financial or economic in nature; (b) the sale or licensing of related software.</p>  |
| Ontario                 | <i>Consumer Protection Act, 2002, Payday Loans Act, Credit Unions and Caisses Populaires Act</i> | <p><b>Ontario Review of the Consumer Protection Act</b></p> <p>On December 1, 2020, the Ontario government posted the <a href="#">Consumer Protection Act, 2002 Review Consultation Paper</a> on the Ontario Regulations Registry. The goal of the review and update is to improve the CPA to work better in the new marketplace. Updating it will enhance consumer protection and reduce the burden for the retail community in general, while addressing specific problems more effectively than the current law. The updates consider simpler and stronger contract rules, improved protection against unfair practices, better rules for specific contracts, strengthened basic consumer rights, and stronger and clearer rights to remedies. Any responses to the consultation questions and any additional comments or suggestions can be submitted online. Comments are due February 1, 2021.</p> <p><b>Payday Loans</b></p> <p>Private Member's Bill 234, <i>Payday Loans Accountability Act</i>, received first reading on November 25, 2020. The goal of the bill is to increase the accountability of lenders and protections for borrowers and amends the <i>Payday Loans Act, 2008</i> by establishing a limit on the annual interest that may be prescribed in the regulations with respect to the cost of borrowing under a payday loan agreement, establishes the Borrower's Bill of Rights setting out principles which shall be taken into considering in interpreting the Act, requiring lenders to provide a copy of the Bill of Rights to borrowers before entering into a payday loan agreement, and establishing a Payday Loans Task Force.</p> <p><b>Credit Union and Caisses Populaires Act</b></p> <p>On December 8, 2020, Bill 229 - <i>Protect, Support and Recover from COVID-19 (Budget Measures), 2020</i>, received third reading and royal assent. The Act repeals the <i>Credit Unions and Caisses Populaires Act, 1994</i> and replaces it with the <i>Credit Unions and Caisses Populaires Act, 2020</i>. The new Act generally sets out the rules that govern credit unions, including in respect of the establishment of credit unions and their membership, capital structure, governance and business powers. Changes are made to give the Financial Services Regulatory Authority of Ontario (the Authority) new rule-making powers in relation to its function as the sector regulator. The Chief Executive Officer of the Authority is given powers to enforce compliance with the Act and may impose administrative penalties for contraventions of or failures to comply with certain requirements under the Act.</p> |
| <b>Mortgage Lending</b> |  |  |

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| <p>Ontario</p>     | <p><i>Mortgage Brokerages, Lenders and Administrators Act, 2006</i></p> | <p><b>Mortgage Brokerages, Lenders and Administrators Act</b><br/> On December 8, 2020, <i>Protect, Support and Recover from COVID-19 (Budget Measures), 2020</i>, received third reading and royal assent. <i>The Mortgage Brokerages, Lenders and Administrators Act, 2006</i> is amended to add a requirement for prescribed persons and entities to register with the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario. The requirement to register applies even if the prescribed person or entity is also a licensee. Persons and entities who are not required to register under the regulations may register voluntarily. The maximum amounts for administrative penalties and offences under the Act are increased.</p> <p>On July 1, 2021, Ontario Regulation 696/20 and Ontario Regulation 695/20 <i>Mortgage Brokerages, Standards of Practice</i> made under the <i>Mortgage Brokerages, Lenders and Administrators Act, 2006</i> will come into force. The regulations exempt a person or entity who is registered as a dealer under the <i>Securities Act</i> from having a brokerage licence if they meet the requirements for dealing with syndicated mortgages and outline the standards of practice for those exempt from licensing because they meet the requirements of dealing with syndicated mortgages.</p>                                   |
| <p>Nova Scotia</p> | <p><i>Mortgage Regulation Act</i></p>                                   | <p><b>Mortgage Regulation</b><br/> The <i>Mortgage Regulation Act</i> (Act) was proclaimed into force on November 1, 2021. In conjunction with the regulations passed pursuant to the Act, the Act establishes a new regulatory regime for mortgage brokerages, mortgage brokers, associate mortgage brokers, mortgage lenders and mortgage administrators. These regulations, which come into force on November 1, 2021, include:</p> <ul style="list-style-type: none"> <li>- <i>Mortgage Regulation Act General Regulations;</i></li> <li>- <i>Mortgage Regulation Act Exemption Regulations;</i></li> <li>- <i>Mortgage Lender, Brokerage, Broker and Administrator Licensing Regulations;</i></li> <li>- <i>Principal Broker Regulations;</i></li> <li>- <i>Compliance Officers Regulations;</i></li> <li>- <i>General Disclosure Regulations;</i></li> <li>- <i>Cost of Borrowing Disclosure Regulations;</i></li> <li>- <i>Standards of Conduct for Mortgage Brokerages Regulations;</i></li> <li>- <i>Standards of Conduct for Mortgage Brokers and Associate Mortgage Brokers Regulations;</i></li> <li>- <i>Standards of Conduct for Mortgage Lenders Regulations;</i></li> <li>- <i>Standards of Conduct for Mortgage Administrators Regulations;</i></li> <li>- <i>Record-Keeping Regulations; Reporting Requirements Regulations; and</i></li> <li>- <i>Forms Regulations.</i></li> </ul> |

## 2020 IN REVIEW

| Jurisdiction            | Name of Law/Regulation  | Brief Summary of Changes  |
|-------------------------|---|---|
| <b>Consumer Lending</b> |   |   |
| British Columbia        | <i>Personal Information Protection Act</i>  | <p><b>Review of the Personal Information Protection Act</b></p> <p>On February 18, 2020, the Legislative Assembly agreed that a Special Committee be appointed to review the Personal Information Protection Act (PIPA) in accordance with section 59 of that Act. As part of its review, the Special Committee is likely to consider whether to align PIPA with other provincial and federal privacy legislation by requiring organizations to notify the Office of the Information and Privacy Commissioner of British Columbia (“OIPC”) and affected individuals of data breaches that pose a real risk of significant harm to the affected individuals. The Special Committee is also likely to consider enforcement measures, such as the OIPC’s power to impose fines for violations of PIPA. On June 2, 2020, the OIPC released its general briefing note (the “Briefing Note”) to the Special Committee on its desired changes to PIPA. In the Briefing Note, the OIPC confirmed that it would like to see PIPA more closely aligned with other Canadian and international privacy legislation, including the General Data Protection Regulation (“GDPR”) in the European Union. The Special Committee anticipates issuing the findings of its review in a report in February of 2021.</p>  |
| Quebec                  | <i>Consumer Protection Act, Act respecting the protection of personal information in the private sector</i> | <p><b>Protecting Personal Information</b></p> <p>Bill 64, <i>An Act to modernize legislative provisions as regards the protection of personal information</i>, received second reading on October 28, 2020. Sections 93 to 152 propose amendments to the <i>Act respecting the protection of personal information in the private sector</i>. These amendments provide additional requirements to the procedures that must be followed by persons (including enterprises) for the collection of personal information in the private sector, and provides that the person from whom the information is collected must be informed of the possibility that the information could be communicated outside of Quebec. Among other things, some of the major amendments that would affect private lenders include: significant administrative sanctions may be imposed by the Commission d’accès à l’information of up to \$10 million or 2% of worldwide turnover, whichever is greater, and penal sanctions of up to \$25 million or 4% of worldwide turnover (sections 150-151 of Bill 64); the possibility for a company to be sued for damages (section 152 of Bill 64); the requirement to appoint a person to be in charge of the protection of personal information and establish governance policies and practices (section 95 of Bill 64); new obligations when a confidentiality incident involving personal information occurs (section 95 of Bill 64); new rights for individuals or customers with regard to data portability, the right to be forgotten and the right to object to automated processing of their personal information (sections 102, 112-113 of Bill 64); the creation of an exception allowing the disclosure of personal information in the course of a business transaction without the prior consent of the individuals concerned (section 107 of Bill 64); and the obligation for companies to ensure that pre-established settings for their technology products and services ensure the highest levels of confidentiality by default (section 100 of Bill 64). More information can be found at the Blake’s Bulletin: <a href="#">Quebec Introduces New Amendments to Its Privacy Regimes. The Bill is expected to be debated at the National Assembly and further amendments may be proposed. With the</a></p> |



[introduction of the Federal Bill C-11, the \*Digital Charter Implementation Act, 2020\*, \(discussed below\), changes are expected to follow.](#)

### **Credit Reporting**

Bill 53, *Credit Assessment Agents Act*, received third reading on October 22, 2020 and Royal Assent on October 28, 2020. This Act comes into force on February 1, 2021, except sections 8, 13 and 14.1 insofar as they concern security freezes and sections 9, 16.1, 105.1 and 107.1 which come into force on the date set by the Government. Bill 53 proposes new credit reporting legislation in Quebec and will regulate the commercial and management practices of credit assessment agents. Among other things, the bill:

- proposes three protection measures that a credit assessment agent must take when asked as regards the records the agent holds on each person concerned, namely a security freeze, a security alert and an explanatory statement;
- sets out the terms and conditions for the exercise of those rights as well as the recourses and complaints that may be respectively exercised before the Commission d'accès à l'information or submitted to the Authority;
- prescribes the commercial practices that credit assessment agents must adhere to and imposes the obligation for them to adhere to appropriate management practices;
- sets out the administrative measures and the other powers of the Authority, such as the power to issue instructions, guidelines and orders and to request an injunction and participate in proceedings relating to the administration of the Act; and
- prescribes monetary administrative penalties and sets out penal provisions.

In addition, Bill 53 proposes to amend section 19 of the *Act respecting the protection of personal information in the private sector*, which currently applies to every person carrying on the business of lending money when they consult credit reports or recommendations as to the solvency of individuals. Under the proposed amendments, such persons will also be required to inform an individual, upon request, that the refusal to grant a loan is based on the consultation of such a report or recommendation. In addition, the proposed amendments will require a person who consults such credit reports or recommendations (or certain other documents sent by a credit assessment agent) to take reasonable measures to ensure that the person from whom consent was obtained to obtain the recommendation, report, document, or personal information is actually the person who is the subject of that recommendation, report, document, or personal information. Finally, organizations may be subject to penalties under Bill 64, *An Act to modernize legislative provisions as regards the protection of personal information*, discussed above.

### **Contracts Relating to Automobiles and Motorcycles**

Bill 17, *An Act respecting remunerated passenger transportation by automobile*, received third reading on February 7, 2020, Royal Assent on February 8, 2020 and came into force on October 10, 2020. Section 253 of Bill 17 amends section 156 of the *Consumer Protection Act*. Section 156 of the *Consumer Protection Act* outlines what must be disclosed on the label that a merchant must affix on every used automobile that they offer for sale or for long-term lease. The particular of this disclosure has been amended under Section 253 of Bill 17.

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| <p>Ontario</p>                   | <p><i>Consumer Protection Act, 2002, Consumer Reporting Act, Payday Loans Act, Freedom of Information and Protection of Privacy Act, Credit Unions and Caisses Populaires Act</i></p> | <p><b>Credit Reporting</b></p> <p>Bill 8, <i>Access to Consumer Credit Reports and Elevator Availability Act, 2018</i>, received third reading on May 2, 2018 and Royal Assent on May 7, 2019. However, those sections affecting the Consumer Reporting Act have yet to be proclaimed into force. Bill 8 proposes to require credit reporting agencies to give consumers online access to their current consumer score at least twice a year, free of charge (section 5 of Bill 8). Bill 8 also introduces new sections to the <i>Consumer Reporting Act</i> setting out requirements respecting the method of generating a consumer score, and requirements for security freezes on a consumer's file. Bill 8 also grants the Registrar of Consumer Reporting Agencies (the "Registrar") additional enforcement rights, which include the authority to order a credit reporting agency to amend or delete information on a credit report, and an expanded right of the Registrar to request information from credit reporting agencies.</p> <p><b>Ontario Review of Statutory Privacy Regime</b></p> <p>On August 13, 2020, the Ontario government launched a consultation on private sector privacy reform in the province. To guide the consultation, the government published a discussion paper that outlines a series of privacy discussion topics, reflecting key areas that the government is considering for a new Ontario private sector privacy law. More information can be found at Blakes' discussion on the topic, <a href="#">Ontario Government Launches Consultation to Enhance Privacy Protections</a>.</p> |
| <p>Manitoba</p>                  | <p><i>The Consumer Protection Act, The Consumer Protection Amendment Act</i></p>  | <p><b>Consumer Protection Regulations</b></p> <p>Bill 22, <i>The Credit Unions and Caisses Populaires Amendment Act</i> received first reading on October 14, 2020. The Act changes the oversight and governance framework for Manitoba's credit union system. Under the changes, the federal Officer of the Superintendent of Financial Institutions no longer oversees the provincial credit union centrals and significantly expanded oversight powers are given to the guarantee corporation and the provincial Registrar of Credit Unions (the "Registrar").</p> <p>Bill 30, <i>The Consumer Protection Amendment Act</i>, received first reading on October 14, 2020. Bill 30 proposes a prohibition on the direct sale of furnaces, air conditioners, windows and other household systems and supplies. Leases for household systems and supplies or for any product bought through a direct sale cannot be for an indefinite term. The Bill also repeals the <i>Cell Phone Contracts Regulations, Manitoba Regulation 40/2012</i>.</p>   |
| <p>Newfoundland and Labrador</p> | <p><i>Consumer Protection and Business Practices Act, Real Estate Trading Act, 2019</i></p>   | <p><b>Credit Union Act</b></p> <p>Bill 46, <i>An act to amend the Credit Union Act, 2009</i>, received third reading and royal assent on November 5, 2020. It will be in force upon proclamation. The Bill amends the <i>Credit Union Act, 2009</i> and, among other things, clarifies the powers and duties of the superintendent and the guarantee corporation, removes the requirement for directors to disclose their occupations when filing articles of incorporation, annual returns and amalgamation agreements, requires a credit union to obtain written authorization from a member before including the member's name and address in the credit union's members' register and prohibiting a credit union from disclosing the name and address of a member who does not provide written authorization, and allow permanent residents of Canada to be eligible to be directors of a credit union. The Bill introduces a number of amendments that clarify the requirements and responsibilities of directors and members of a credit union.</p>  |



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|                      |   | <p><b>Licensing</b></p> <p>Bill 13, <i>Real Estate Trading Act, 2019</i>, s. 50, received Royal Assent on December 6, 2019 and came into force on September 1, 2020. Bill 13 amended s.95 of the <i>Consumer Protection and Business Practices Act</i>, so that a person is considered not to be carrying on the business of direct selling and is not required to be licensed under this Act where he or she is a person in respect of business for the carrying on of which he or she is required to be licensed under the <i>Securities Act</i>, the <i>Insurance Adjusters, Agents and Brokers Act</i>, the <i>Insurance Companies Act</i> or the <i>Real Estate Trading Act</i>.</p>  |
| Prince Edward Island | <i>Payday Loans Act, Payday Loans Act Regulations</i>               | <p><b>Payday Loans</b></p> <p>PEI Reg. EC2020-390, the <i>Payday Loans Act Regulations Amendment</i>, came into force on July 31, 2020. Among other things, the amendment changes the amount that must be included in a payday loan agreement from \$25 per \$100 borrowed to \$15 per \$100 borrowed and reduce the cost of borrowing from \$25 per \$100 borrowed to \$15 per \$100 borrowed under section 24 of the <i>Payday Loans Act Regulation</i>.</p>   |
| <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 was 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>Payment Card Networks Act</i>                                    | <p><b>Payment Cards</b></p> <p>Private Member’s Bill C-243, <i>An Act to amend the Payment Card Networks Act (credit card acceptance fees)</i> received first reading on July 20, 2020 and was reinstated in the current session on September 23, 2020 (all Private Members bills are automatically reinstated in the next session). The bill amends the <i>Payment Card Networks Act</i> to confer on the Governor in Council the power to set a limit on the credit card acceptance fees that a payment card network operator may charge a merchant. Note that a previous version of this bill was introduced in 2016 and not proceeded with.</p>  |
| Federal              | <i>Canadian Payments Act</i>  | <p><b>Canadian Payments System</b></p> <p>As of September 11, 2020, Payments Canada is seeking feedback on policy proposals, outlined in the following Canada’s New Real-Time Payments System Policy Framework consultation paper, as a step forward in introducing Canada’s new real-time payments system, the Real-Time Rail (RTR) in 2022.</p> <p>On July 28, 2020, Payments Canada published its 2020-2024 <a href="#">corporate plan</a>. Deliver and Integrate. Payments Canada’s corporate plan communicates their strategy and progress-to-date of their industry-wide payments Modernization initiative, in support of their core purpose to provide safe, efficient and effective clearing and settlement of payments. The plan is updated on an annual basis.</p> |
| Federal              | <i>Personal Information Protection and Electronic Documents Act</i> | <p><b>Reform of Canada’s Private-Sector Privacy Law</b></p> <p>On November 17 Bill C-11, the <i>Digital Charter Implementation Act, 2020</i> was introduced. The passed, the highly anticipated bill would overhaul the federal government’s approach to regulating privacy in the private sector. The Act would repeat parts of PIPEDA that regulate the processing of personal information and enact a new <i>Consumer Privacy Protection Act</i> (CPPA), enact the <i>Personal Information and Data Tribunal Act</i> (PIDPTE) establishing an administrative</p>  |

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|         |                                      | <p>tribunal, and impose penalties for contravention of certain provisions. In addition to introducing new record keeping and data management concerns for private-sector organizations, the Act would, among other things, introduce:</p> <ul style="list-style-type: none"> <li>- All organizations (large or small) are required by s. 9 to implement a “privacy management program” targeting policies, practices and procedures directed at fulfilling their obligations under the CPPA. These policies, practices and procedures must be accessible to the Commissioner (s. 10) and must address (a) protection of personal information; (b) access requests and complaint procedures; (c) training and internal information relating to the policies, practices and procedures; (d) development of external-facing materials</li> <li>- New record keeping obligations are imposed by ss. 12(3) and (4), which require companies to document the purposes for which personal information is collected, used, or disclosed, and to continually update this if new purposes arise;</li> <li>- Sections 13 and 14 restrict organizations to collecting only that personal information that is “necessary for the purposes determined and recorded under subsection 12(3)” unless that collection is the subject of an exception principle under the CPPA;</li> <li>- Requirements to provide plain-language explanations about the processing of personal information, both in connection with obtaining valid consent and to meet transparency requirements under the CPPA;</li> <li>- Data portability rights to give individuals greater control over the transfer of their personal information from one organization to another;</li> <li>- The obligation to allow individuals to request that the organization dispose of their personal information, subject to limited exceptions;</li> <li>- New transparency requirements that apply to automated decision-making systems like algorithms and artificial intelligence, requiring businesses to explain how such systems are utilized;</li> <li>- Rules governing how and when de-identified information derived from personal information may be created, used and shared; and</li> <li>- An obligation for organizations to de-identify personal information prior to sharing it with parties in the context of a proposed business transaction, for example, in the due diligence phase.</li> </ul> <p>More information can be found in the Blakes Bulletin: <a href="#">New Federal Bill Set to Reform Canada’s Private-Sector Privacy Law</a>. Bill C-11 is expected to be debated in the House of Commons, and further amendments may be proposed. If passed, the CPPA may come into force quickly, on a date fixed by order of the Governor in Council. However, the bill contemplates that certain provisions, specifically those relating to data mobility, and codes of practice and certification programs, may come into force on a different date.</p> |
| Federal | <i>Special Economic Measures Act</i> | <p><b>Sanctions in Belarus</b></p> <p>On September 29, 2020, the Government of Canada imposed sanctions under the <i>Special Economic Measures Act</i> against officials of the Government of Belarus, in connection with Belarusian presidential elections on August 9, 2020, and subsequent public protests. These sanctions were imposed by Canada, in coordination with the United Kingdom.</p>  |
| Federal | N/A                                  | <p><b>Open Banking</b></p> <p>In November 2020, the Advisory Committee on Open Banking announced that they are entering Phase Two of the Open Banking Consultations. The consultations, which are part of a broader government review on open banking, were postponed in the Spring due to restrictions on public gatherings put in</p>  |

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|         |  | place to curb the spread of COVID-19. The reopened consultations will comprise five virtual sessions through November and December. This phase is focused on determining how regulators and the financial sector can mitigate data security and privacy risks associated with open banking. The second phase will be conducted with industry stakeholders to address potential solutions and standards to enhance data protection in the financial sector, by reviewing governance, consumer control of personal data, privacy, and security.  |
| Federal | <i>Financial Consumer Agency of Canada Act</i> | <p><b>Financial Consumer Agency of Canada Publishes Decisions</b></p> <p>On August 20, 2020, the Financial Consumer Agency of Canada (FCAC) published three decisions to promote compliance with their consumer protection obligations. All three decisions published relate to compliance failures with the cost of borrowing disclosure requirements. Federally-regulated financial institutions must provide consumers with a clear and consistent standard of disclosure on the charges and fees for credit products. Accurate information is important to enable consumers to make informed financial decisions. The decisions can be found <a href="#">here</a>.</p> |

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