JULY 2021 CLA LEGAL UPDATE

Jurisdiction	Name of Law/Regulation	Brief Summary of Changes
Consumer Accounts		
Federal	*Trust and Loan Companies Act, Bank Act*	On June 9, 2021, the section which required a company registered under the *Trust and Loan Companies Act,* or a bank or foreign bank authorized under the *Bank Act*, to provide oral disclosure of the fact that for a deposit account in a currency other than Canadian currency, any deposit to the account will not be insured by the Canada Deposit Insurance Corporation of the *Disclosure on Account Opening by Telephone Request (Trust and Loan Companies) Regulations*, *Disclosure on Account Opening by Telephone Request (Authorized Foreign Banks) Regulations,* and *Disclosure on Account Opening by Telephone Request (Banks) Regulations* was repealed.
Federal		
Federal	*Financial Consumer Agency of Canada*	**FCAC Monetary Penalty Framework** On June 17, 2021, the Financial Consumer Agency of Canada (FCAC) published its Administrative Monetary Penalties Framework, setting out the framework used by the FCAC's Supervision and Enforcement Branch to determine the amount of a proposed administrative monetary penalty that would be included in a Notice of Violation issued to a financial institution or a payment card network operator. Generally, the criteria to be taken into account when determining a penalty are: the harm done by the violation, the degree of intention or negligence on the part of the reporting entity, and the duration of the violation. Each of these criteria have several factors included in their consideration, and each has three levels which represent a scale of some, significant, and very significant. For instance, "some harm" represents a penalty of $0 to $2,000,000; "significant harm" has penalties up to $4,000,000 and "very significant harm" has penalties up to $6,000,000. The framework illustrates the extent to which the FCAC can penalize those reporting entities which commit a violation.
Federal	*An Act to implement the Agreement between Canada, United States and the United Mexican States*	**Canada-USA-Mexico Agreement** Bill C-4, *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States*, received Royal Assent on March 13, 2020 and was proclaimed in force on July 1, 2020. The amendments to the *Bank Act* came into force on June 30, 2021. The amendments include the addition of a "regulated foreign entity", which is an entity that is incorporated or formed otherwise in a country or territory, other than Canada, in which a trade agreement listed in Schedule IV of the *Bank Act* is applicable, and subject to financial services regulation in that country or territory. Schedule IV is also added to the *Bank Act*. It includes the legislation under which Canada has entered into trade agreements with other nations for the purpose of implementing Canada's international trade obligations. The changes to the *Bank Act* create exceptions for some *Bank Act* requirements for the entities that meet the definition of "regulated foreign entity" or are a bank or a subsidiary of a foreign bank formed in a country or territory in which a trade agreement is listed in the new Schedule IV.

		The amendments to the *Bank Act* include, among other things, expanding the place of records exception under s.239(3) to "a bank that is a subsidiary of a foreign bank incorporated or formed otherwise in a country or territory other than Canada in which a trade agreement listed in Schedule IV is applicable or of a regulated foreign entity", providing an exception for the location of central securities register under s. 251(3) for "a bank that is a subsidiary of a foreign bank incorporated or formed otherwise in a country or territory other than Canada in which a trade agreement listed in Schedule IV is applicable or of a regulated foreign entity", a place of records exception for an authorized foreign bank that is incorporated in a country or territory other than Canada in which a trade agreement listed in Schedule IV is applicable, or a subsidiary of a foreign bank incorporated or formed otherwise in a country or territory other than Canada in which a trade agreement listed in Schedule IV is applicable or of a regulated foreign entity under s. 597(2), and a place of records exception for a bank holding company that is a subsidiary of a foreign bank incorporated or formed otherwise in a country or territory other than Canada in which a trade agreement listed in Schedule IV is applicable or of a regulated foreign entity under s. 816(1).
2021 Budget		
Federal	*See below*	Bill C-30, *Budget Implementation Act, 2021, No. 1* passed third reading and received Royal Assent in the Senate on June 29, 2021. Many of the amendments described below are now in force.
Federal	*Payday Lending, Financial Consumer Agency of Canada*	As part of the government's goal to prevent Canadians from living in a cycle of debt, Bill C-30 included an announcement of a consultation on lowering the criminal rate of interest in the *Criminal Code of Canada*, which is applicable to payday loans. It remains to be seen how the consultation will be offered and how comments can be submitted.
Federal	*Retail Payments Activities Act*	Bill C-30 will enact into legislation new policy measures outlined in the 2021 federal budget released earlier in April and includes a draft of the long-awaited *Retail Payments Activities Act* (RPAA). The new regulatory payments regime, to be regulated by the Bank of Canada, is ground-breaking in that it provides for the first regulatory scheme for retail payment providers in Canada. The RPAA applies to "any retail payment activity that is performed by a payment service provider" with a place of business in Canada. It also applies to retail payment activity performed for an end user in Canada by a payment service provider that does not have a place of business in Canada but directs retail payment activities to individuals and entities in Canada. "Retail payment activity" is defined as a payment function (as defined) in relation to an electronic funds transfer (as defined) that is made in Canadian currency or another country currency or "using a unit that meets prescribed criteria". This definition leaves open the possibility of the RRPA applying to digital currency transactions. For more information on the new regime, please see the Blakes Bulletin "Regulation of Retail Payments in Canada - The Retail Payments Activities Act Has Arrived". The provisions of the *Retail Payment Activities Act*, as enacted by section 177 of Bill C-30, other than sections 1 to 10, 12 to 16 and 61, subsections 62(1), (3) and (4) and section 63, come into force on a day or days to be fixed by order of the Governor in Council.
Federal	*Proceeds of Crime (Money Laundering) and Terrorist Financing Act*	Bill C-30 introduced several amendments to the PCMLTFA. Some of these changes include enabling the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to recover its compliance costs (FINTRAC will have authority to make assessments to be paid by reporting entities based on the amount of certain expenses incurred by FINTRAC), revisions to the definitions of politically exposed domestic person to include "reeve, or other

		similar chief officer of a municipal or local government" together with mayors and the head of an international organization to include a head of an international sports organization, and that armoured car services will be regulated as a category of money services businesses under the PCMLTFA. Sections 159, 164, 165, 170, 180 and 181 have yet to come into force and will come into force on a day to be fixed by order of the Governor in Council. This in particular includes the "armored vehicle" provision for MSBs (s. 159) and the "appropriation" and "assessment" powers given to FINTRAC (sections 164-165) described above. The rest of the sections came into force upon assent.
Federal	*Trust and Loan Companies Act; Bank Act*	Bill C-30 also included amendments to the *Bank Act* and *Trust and Loan Companies Act*. Both Acts contain provisions requiring the transfer of unclaimed deposits and cheques to the Bank of Canada following a 10-year abandonment period and the provision of advance notices to customers regarding the amount of their unclaimed property. Bill C-30 amends these provisions to include foreign denominated deposits and cheques and to require that the unclaimed property notices be provided to the customer's electronic address (if known) in addition to providing the notices by mail. Bill C-30 also expands the scope of information that must be provided to the Bank of Canada at the time of the transfer of unclaimed property to include the customer's date of birth and social insurance number. However, these sections remain not in force and come into force on a day to be fixed by the Governor in Council.
Federal	*Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*	Canadian financial institutions and securities dealers are now required to report monthly to their principal regulator whether they hold property of persons listed under the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* or terrorist groups listed under the *Criminal Code*. Bill C-30 amends the Sergei Magnitsky Law to require that these reports be filed only if there is an actual match. In the event of a match, the reports will need to be filed without delay and every three months, rather than every month. However, there is no corresponding amendment included to remove the monthly nil filing requirement under the *Criminal Code*. As such, financial institutions and securities dealers will continue being required to file monthly sanctions reports under the Criminal Code.
Federal	*Canada Deposit Insurance Corporation*	Finally, Bill C-30 introduced several amendments to the bank resolution framework under the *Canada Deposit Insurance Corporation Act* (CDIC Act). Among other things, these amendments: extend the CDIC Act stay to circumstances in which there is a monetary breach of a bail-in obligation following the making of a resolution order but before the bail-in conversion is effected; exclude from the CDIC Act stay eligible financial contracts with a central bank, the federal government of Canada, or a foreign government; require that CDIC-member banks and trust and loan companies ensure that the CDIC Act stay provisions apply to eligible financial contracts to which they are a party but in circumstances and in the manner that would be prescribed by CDIC bylaws, which are not made public yet and make certain amendments to the compensation framework under the CDIC Act resolution provisions (similar amendments are made to the Payment Clearing and Settlement Act provisions governing resolution of designated financial market infrastructures). Bill C-30 also amends the CDIC Act deposit protection regime to clarify that under certain circumstances an omission that results in a failure to meet a requirement of the schedule of the CDIC Act will not prevent a deposit from being considered a separate deposit. These sections came into force upon assent.

STATUS OF PRIOR 2021 UPDATES

Jurisdiction	Name of Law/Regulation	Brief Summary of Changes
Consumer Lending		
Alberta	*Consumer Protection Act, Credit Unions Act*	**Consumer Protection Regulations** 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 *Consumer Protection Act,* 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). On December 15, 2020, Alberta Regulation 5/2021 came into force. The Regulation amends the *General Licensing and Security Regulation* by increasing the threshold from $1,000 to $10,000 to determine how claims are decided if a business operator denies the claim. Claims that fall below the $10,000 threshold fall to the Director to determine the validity of the claim. Claims above the threshold require arbitration. The regulation also changes the expiry date of Regulation to August 31, 2025. **Credit Unions** 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. Bill 44, *Financial Statutes Amendment Act, 2020,* received third reading on December 1, 2020 and obtained Royal Assent on December 9, 2020. Under section 46 of the *Credit Unions Act* 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.
Ontario	*Consumer Protection Act, 2002, Payday Loans Act, Credit Unions and Caisses Populaires Act*	**Ontario Review of the Consumer Reporting Act** On February 10, Ontario posted The Consumer Reporting Act - Proposals Under Consideration for Providing Access to Security Freezes, Credit Scores and Reports to Ontario's Regulatory Registry. Comments were due March 15, 2021. The Ministry of Government and Consumer Services is considering changes that could help improve and clarify the Consumer Reporting Act, so that consumers can benefit from additional tools and protections, and consumer reporting agencies (often called credit bureaus) are able to implement the rules effectively. **Ontario Review of the Consumer Protection Act**

		On January 29, 2021, the Alternative Financial Services: High-Cost Credit Consultation Paper 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 of the Consumer Protection Act, 2002 (CPA). Comments are due March 30, 2021. On December 1, 2020, the Ontario government posted the Consumer Protection Act, 2002 Review Consultation Paper 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. **Payday Loans** Private Member's Bill 234, *Payday Loans Accountability Act,* 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 *Payday Loans Act,* 2008 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. **Credit Union and Caisses Populaires Act** On December 8, 2020, Bill 229 - *Protect, Support and Recover from COVID-19 (Budget Measures), 2020*, received third reading and royal assent. The Act repeals the *Credit Unions and Caisses Populaires Act, 1994* and replaces it with the *Credit Unions and Caisses Populaires Act, 2020*. 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.
Manitoba	*Consumer Protection Act, The Consumer Protection Amendment Act, The Credit Unions*	**Credit Union Regulations** Bill 22, *The Credit Unions and Caisses Popularies Amendment Act* received third reading and Royal Assent on May 20, 2021. The Act will be in force on proclamation (not yet in force). 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

	and Caisses Populaires Act	given to the guarantee corporation and the provincial Registrar of Credit Unions (the "Registrar"). **Consumer Protection Regulations** Bill 30, *The Consumer Protection Amendment Act,* received third reading and Royal Assent on May 20, 2021. The Act will be in force on proclamation (not yet in force). 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 *Cell Phone Contracts Regulations, Manitoba Regulation 40/2012.* Private Member's Bill 234, The Consumer Protection Amendment Act (Right to Repair) received first reading on May 26, 2021. This Bill amends The Consumer Protection Act and requires a manufacturer to make the items necessary to maintain and repair its electronic products available to consumers and repair businesses at a reasonable price. If not, the manufacturer must replace the electronic product at no charge or refund the purchase price when requested to do so by the purchaser. **Prepaid Purchase Cards** On February 26, 2021 Regulation 13/2021 was passed. The Regulation exempts a prepaid purchase card issued by a bank listed in Schedule I, II or II of the *Bank Act*, a company, as defined in section 2 of the *Trust and Loan Companies Act,* a retail associate, as defined in section 2 of the *Cooperative Credit Associations Act,* and a company or foreign company as defined in subsection 2(1) of the *Insurance Companies Act*, from Part XX of the *Consumer Protection Act.*
Saskatchewan	*The Credit Union Act, 1998*	**Credit Unions: Electronic Meetings** Bill 22, *The Credit Union Amendment Act, 2020,* received third reading and Royal Assent on May 20, 2021. The Act will be in force on proclamation (not yet in force). The Act makes minor amendments to *The Credit Union Act, 1998* 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.
Quebec	*An Act respecting French, the official and common language of Québec, Consumer Protection Act.*	**French Charter** Bill 96, *An Act respecting French, the official and common language of Québec* received first reading on May 13, 2021. The purpose of this bill is to affirm that the only official language of Québec is French. It also affirms that French is the common language of the Québec nation. To that end, the bill makes several amendments to the Charter of the French language. In relation to businesses, the bill strengthens provisions relating to the use of French as the language of commerce and business, in particular as concerns signs and posters and the drafting of certain documents, such as contracts relating to certain sales of immovable property. The bill requires for parties to first examine a French contract and express to be bound by a contract in a language other than French before the documents related to the contract can be drawn up in the other language. The bill also reduces the threshold for the francization of enterprises from 50 employees to 25 employees. More information can be found at the Blakes Bulletin: French Language Charter Reforms: Increased Requirements for Businesses in Quebec.

Mortgage Lending		
Ontario	*Mortgage Brokerages, Lenders and Administrators Act, 2006*	**Mortgage Brokerages, Lenders and Administrators Act** On December 8, 2020, *Protect, Support and Recover from COVID-19 (Budget Measures), 2020*, received third reading and royal assent. *The Mortgage Brokerages, Lenders and Administrators Act, 2006* 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. On July 1, 2021, Ontario Regulation 696/20 and Ontario Regulation 695/20 *Mortgage Brokerages, Standards of Practice* made under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* will come into force. The regulations exempt a person or entity who is registered as a dealer under the *Securities Act* 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.
New Brunswick	*Mortgage Brokers Act*	**Mortgage Brokers Continuing Education** On February 5, 2021, the Financial and Consumer Services Commission of New Brunswick posted the Consumer Affairs Bulletin 2021-01: Mortgage Brokers Act - 2021 Mandatory Continuing Education. The Bulletin requires that all current and new licensed Associates and Brokers must complete the 2021 New Brunswick Continuing Education Course on or before March 31st. Brokers and Associates who fail to complete and report their continuing education on or before March 31, 2021 will have their licence automatically suspended pursuant to paragraph 18(3)(d) of the Act until the required continuing education is completed.
Nova Scotia	*Mortgage Regulation Act*	**Mortgage Regulation** The *Mortgage Regulation Act* (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: - *Mortgage Regulation Act General Regulations;* - *Mortgage Regulation Act Exemption Regulations*; - *Mortgage Lender, Brokerage, Broker and Administrator Licensing Regulations*; - *Principal Broker Regulations*; - *Compliance Officers Regulations*; - *General Disclosure Regulations*; - *Cost of Borrowing Disclosure Regulations*; - *Standards of Conduct for Mortgage Brokerages Regulations*; - *Standards of Conduct for Mortgage Brokers and Associate Mortgage Brokers Regulations*; - *Standards of Conduct for Mortgage Lenders Regulations*; - *Standards of Conduct for Mortgage Administrators Regulations*; - *Record-Keeping Regulations*; *Reporting Requirements Regulations*; and - *Forms Regulations*.
Financial Institutions		

British Columbia	*Financial Institutions Act*	On March 9 and 25, 2021, Bill 8 - the *Finance Statutes Amendment Act, 2021* received third reading and Royal Asset, respectively. The Bill has various impacts on the *Financial Institutions Act* and rescinds many powers of the BC Financial Services Authority and grants those powers exclusively to the Superintendent of Financial Institutions (Bill 8, sections 1, 3, 4, 6, 19, 33, 34, 35, 36, 37, 38, 44). The Bill, among other things, establishes rules respecting the issuance of business authorizations for extraprovincial credit unions and the amendment of business authorizations for extraprovincial corporations (section 9), prohibits the BC Financial Services Authority from issuing a business authorization to an extraprovincial credit union whose primary jurisdiction is not Canada if certain requirements are not met (section 10), authorizes the Superintendent of Financial Institutions to require an extraprovincial insurance corporation to file its market conduct practices report with the administrator of a national database of market conduct (section 12), and authorizes the Superintendent of Financial Institutions to enter into agreements with other jurisdictions, other financial services regulatory authorities and the administrator of a national database of market conduct (section 21). The Bill is in force upon Royal Assent, except for sections 1-13, ss. 15-150, ss. 160-167, 169-176, which will come into force by regulation of the Lieutenant Governor.
British Columbia	*Credit Union Incorporation Act*	On March 9 and 25, 2021, Bill 8 the *Finance Statutes Amendment Act, 2021* received third reading and Royal Asset, respectively. Section 137-150 amend the *Credit Union Incorporation Act.* While many amendments are minor, Section 142 of the Bill amends section 64 of the *Credit Union Incorporation Act* and transfers from the BC Financial Services Authority to the Superintendent of Financial Institutions the power to approve, in certain circumstances, the redemption or acquisition by a credit union of equity shares issued by the credit union. The Bill is in force upon Royal Assent, except for sections 1-13, ss. 15-150, ss. 160-167, 169-176, which will come into force by regulation of the Lieutenant Governor.
Other		
Federal	*Financial Consumer Agency of Canada Act*	**Decision: Failure to Obtain Express Consent** On May 6, 2021, the Financial Consumer Agency of Canada (FCAC) found that Rogers Bank failed to obtain express consent before providing customers with credit cards and failed to provide customers with written confirmation when consent to receive credit cards was provided orally. Banks are required to obtain a customer's express consent, either orally or in writing, before providing a credit card. If consent is given orally, banks are required to provide the customer with confirmation in writing, without delay, of the customer's express consent for the new credit card. The amounts for the violations were $170,000 and $75,000. The FCAC reviewed 525 complaint reports submitted by Rogers Bank and found that 481 of these related to a lack of express consent. The FCAC also found instances of when the customer had no knowledge of applying for a card, was surprised by receiving a card statement or never wanted the card. When written confirmation of the consent was provided, the FCAC Staff found the wording of these communications to be inadequate to confirm express consent was given orally. These communications referred to the credit card being approved rather than confirming that the customer expressly consented to receiving the credit card. FCAC Staff concluded the violations were longstanding and not self-identified and there was no reduction in penalty. The name of the bank was also made public. **2021-2022 Business Plan**

		On April 7, 2021, Financial Consumer Agency of Canada released its 2021-2022 to 2023-2024 Business Plan. The Business Plan presents the priorities and activities that the FCAC plans to undertake from April 1, 2021 to March 31, 2022 to advance its 5-year strategic goals. These activities will enhance the Agency's core capabilities—that is, the daily work to protect, supervise and educate—which enable the Agency to fulfill its obligations as set out in the *Financial Consumer Agency of Canada Act* and other statutes, such as the *Bank Act*. The strategic goals include being the national leader in financial consumer protection by strengthening the risk-based, outcome-driven supervisory program and implementing the Financial Consumer Protection Framework, strengthening the financial literacy of Canadians for an increasingly digital world by renewing the National Strategy for Financial Literacy and providing innovative tools and resources for better financial decision making, and to be the authoritative source of Canadian financial consumer information.
Federal	*Financial Transactions and Reports Analysis Centre of Canada*	**May Guidance** In May 2021, FINTRAC released new guidance related to the travel rule, transaction reporting, and prepaid payment products. **Travel rule for electronic funds and virtual currency transfers** FINTRAC released guidance clarifying the travel rule. The travel rule is the requirement to ensure that specific information is included with the information sent or received in an electronic funds transfer (EFT) or a virtual currency (VC) transfer. Fulfilling the travel rule is not a separate record keeping requirement. Fulfilling it helps the entities meet the VC and EFT record keeping and reporting requirements. Information received under the travel rule cannot be removed from a transfer. This includes the name, address and account number or other reference number (where applicable) of both the originator and the receiver of the EFT. Financial entities, money service businesses, foreign money service businesses, and casinos must also take reasonable measures to ensure that the travel rule information is included when they receive an EFT, either as an intermediary or as the final recipient. **Transaction reporting guidance: the 24-hour rule** FINTRAC also released guidance clarifying the 24-hour rule. The 24-hour rule is the requirement to aggregate multiple transactions when they total $10,000 or more within a consecutive 24-hour window when the transactions are: conducted by the same person or entity; conducted on behalf of the same person or entity (third party), or for the same beneficiary (person or entity). If an amount under $10,000 is received from a person, and then another amount under $10,000 is received on behalf of that same person, and these amounts total $10,000 but are not for the same beneficiary, then the 24-hour rule is not triggered. This is because both transactions are not received by the same person, nor are they received on behalf of the same person. The guidance clarifies that the 24 hours that make up the period must be consecutive, and it is a static 24 hour window. The period cannot exceed 24 hours and all transactions that total $10,000 or more within a consecutive 24-hour window are to be reported to FINTRAC in a single report (the rule is considered broadly across the business if the RE have multiple locations). **Prepaid payment products and prepaid payment product accounts** Finally, FINTRAC release guidance about prepaid payment products (PPP). A PPP enables a person or entity to engage in a transaction by giving them electronic access to funds or to virtual currency paid into a PPP account held with a financial entity in advance of a transaction taking place and excludes debit and credit, a product issued for use with a particular merchant and a product issued

		for single use for purpose of a retail rebate. It is a reloadable or non-reloadable product that can be accepted in a variety of locations. **March Guidance** In March 2021, FINTRAC updated its Guidance's related to Record keeping requirements and Know your client requirements. FINTRAC provides guidance to help individuals and entities understand their obligations under the PCMLTFA and its associated Regulations and how they may be assessed in an examination. The update brings the Guidance in line with the incoming PCMLTFA Regulations, which come into effect June 1, 2021. The Record keeping Guidance outlines certain record keeping requirements and provides additional sector-specific record keeping requirements. The Know your client Guidance explains when you are required to verify the identity of persons and entities, which is determined by the type of transaction or activity they are undertaking.
Federal	*Special Economic Measures (Burma) Regulations*	In response to the coup d'état in Myanmar, on February 18, 2021, Canada imposed sanctions against 9 Myanmar military officials, under the *Special Economic Measures (Burma) Regulations.* Since seizing control, the Myanmar military and the newly established State Administrative Council have been engaged in a systemic campaign of repression through coercive legislative measures and use of force, including mass arbitrary detentions, restrictions on access to information and the right to freedom of opinion and expression, association and assembly. The announcement brings the total number of individuals sanctioned by Canada to 54.
Federal	Global Affairs Canada	Global Affairs Canada and the Canadian Trade Commissioner Service recently issued an advisory 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. 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: Government of Canada Sets Compliance Expectations for Canadian Businesses Linked to Xinjiang, China.
Federal	Office of the Superintendent of Financial Institutions of Canada	On January 11, 2021, OSFI launched a three-month public consultation with the publication of its discussion paper Navigating Uncertainty in Climate Change: Promoting Preparedness and Resilience to Climate-Related Risks. 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.
Federal	*Financial Consumer Agency of Canada Act*	**Mandatory Reporting Guide** In January 2021, the FCAC's Mandatory reporting guide for federally regulated financial institutions (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. **Seniors Code** 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: Is CBA's New Voluntary Code of Conduct the Golden Rule for Banks Serving Canadians in Their Golden Years?
Federal	*Financial Transactions and Reports Analysis Centre of Canada*	**FINTRAC Guidance on Transactions Associate with Iran** In February 2021, FINTRAC updated its guidance related to the Ministerial Directive (MD) issued by the Minister of Finance that was published in the Canada Gazette and came into force on July 25, 2020. This update is based upon January 2021's update to the Risk Assessment Guidance (included below) and this MD includes requirements that a) enhance the existing obligations of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) and b) extend the obligations of the PCMLTFR, in relation to every financial transaction originating from, or bound for, the Islamic Republic of Iran ("Iran"), regardless of the amount. **FINTRAC Guidance on Business Relationship Requirements** In February 2021, FINTRAC updated its Guidance on business relationship requirements to include previous legislative amendments and those that are scheduled to come into force on June 1, 2021. This guidance explains when reporting entities (REs) enter into a business relationship with a client and related obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations. This guidance applies to all REs. However, some requirements and examples may only apply to certain REs. **FINTRAC Guidance on Ongoing Monitoring Requirements** In February 2021, FINTRAC updated its Guidance on ongoing monitoring requirements to include previous legislative amendments and those that are scheduled to come into force on June 1, 2021. The ongoing monitoring requirements under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations apply to all reporting entities (REs). This guidance answers the following questions: - What is ongoing monitoring? - When must I conduct ongoing monitoring? - When must I conduct enhanced ongoing monitoring? - What are the exceptions to conducting ongoing monitoring? - What records do I need to keep for ongoing monitoring? - When does the requirement for ongoing monitoring end? - When does the requirement for enhanced ongoing monitoring end? **FINTRAC Guidance on Politically exposed persons and heads of international organizations**

		In February 2021, FINTRAC updated its Guidance on politically exposed persons and heads of international organizations to include previous legislative amendments and those that are scheduled to come into force on June 1, 2021. Know your client requirements include determining whether a person is a foreign or domestic politically exposed person (PEP), head of an international organization (HIO), or a family member or close associate of a foreign PEP. The reporting entity sectors with this obligation include financial entities, securities dealers, money services businesses and life insurance companies. As of June 1, 2021, all reporting entity sectors will have politically exposed person (PEP) and head of an international organization (HIO) obligations. These obligations include determining whether a person is a foreign or domestic PEP, HIO, or a family member or close associate of a foreign or domestic PEP, as applicable. **Risk Assessment Guidance** In January 2021, FINTRAC updated its Guidance on the risk-based approach to combatting money laundering and terrorist financing (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 guidance and sector specific risk-based assessment workbooks will be removed from FINTRAC's website. **Anti-Money Laundering** On January 22, 2021, FINTRAC issued a plan 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 *Proceeds of Crime (Money Laundering)* and *Terrorist Financing Act (the Act).* 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: Yet More Amendments to the PCMLTFA Regulations and our June 2020 Blakes Bulletin: Recent Developments: FINTRAC and the PCMLTFA. 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: Money laundering and terrorist financing indicators - Virtual currency transactions.

2020 IN REVIEW

Jurisdiction	Name of Law/Regulation	Brief Summary of Changes
Consumer Lending		
Quebec	*Consumer Protection Act, Act respecting the protection of personal information in the private sector*	**Protecting Personal Information** Bill 64, *An Act to modernize legislative provisions as regards the protection of personal information,* received second reading on October 28, 2020. Sections 93 to 152 propose amendments to the *Act respecting the protection of personal information in the private section.* 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'acces a 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: 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 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.
Ontario	*Consumer Protection Act, 2002, Consumer Reporting Act, Payday Loans Act, Freedom of Information and Protection of Privacy Act, Credit Unions and Caisses Populaires Act*	**Credit Reporting** Bill 8, *Access to Consumer Credit Reports and Elevator Availability Act, 2018,* 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 *Consumer Reporting Act* 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. **Ontario Review of Statutory Privacy Regime** 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, Ontario Government Launches Consultation to Enhance Privacy Protections.
Newfoundland and Labrador	*Consumer Protection and Business Practices Act, Real Estate Trading Act, 2019*	**Credit Union Act** Bill 46, *An act to amend the Credit Union Act, 2009,* received third reading and royal asset on November 5, 2020. It will be in force upon proclamation. The Bill amends the *Credit Union Act, 2009* 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. **Licensing** Bill 13, *Real Estate Trading Act, 2019*, s. 50, received Royal Assent on December 6, 2019 and came into force on September 1, 2020. Bill 13 amended s.95 of the *Consumer Protection and Business Practices Act,* 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 *Securities Act,* the *Insurance Adjusters, Agents and Brokers Act*, the *Insurance Companies Act* or the *Real Estate Trading Act.*
Prince Edward Island	*Payday Loans Act, Payday Loans Act Regulations*	**Payday Loans** PEI Reg. EC2020-390, the *Payday Loans Act Regulations Amendment,* 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 *Payday Loans Act Regulation*.
Other		
Federal	*Personal Information Protection and Electronic Documents Act*	**Reform of Canada's Private-Sector Privacy Law** On November 17 Bill C-11, the *Digital Charter Implementation Act, 2020* 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 *Consumer Privacy Protection Act* (CPPA), enact the *Personal Information and Data Tribunal Act* (PIDPTE) establishing an administrative 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: - 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 - 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; - 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;

		- 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; - Data portability rights to give individuals greater control over the transfer of their personal information from one organization to another; - The obligation to allow individuals to request that the organization dispose of their personal information, subject to limited exceptions; - New transparency requirements that apply to automated decision-making systems like algorithms and artificial intelligence, requiring businesses to explain how such systems are utilized; - Rules governing how and when de-identified information derived from personal information may be created, used and shared; and - 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. More information can be found in the Blakes Bulletin: New Federal Bill Set to Reform Canada's Private-Sector Privacy Law. 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.