

Updates and Guidance from Regulators of Financial Institutions and Intermediaries

March 23, 2020

Regulators of financial institutions and their intermediaries in Canada have now published updates regarding the implications of COVID-19 on their own internal operations, the impact on industry members meeting their regulatory obligations and, to an extent, changes in existing requirements to accommodate the economic impact of the outbreak and social distancing recommendations from health officials.

OSFI: Changes to the Domestic Stability Buffer, Suspension of Consultations and Policy Development and Requests for Information

Domestic Stability Buffer

On March 13, 2020, the Office of the Superintendent of Financial Institutions (OSFI) announced that, in response to the economic challenges posed by the COVID-19 outbreak and as part of its coordinated efforts with other federal agencies, it would immediately be lowering the Domestic Stability Buffer (DSB) requirement for domestic systemically important banks (D-SIBs) by 1.25% of risk weighted assets. This action releases approximately \$300 billion of additional lending capacity by D-SIBs in Canada. OSFI expects this capacity to be utilized to support Canadian households and businesses rather than to increase shareholder or employee distributions or for share repurchases. Therefore, OSFI has indicated that it expects all federally regulated financial institutions (FRFIs) to halt dividend increases and share repurchases until further notice. Effective March 13, 2020, the DSB requirement is set at 1.00%. Based on OSFI's announcement, the DSB requirement will not be increased for at least 18 months from that date. OSFI also indicated that it is suspending all consultations and policy developments on new or revised guidance until conditions stabilize, including the proposed new benchmark rate for qualifying uninsured mortgages. The benchmark rate as currently published by the Bank of Canada will therefore remain in force until further notice.

Consultations and Policy Development

OSFI provided additional information on March 20, 2020, with respect to the status of ongoing consultations and policy developments on new and revised guidance. Notably, OSFI confirmed that public consultation on draft revisions to OSFI Guideline B-2: *Investment Concentration Limits*, Guideline B-3: *Sound Reinsurance Practices and Procedures* and Guideline E-4A: *Role of the Chief Agent & Record Keeping Requirements* is

on hold. This will impact the initial timeline for completion of the aforementioned guidance. OSFI has also suspended the requirement for FRFIs to submit semi-annual IFRS-17 progress reports until further notice. Lastly, OSFI has indicated that it is prepared to offer flexibility to FRFIs with respect to the timing of upcoming regulatory filings, provided their Lead Supervisor is notified.

Requests for Information

OSFI has also requested the following information from FRFIs relating to the institution's operational readiness:

1. Descriptions regarding:

- a. Actions that have been taken or are planned with respect to the risk associated with COVID-19;
- b. Critical factors that would lead to an escalation of the FRFI's Business Continuity Plan response;
- c. Actions that the FRFI would consider as the situation evolves;
- d. Operational impacts from the initiation of the FRFI's and/or home office/parent's Business Continuity Plan, where applicable;
- e. Dedicated resources to respond to operational challenges;
- f. Senior management and/or Board awareness and involvement;
- g. A process to monitor, communicate and respond to changes in levels of risk; and
- h. Impact on third party vendor or supplier arrangements, including contingency plans.

2. Copies of any internal communications or risk assessments that have been made by FRFIs as a result of COVID-19.

OSFI also expects FRFIs to provide updates and include information regarding the anticipated financial impact on each line of business as the COVID-19 situation evolves. This includes the projected financial impact on claims and from market and credit risk exposures. In addition, OSFI has requested that FRFIs provide information relating to any stress testing performed due to the impact of COVID-19.

FRFIs should consider whether any changes are necessary to their business continuity plans and should review arrangements with their service providers in the event there is a service disruption in connection with the COVID-19 outbreak. As outlined in OSFI Guideline B-10: *Outsourcing of Business Activities, Functions*

and Processes, it is essential for a FRFI to have possession or ready access to all records necessary to sustain business operations and meet statutory obligations.

FINTRAC: Submission of Information by Reporting Entities

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) published a statement on March 13, 2020, regarding the obligations of reporting entities pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations. FINTRAC acknowledged that reporting entities may face challenges in meeting such obligations due to staff reductions or unavailability resulting from the outbreak of COVID-19. FINTRAC indicated that in cases where reporting entities are unable to meet their obligations it will take a "reasonable approach" provided that the reporting entity documents and keeps a record of the reasons for such inability. The submission of suspicious transaction reports (STRs) in a timely manner remains a priority. Entities in possession of critical information related to national security matters that should normally be submitted to FINTRAC should notify FINTRAC via the following e-mail address if a written report cannot be submitted in a timely manner: emergencyreport-declarationurgente@fintrac-canafe.gc.ca.

Suspension of Supervision Requirements for Level 1 Insurance Agents

The Insurance Council of Manitoba (ICM) requires Level 1 general insurance agents to work inside the office of a general insurance agency under the supervision of a Level 2 or 3 licenced agent. Subject to certain restrictions, the ICM has suspended the on-premises supervision requirement for 30 days, until April 16, 2020, in light of the COVID-19 outbreak and the work from home protocols that have been put in place. However, Level 1 licensees working from home may only deal with renewals that do not involve amendments to coverage. Any such amendments must be handled by Level 2 or 3 agents. The Operating Agent must also attest to the ICM that the agency has an appropriate supervision plan for Level 1 agents working from home and that the Level 1 agent activity will be restricted to processing renewals as described above. The supervision plan must be available for inspection upon request.

Similarly, the Rules issued by the Insurance Council of British Columbia (ICBC) require Level 1 salespersons in British Columbia to work from the agency or brokerage office that they represent subject to certain conditions, including meeting the ICBC's guidelines on minimum training and experience for automobile insurance. Level 1 salespersons cannot sign or deliver insurance policies and must be supervised by Level 2 or 3 brokers. The ICBC announced on March 18, 2020, that effective March 19, 2020, the requirement for Level 1 salespersons to work on-premises at the agency office has been suspended temporarily to enable remote work and to prevent interruption or delay with the issuance of insurance products to British Columbians, subject to the following conditions. Level 1 salespersons must have completed the Council Rules Course and must have a minimum of six months' licensed Level 1 experience

in the prior nine months to qualify. Nominees remain responsible for providing adequate supervision and clear procedures for Level 1 salespersons working outside of the agency.

Other Provincial Regulators

Other provincial regulators of financial institutions and intermediaries such as the Financial Services Regulatory Authority of Ontario and Registered Insurance Brokers of Ontario have announced the closure of their offices and implemented work from home policies for their staff. Although staff may continue to be accessible via telephone or e-mail, licensees can expect deferrals and delays with respect to the scheduling of on-site examinations, disciplinary hearings and public consultations.

Additional resources related to the impact of the COVID-19 pandemic can be found [here](#).

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.