

Consultation on Proposed Changes to Canada's Criminal Rate of Interest

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On August 9, 2022, the Department of Finance Canada launched its anticipated consultation, [Consultation on Fighting Predatory Lending](#), which considers proposed changes to the criminal rate of interest and the provision of high-cost installment loans in Canada. We previously reported on the impending consultation in our article, "[Lowering the Criminal Rate of Interest – Consultation Coming](#)."

Any change to the criminal rate of interest will impact current lending practices of lenders operating in Canada. Responses to the consultation paper are due by October 7, 2022.

Current Criminal Rate of Interest

Usury law is regulated federally in Canada (other than payday loan legislation) under the *Criminal Code* (the Code). It is a criminal offence to receive a payment or partial payment of interest at a criminal rate, or to enter into an agreement or arrangement to receive interest at a criminal rate.

The current criminal rate of interest in Canada, which applies to most lending products in Canada, is an effective annual rate that exceeds 60% per annum. "Interest" is defined broadly under the Code and includes all charges and expenses in any form, including fees, fines, penalties, and commissions.

Payday lenders are not subject to the criminal rate under the Code if (1) such a lender is licensed or otherwise authorized in the respective province as a payday lender, the (2) the loan amount is C\$1,500 or less and the term is 62 days or less, and (3) the provincial legislation applicable to the payday lender includes measures that protect borrowers and limit the total cost of borrowing.

High-interest installment loans (other than payday lending) are subject to the criminal rate of interest. In the last few years, certain provinces have regulated high-cost credit lenders providing installment loans. Other than Quebec, where the trigger rate is the Bank of Canada's bank rate plus 22%, in the common-law jurisdictions that regulate high-cost credit, credit agreements with an annual rate of 32% or higher are considered high-cost credit. High-cost credit lenders are required to be licensed and are subject to prescribed information disclosure and other requirements.

Changes Considered in the Consultation

The consultation focuses on proposals the federal government may develop into law related to the criminal rate of interest and high-cost installment loans in Canada. Feedback is sought from the public in respect of the following questions:

- Should the criminal rate of interest be set at a fixed level or linked to prevailing market conditions?
 - What are the reasons financial consumers access high-cost installment loans?
 - What impact would lowering the criminal rate of interest have on the availability of credit for financial consumers who use high-cost installment loans?
 - How could the Government of Canada, including the Financial Consumer Agency of Canada, improve financial education and awareness regarding high-cost installment loans to further empower and protect Canadians as they make informed financial decisions?
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