

It's That Time Of Year Again! Does Your Canadian Franchise Disclosure Document Need Annual Updating?

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February 8, 2018

Whether it is a new calendar year and/or a new fiscal year, franchisors should now be considering updates to their Canadian franchise disclosure document (FDD). If you plan to offer franchises in any of the six Canadian provinces requiring disclosure, or will have renewals or resales coming up, you need to ensure that your FDD complies with the requirements of each applicable provincial franchise law, and that the contents of your FDD are consistently accurate and up-to-date. That includes updating of all prescribed disclosure items (some of which require updating every new calendar year, some on the change of a franchisor's fiscal year, and others on a more frequent basis), and ensuring the FDD always includes all material facts.

A relatively small amount of effort by counsel and the franchisor can yield a form of FDD that can greatly minimize your risk of a claim based on non-compliance.

While franchisors should frequently turn their minds to updating and maintaining their Canadian FDDs, the start of a new calendar year marks a time when franchisors should begin the process of updating the contents of their franchise documentation and/or ensuring such documentation is compliant with the existing franchise laws.

Remember that the provinces now with a franchise law are Alberta, British Columbia, Manitoba, New Brunswick, Ontario and Prince Edward Island.

As discussed in this newsletter, there have been recent amendments to Ontario's franchise disclosure legislation. Importantly, once certain provisions of the *Arthur Wishart Act (Franchise Disclosure), 2000* come into force, franchisors will be permitted to enter into certain non-disclosure agreements with franchisees without providing franchise disclosure documents, and there will also be changes to the disclosure exemptions under the Act.

If you would like assistance updating your FDD or would like to discuss the changes to provincial legislation, please contact a member of our Franchise Law Group.