Brazil-Canada IS&T Forum
Fintech

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Fintech Regulation in Canada

- Entity based regulation (*Bank Act*, credit union legislation, insurance legislation, etc.)
- Lender licencing, mortgage and loan broker licencing, etc.
- Securities
  - Crowdfunding, robo-advice, cryptocurrencies, etc.
- Consumer protection
  - Cost of credit disclosure, prepaid cards, credit reporting
- Anti-money laundering (AML)
  - Money services business (MSB), cryptocurrencies
- Privacy
- Laws of general application (anti-spam (CASL), sanctions, IP, etc.)
Fintech Canadian Regulatory Developments

- Competition Bureau market study
- National retail payment system framework
- AML-related developments, including virtual currency regulations
- CSA regulatory sandbox
- OSC notices re cryptocurrency matters
- Payments Canada modernization
- Open banking consultations
- Privacy-related developments – review of consent
What We Saw in 2018

¬ **AML**
  ¬ Consultation Paper on Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime
  ¬ Draft amending regulations issued re virtual currencies and prepaid cards
  ¬ Financial Action Task Force (FATF) defines virtual assets and calls for further regulation of virtual assets

¬ **Consumer Protection**
  ¬ New Federal Financial Services Consumer Protection Framework
  ¬ Major amendments to the Québec *Consumer Protection Act*
  ¬ Ban on expiry of loyalty points in Ontario and Québec
  ¬ High-cost lender registration in Alberta and Québec
What We Saw in 2018

- Securities Law
  - OSC Investor Alert Regarding Unregistered Cryptocurrency Ventures
  - Operation “Cryptosweep”
  - CSA Staff Notice 46-308 – *Securities Law Implications for Offerings of Tokens*
  - Disclosure - In its 2017-2018 Annual Report, the OSC reminded issuers in the crypto-asset space that investors need to be provided with sufficient information to understand their business and disclosure must comply with National Policy 51-201 – *Disclosure Standards*
What We Saw in 2018

Payments
- National retail payment system framework
- Consultation Paper on Review of *Canadian Payments Act*
- Payments Canada Modernization Initiative
  - New real-time payment rail (RTR) with broader access
  - ISO 20022 standard

Open Banking
- Framework where consumers and businesses can authorize 3rd party financial service providers to access their financial transaction data using secure online channels
- Global developments (EU, UK, Australia, Singapore, HK, Japan)
- “A Review into the Merits of Open Banking” Consultation Paper (Jan 2019)
What We Saw in 2018

- **Bank Act**
  - 2018 Budget Bill included amendments providing greater flexibility for banks to undertake Fintech activities and partner with Fintechs
  - Also included a number of amendments relating to the prohibition on the use of bank terminology (“bank”, “banking”, etc.) by non-banks

- **Québec Bill 141**
  - Bill 141 replaces or substantially amends more than a dozen laws governing the Québec financial sector
  - Allows firms to offer certain financial products and services by technological means to facilitate distribution
What to Watch for in 2019

- Greater enforcement
  - Cryptocurrency enforcement by securities regulators
  - Use of bank terminology by non-banks
- Open banking and national retail payments framework
- Further AML guidance and issuance of final AML regulations
- Launch of Financial Services Regulatory Authority (FSRA) in Ontario
Current Global Developments

- Regulatory sandboxes (UK, Australia, Singapore, etc.)
- Fintech charter (US)
- Open banking/ open APIs/ PSD2
- Regtech
- AI and the rise of the chatbots
Bank-Fintech Partnerships

- Business of banking/ permitted investments
- OSFI B-10
- Data, privacy and cybersecurity
  - compliance and strategic concerns
- AML
- Intellectual Property
- Structuring
- Contractual matters
- Integration