

# 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.)

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# 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

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# 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



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# 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

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# 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

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