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### **FEDERAL ACCESS TO INFORMATION AND PRIVACY LEGISLATION ANNOTATED**

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This release features updates to Chapter 1. Annotated Access to Information Act.

## Highlights

**Part I. Access to Information Legislation—Chapter 1—II. Part 1 Access to Government Records/Partie 1 Accès Aux Documents De L’Administration Fédérale— B. Exemptions/Exceptions—2. Third Party Information/Renseignements de Tiers—(2) Commentary—§ 1:335. Section 20(1)(b)—Confidential “financial, commercial, scientific or technical” information**—In *Preventous Collaborative Health v. Canada (Health)*, 2024 FC 1214, Justice Azmudeh addressed whether government audit and compliance reports should be considered confidential and the application of the confidential information exemption under paragraph 20(1)(b) of the Access to Information Act (ATIA). The test for applying this exemption requires the information to be financial, commercial, scientific, or technical; confidential; supplied to a government institution by a third party; and consistently treated as confidential by the third party. The party refusing disclosure must satisfy all elements of the test to establish the information at issue is exempt from disclosure.

**Part I. Access to Information Legislation—Chapter 1—II. Part 1 Access to Government Records/Partie 1 Accès Aux Documents De L’Administration Fédérale— B. Exemptions/Exceptions—2. Third Party Information/Renseignements de Tiers—(2) Commentary—§ 1:336. Section 20(1)(c)—“Result in a financial loss or gain”**—In *Clowater v. Canada (Industry)*, 2024 FC 916, Justice Elliott discusses the application of paragraph 20(1)(c) of the ATIA, which is a harm-based exemption. This exemption requires the party invoking it to demonstrate, on a balance of probabilities, a reasonable expectation of probable harm arising from the disclosure of information. Once it is established the information falls within the exemption, the head of the government institution must refuse to disclose the information at issue.