

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

THE LAW OF BANKING AND PAYMENT IN CANADA

Bradley Crawford, Q.C.

Release No. 2, May 2023

What's New in this Update:

This release adds new sections to Chapter 7, "Regulation of Payments Systems". The updates include sections on the scope of application, exemptions from, and requirements under the new retail payments regulatory framework.

THOMSON REUTERS CANADA®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

Highlights:

§ 7:54 Regulation of Payments Systems—Proposed Regulation of Retail Payment Services Providers—Retail Payments Regulatory Framework—The rapid pace of technological advancement and innovation has evolved retail payments in Canada, introducing innovative products provided by non-traditional payment service providers who are not subject to the same regulatory requirements as regulated financial entities. In an attempt to level the playing field and regulate entities by what they do rather than who they are, the federal government introduced *Retail Payment Activities Act* (the “Act”) and corresponding proposed draft *Retail Payment Activities Regulations* (the “Regulations”). The Act received Royal Assent in June 2021 and applies to any “retail payment activity” performed by a “payment service provider” (“PSP”) that has a place of business in Canada, and also applies to any retail payment activity performed for an “end user” in Canada by a PSP that does not have a place of business in Canada but directs retail payment activities at individuals or entities that are in Canada. The Bank of Canada (the “Bank”) will be supervising PSPs under the Act.

§ 17:13 Recurring Debit and Credit Transfers—System Description and Terms of Participation—Duties of Sponsoring Financial Institution—Relations with Payor—Electronic authorizations and commercially reasonable verification—After a public consultation earlier in 2022, amendments to Rule H1 came into effect on October 3, 2022. Amendments made as a result of a holistic review of the entire Rule H1 by a Pre-Authorized Debit Working Group of the CPA (operating as Payments Canada) were effective October 3, 2022. The definition of “commercially reasonable” has been revised in the 2022 Rule H1 to allow payees to use forms of verification tailored to the particular circumstances of their business and PAD arrangement — e.g., the circumstances of the PAD, their relationship of the payee with the payor, and the payee’s operational capabilities. A welcome amendment in the 2022 Rule H1 is the removal of the distinction between electronic and paper PAD agreements. Previously, Rule H1 required PAD agreements entered into electronically to additional verification requirements, including a minimum three-day lag before the first PAD. 2022 Rule H1 has removed the distinction between electronic and PAD agreements, such that agreements entered into in person and electronically are subject to the same requirements (i.e., there is no added procedure and onboarding time for electronic PAD agreements).

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages