

### Postponing the Inevitable or Second Thoughts?

#### A Week of Regulatory Delays

##### Delay in the Implementation of the CASL Private Right of Action

For the second time in recent days, the implementation of a key (and much hyped) regulatory change has been delayed. On June 7, 2017, the federal government announced it was suspending the implementation of CASL's private right of action provisions, which were due to come into force on July 1, 2017. As we have mentioned in previous Bulletins, the provisions create a private right of action for individuals alleging they have been affected by a CASL contravention, with the possibility of class actions a particular concern.



As remedies for contravention include compensation for losses incurred, and as well as specific amounts for specific CASL violations, a class action could have a devastating impact on a firm, as well as the officers and directors personally.

The federal government has attributed this delay to the wave of concerns raised by impacted businesses and the desire to achieve a balanced approach that both protects consumers while lessening the burden of unnecessary red tape and compliance costs on businesses. As the federal government will ask a parliamentary committee to review the legislation, timing on both the review and subsequent revisions and/or implementation is currently up in the air. While we will keep you apprised of any developments on this front, it is important to note that though a temporary reprieve has been granted from the private right of action, CASL is still in force and you must continue to comply with it or face possible CRTC enforcement action.

##### Extension to the Transition Period for New AML Client Identification Methods

With respect to the new AML client identification methods under the amended PCMLTFA Regulations, the transition period to adopt the new methods to ascertain client identity has just been extended from June 30, 2017 to January 23, 2018, as published in the June 14<sup>th</sup> [Canada Gazette](#). In early July 2017, FINTRAC will amend its guidance to reflect this extension and until that time, individuals can refer to Guideline 6 for the previous methods. The new identification methods can be found in [Methods to ascertain the identity of individual clients](#).

According to the accompanying Regulatory Impact Analysis Statement, the objective of this extension to the transition period is to allow entities one full year of implementation time from the date of FINTRAC's clarification guidance on the dual method approach to identification, published on January 23, 2017. This additional implementation time will allow firms to adapt internal tools, procedures and policies based on FINTRAC's further clarifications.

Based on this rationale, it seems unlikely that there will be any further changes to the substance of the new client identification provisions. At this stage, firms will have to decide whether they wish to bite the bullet and simply amend and implement the new client identification methods now (most of our clients have already initiated steps to comply with the new requirements), or wait until the new January 2018

date. For those that prefer to use certain of the older identification methods which are not accepted under the new provisions (such as the use of attestations), or those that are simply not ready, this extension will provide a brief reprieve. Either way, it is important to note that the transition period for all other amendments to the PCMLTFA Regulations has not been extended and must be implemented now.

Please let us know if you would like to discuss the implications of either of these regulatory delays/extensions, or would like assistance in the revision of your CASL or AML policies and procedures.

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