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Canada

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Government attitude and definition

Cryptocurrencies are not legal tender in Canada. Only coins issued by the Royal Canadian Mint and notes issued by the Bank of Canada are legal tender.[1] However, the Bank of Canada, the country's central bank, is experimenting with token-based digital currencies ("**CBDCs**"). Bank officials say that a CBDC "could be necessary to support the vibrancy of the digital economy by helping solve market failures and fostering competition and innovation in new digital payments markets".[2] The push to launch of a CBDC comes from two main factors: (i) a decline in the use of physical cash; and (ii) private currencies making serious inroads.[3] Although the Bank of Canada has not yet indicated when a CBDC could launch, the Bank's Deputy Governor said in February 2021 that "the [COVID-19] pandemic may bring us to a decision point sooner than we had anticipated".[4]

The Bank of Canada previously co-led an experimental project using distributed ledger technology to clear and settle payments (Project Jasper), leading to the release of four white papers.[5]

Cryptocurrency regulation

In Canada, cryptocurrencies are regulated primarily under securities laws as part of the securities regulators mandate to protect the public.

Sales regulation

Securities laws are enacted on a provincial and territorial basis rather than federally. The securities rules throughout the provinces and territories have largely been harmonised. The Canadian Securities Administrators (the "**CSA**"), an unofficial but influential organisation, represents all provincially and territorially mandated securities regulators in Canada.

Defining a "security"

The securities laws of a province or territory apply to people and entities: (a) distributing securities in that jurisdiction; or (b) from that jurisdiction. "Security" is broadly defined in Canadian securities legislation and covers various categories of transactions, including "an investment contract". The test for determining whether a transaction constitutes an investment contract, and therefore a security, for the purposes of Canadian securities laws was established by the Supreme Court of Canada, referring to U.S. jurisprudence. This test, the "**Investment Contract Test**", requires that in order for an instrument to be classified as a security, each of the following four elements must be satisfied:

(1) there must be an investment of money;
(2) with an intention or expectation of profit;

(3) in a common enterprise (being an enterprise "in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment, or of third parties"); and
(4) the success or failure of which is significantly affected by the efforts of those other than the investor.

Where the elements of the Investment Contract Test are not strictly satisfied, securities regulators in Canada consider the policy objectives and the purpose of the securities legislation (particularly protecting the investing public by requiring full and fair disclosure). The Supreme Court has stated that in determining whether a contract (or group of transactions) is an investment contract, substance, not form, is the governing factor.[6]

Regulator guidance

Securities regulators in Canada have issued many notices and statements regarding the potential application of securities laws to cryptocurrency offerings ("**CCOs**").

The CSA has said that a distribution not covered by the non-exclusive list of enumerated categories of securities in the *Securities Act* could still be subject to securities regulation if the offering otherwise falls within the policy objectives and purpose of securities legislation. In particular, many coin or token offerings, despite being marketed as software products, "should properly be considered securities … when the totality of the offering or arrangement is considered". In some circumstances, coins or tokens could also be derivatives subject to applicable legislative and regulatory requirements.[7]

The CSA has also said that platforms that facilitate the buying and selling or transferring of crypto-assets (collectively, "**CTPs**") trigger securities regulation, adopting the substance-over-form test in determining whether a crypto-asset that trades on a CTP is considered a security. If a CTP trades in crypto-assets that attach certain properties such as voting rights or rights to receive dividends, those assets will likely trigger securities regulation as they are already clearly defined as securities.[8] Additionally, if a CTP retains a purchaser's crypto-assets internally, such as through a virtual wallet (instead of making immediate delivery of an asset), those assets will likely be treated as securities.[9] The Ontario Securities Commission has recently initiated enforcement actions against several non-Canadian CTPs that accept Canadian customers without being registered in Ontario.[10]

Securities law requirements

In Canada, absent an available exemption: (a) a prospectus must be filed and approved with the relevant regulator before a person or entity can legally distribute securities; and (b) an individual or entity engaged in the business of distribution of securities, or advising others with respect to securities, is required to register with Canadian securities regulators.

A March 2021 notice from the CSA provided the following guidance on how cryptocurrency reporting issuers can meet their ongoing continuous disclosure obligations:[11]

(a) a description of the issuer's business, including its reliance on third-party service providers;
(b) risks to the issuer's business, specifically as they pertain to its crypto-assets;
(c) material changes to the issuer's business operations;
(d) the issuer's compliance with cryptocurrency accounting and auditing standards, policies, and related guidance, particularly as they pertain to cryptocurrency accounting, mining, valuation, and payments;
(e) the issuer's crypto-asset theft or loss prevention measures; and
(f) a statement disclosing whether the issuer utilises or relies on a crypto-asset trading platform to hold its crypto-assets.

If a material aspect of an issuer's business is investing in cryptocurrency or other crypto-assets, Canadian securities regulators may deem many of the investor protection considerations applicable to investment funds to be relevant to the issuer (such as requiring a qualified custodian), even if the issuer does not qualify as an investment fund.[12]

Legal status of CCOs in Canada

In order to determine whether a CCO constitutes a distribution of securities, Canadian securities regulators will perform a case-by-case, factual analysis, focusing on the substance and structure of the CCO rather than its form. Even if a CCO does not fall within the specific definition of a "security" provided by legislation, it may be found to involve the sale of securities if it otherwise triggers the policy objectives and purposes of securities legislation.

There are still ambiguities in cryptocurrency regulation; for example, with respect to crypto-assets such as non-fungible tokens and stablecoins.[13]

Applying the Investment Contract Test to CCOs

Statements from the CSA offer guidance regarding certain elements of a CCO that may increase the likelihood of the coins or tokens being found to be securities. While each offering of cryptocurrency should be analysed based on the particular circumstances of the offering and the features of the cryptocurrency, these statements, together with statements by U.S. securities regulators on the subject and decisions on the classification of CCOs such as the *Kik Interactive* decision,[14] offer insight into how the Investment Contract Test may be applied to CCOs.

Coins or tokens as securities

If a CCO is found to constitute a distribution of securities, it will trigger Canadian securities law requirements, including prospectus, registration, and continuous disclosure requirements, unless an exemption is available.[15] Individuals or businesses intending to rely on prospectus exemptions in connection with a CCO will need to satisfy the conditions for such exemption, including any applicable resale restrictions. Resale restrictions will be of particular concern if coins or tokens begin trading on cryptocurrency exchanges or otherwise in the secondary market following their initial sale. Issuers of a cryptocurrency that is a security will also need to comply with any applicable registration requirements (or registration exemption requirements), including dealer registration. Failure to comply with securities laws may result in regulatory or enforcement action by securities regulators against the parties behind the CCO, including fines and potential incarceration.[16]

Taxation

Background

The Canadian tax treatment of cryptocurrencies remains uncertain, with little legislative authority or administrative guidance. The Canadian federal tax authority (the Canada Revenue Agency, or "**CRA**") has expressed high-level views regarding the characterisation of certain payment tokens (*i.e.*, Bitcoin) and the potential income and sales tax implications of crypto mining and certain commercial transactions using tokens; however, these views are extremely limited.[17] Moreover, while the Canadian federal government has been making strides to address the void and clarify certain ambiguities, much work remains to be done in order to solidify the underlying tax regime.

Much of the analysis thus far concerning the potential tax treatment in Canada of cryptocurrency transactions is founded in an extrapolation of these administrative positions and thin legislative framework to scenarios upon which Canadian legislators and

tax administrators have not expressly considered. It is hoped that greater clarity will be provided in the near future that will not be limited to Bitcoin/payment instruments, but will also consider more recent developments in cryptocurrency technologies and their evolving distribution to, and usage by, the public, including initial coin offerings ("**ICOs**").[18]

Characterisation of cryptocurrency for income tax purposes

The CRA currently adopts the position that, despite its nomenclature, a cryptocurrency (specifically, a payment token such as Bitcoin) is not a "currency" for income tax purposes. Rather, such a cryptocurrency is akin to a commodity (albeit an "intangible"), the value of which will fluctuate based on external factors driven largely by investor sentiment and basic supply/demand. Based on this view, this type of cryptocurrency could potentially be analogised as the virtual equivalent of a precious metal such as gold or silver. Such a characterisation, if appropriate, could have significantly different tax implications under Canadian tax law as compared to "normal" cash (even foreign currency) transactions. Note that the CRA has generally been silent on its views concerning cryptocurrencies other than payment tokens (*i.e.*, Bitcoin). Accordingly, references below to "cryptocurrency" are generally restricted to payment tokens unless otherwise indicated.

(a) Acquisition of cryptocurrency

The threshold question is whether the initial acquisition of a cryptocurrency is a taxable event that potentially triggers a Canadian income tax liability to the person acquiring the cryptocurrency. The answer depends on the manner, purpose and circumstances in which the cryptocurrency is acquired.

The acquisition of cryptocurrency as a pure speculative investment, similar to physical gold or a publicly traded security, is generally not a taxable event to the person acquiring the cryptocurrency. However, the acquisition will establish the holder's "cost" in the cryptocurrency for Canadian tax purposes, which is relevant in the determination of the tax consequences that will be realised later when the cryptocurrency is eventually sold or otherwise exchanged.

This is to be contrasted with the acquisition of cryptocurrency as consideration for the provision of goods or services, or as compensation for some other right of payment. Such transactions are generally governed at this time by the CRA's position regarding "barter transactions", which is described in greater detail below under the heading "*Using cryptocurrencies in business transactions – Barter transaction*".

Where cryptocurrency has been acquired as a result of "mining" activities of a commercial nature, the current administrative position of the CRA suggests that the miner is subject to income tax at the time the cryptocurrency is earned. This is based on the concept that the mining activities are a service and that the mined cryptocurrency is received as compensation for those services. As with other services that are compensated with cryptocurrency, the CRA applies its position regarding barter transactions in determining the amount that is required to be included in income at the time the cryptocurrency is earned. This is an evolution of prior CRA administrative guidance regarding crypto mining, providing greater clarity regarding the quantum and timing of income recognition for miners.

(b) Determining a holder's tax cost in cryptocurrency

Once a cryptocurrency has been acquired, it will be important to determine its cost for Canadian tax purposes, which is a fundamental concept for determining the future income tax consequences on an eventual disposition of the cryptocurrency.

Where a cryptocurrency is purchased in exchange for Canadian currency, the cost of the cryptocurrency for income tax purposes will be equal to the amount of cash paid, plus any directly related acquisition expenses. If foreign currency is used, the holder will generally be required to convert the foreign currency into the Canadian-dollar equivalent at the applicable rate, pursuant to Canadian tax rules.

Cryptocurrencies can obviously be acquired by several alternative means, including commercial business transactions and other forms of "barter" exchanges. The particular facts surrounding any such acquisition could have meaningful distinctions regarding the determination of the holder's tax cost upon the acquisition of the cryptocurrency (see below, under the heading "*Using cryptocurrencies in business transactions – Barter transaction*").

(c) Tax on disposition of cryptocurrency

A person will realise taxable income (or loss) on an eventual disposition of a cryptocurrency. This includes a sale of the cryptocurrency for cash and the use of the cryptocurrency to pay for goods or services, or as consideration under other contractual rights/obligations (*i.e.*, a "barter transaction", described below).

If the cryptocurrency has a value at the time of its disposition in excess of its tax cost, it will be critical to determine whether the holder should report such excess as being on capital account (*i.e.*, a capital gain) or whether the proceeds should be reported as business income. This is a material distinction for tax purposes.

Generally, the buying and selling of cryptocurrencies can be regarded as being on capital account unless it is carried out in the context of a business of buying and selling such cryptocurrencies, or such buying and selling otherwise amounts to an "adventure or concern in the nature of trade". This is a factual, case-by-case determination requiring a detailed review of the holder's dealings with cryptocurrencies.

If a person acquires cryptocurrency as payment for goods or services in the normal course of the person's business (even if the person is not, *per se*, in the business of buying and selling cryptocurrencies as part of a speculative investment business), there is a risk that any appreciation realised when the person disposes of the cryptocurrency will be fully taxable as business income. Again, this issue is fact-dependent, should be reviewed on a case-by-case basis, and is described in greater detail below.

Using cryptocurrencies in business transactions

(a) Barter transaction

A person can accept a commodity in exchange for the provision of a good or service or as consideration for some other form of right of payment, with such transaction being subject to tax treatment under Canada's "barter transaction" tax rules.

In a barter transaction using cryptocurrency, the following must be considered by the person (referred to below as the "provider") that accepts a cryptocurrency as consideration in exchange for a good, service or other right:

- The provider will generally realise business income for Canadian income tax purposes equal to the fair market value of the goods, services or other rights provided (the "**Business Income Inclusion**"). For this purpose (but not for other purposes – see, *e.g.*, the sales tax implications described below), the value of the cryptocurrency at the time of the exchange is generally not the determining factor.
- The provider will generally acquire the cryptocurrency with a cost for Canadian income tax purposes equal to the Business Income Inclusion.

- The provider is now the owner of the cryptocurrency and must (eventually) do something with it, such as sell it to an investor or use it to purchase goods/services/rights in connection with its own business. Any gain or loss realised by the provider on an eventual disposition of the cryptocurrency (*i.e.*, the difference between the provider's cost in the cryptocurrency, and the amount received on the eventual disposition) will be taxable at such time to the provider. The issue then becomes whether such gain/loss is treated as being on full income account or on account of capital (the income tax treatment being materially different as between the two) (see the discussion above under the heading "*Characterisation of cryptocurrency for income tax purposes – Determining a holder's tax cost in cryptocurrency*"). Managing the provider's exposure to fluctuations in the value of the cryptocurrency post-acquisition will be a material and practical concern.

Another type of increasingly prevalent transaction (which may or may not be properly characterised as a "business transaction") is the acquisition by a person of one cryptocurrency ("**crypto #1**") in exchange for a different cryptocurrency ("**crypto #2**"). Such a transaction will also be considered a barter transaction involving the exchange of one commodity for another commodity. The person will generally be considered to have acquired crypto #1 with a tax cost equal to the fair market value of crypto #2 given up in exchange, computed as of the time of the barter transaction. The additional complication in this scenario is that the person acquiring crypto #1 will also be considered to have disposed of crypto #2, and will have to report any income/gain in respect of crypto #2 for Canadian income tax purposes (the person must therefore know his/her tax cost in crypto #2, which depends on the manner in which crypto #2 was originally acquired by such person).

(b) Sales tax implications

Canada imposes a federal sales tax (the goods and services tax, or "**GST**") on the supply of many goods and services, subject to detailed exemptions. Most Canadian provinces and territories also levy sales tax, which is often "harmonised" with the federal sales tax to effectively create one blended federal/provincial (or territorial) rate. Persons who are required to charge and collect federal GST (or harmonised sales tax) in respect of a business activity can generally claim a rebate in respect of such tax that the person directly incurs in the course of carrying on such business (generally referred to as an input tax credit, or "**ITC**"). The ITC mechanism is generally intended to mitigate the duplication of sales tax throughout a supply chain, and is designed to ensure that the cost of sales tax is ultimately borne solely by the end consumer of any particular good or service.

As with any provision of goods or services subject to federal and provincial/territorial sales taxes, a provider of goods/services that accepts cryptocurrency *in lieu* of government-issued currency must charge, collect and remit the appropriate sales tax. This may prove easier said than done in the context of cryptocurrency.

In this respect, the provider must be careful not to use the Business Income Inclusion amount (which is relevant under the Canadian tax authorities' current administrative policy to determine the provider's income tax associated with the sale) in determining the applicable amount of sales tax. For federal GST purposes, the Canadian tax authorities require that the provider charge, collect and remit GST based on the value of the cryptocurrency at the time of the sale. Presumably, the purchaser would be entitled to claim an ITC (if available) in respect of the full GST charged, if incurred in the course of a business activity.

While this may sound manageable at a high level, a few practical issues arise for the provider:

- How does the provider determine the value of the cryptocurrency at the precise moment of sale, particularly when cryptocurrencies are traded in non-traditional marketplaces and the value can swing wildly from day to day (possibly minute by minute)? What record-keeping is required by the service provider to justify the amount upon which it charges sales tax?
- How does the provider charge, collect and remit the sales tax in a transaction entirely handled in cryptocurrency, namely where the sales tax portion is also paid in cryptocurrency? The provider must remit to the Canadian tax authorities in Canadian currency (not cryptocurrency), meaning that the provider will be forced to either remit an equivalent amount of cash from other sources, or sell a sufficient amount of the cryptocurrency to generate the cash to satisfy the remittance. Given the volatility of most cryptocurrencies, an inherent risk is borne by the provider in collecting the sales tax in cryptocurrency.

Corporate directors are personally liable for any deficiencies in collecting or remitting sales tax. It is therefore critical for the provider of goods/services to take reasonable measures to ensure full compliance and mitigate any associated risk.

Another sales tax issue associated with transactions involving cryptocurrencies is whether the person disposing of the cryptocurrency (*e.g.*, the person using the cryptocurrency to purchase goods or services or trading one cryptocurrency for another) is required to charge and collect sales tax on the value of the cryptocurrency. In this respect, if the disposition of a cryptocurrency is a barter transaction akin to a disposition of a commodity, should such disposition be treated as a taxable supply of the cryptocurrency much in the same way as a commodity? If that were the case, compliance obligations and costs associated with routine cryptocurrency transactions could become exceedingly complex and beyond the reasonable abilities of many holders/users of cryptocurrency. In May 2019, the Canadian Department of Finance released draft legislation aimed at simplifying the federal sales tax on certain transactions involving "virtual payment instruments" ("**VPIs**"). In this respect, a VPI generally includes payment tokens such as Bitcoin, but expressly excludes tokens that operate in a manner similar to gift cards or that have functionality on a gaming or affinity/rewards programme platform. Pursuant to these proposals, transactions involving VPIs would generally be exempt from federal sales tax as a "financial instrument". These proposals, which have yet to be passed into law, demonstrate a willingness of the Canadian federal government to tackle the difficult tax and compliance issues associated with cryptocurrencies, albeit in only a fairly narrow and targeted manner at this time.

Money transmission laws and anti-money laundering requirements

Canada was the first country to approve regulation of cryptocurrencies in the context of anti-money laundering ("**AML**"). The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("**PCMLTFA**") includes virtual currencies through a framework for regulating entities "dealing in virtual currencies", treating them as money services businesses ("**MSBs**"). As MSBs, those dealing in digital currencies are subject to the same record-keeping, verification procedures, suspicious transaction reporting and registration requirements as MSBs dealing in fiat currencies.

In recent years, Canada has introduced a series of AML compliance measures that apply to MSBs, including MSBs dealing in virtual currencies. The definition of virtual currencies

in the PCMLTFA includes tokens that can be used either for payment purposes (such as Bitcoin or stablecoin) or for investment purposes (such as security tokens). Dealers that qualify as MSBs must register with the Financial Transactions and Reports Analysis Centre of Canada ("**FINTRAC**") and implement a complete AML compliance plan that is independently assessed.

Financial entities and MSBs are required to keep a record of electronic funds transfers executed cross-border and to include virtual currency transactions as well, meaning crypto-asset dealers that participate in cross-border transactions are subject to enhanced due diligence measures set out by the Act.

In July 2021, the requirement that MSBs report suspicious money transactions to FINTRAC and complete know-your-client ("**KYC**") verification when exchanging or transferring money was extended to virtual currency transactions. To comply with KYC obligations, MSBs and other reporting entities must: determine when a business relationship has formed and keep records of all business relationships; determine whether a client is a politically exposed person; verify beneficial ownership; and regularly monitor KYC information. MSBs are also required to maintain and submit transaction records to FINTRAC for Large VC Transactions: transfers of virtual currencies that exceed C$10,000 in a single transaction and transfers of virtual currency exceeding C$10,000 over multiple transactions in a 24-hour period.[19]

Promotion and testing

The CSA Regulatory Sandbox (the "**Sandbox**") was established to encourage the development of innovative products and services. The Sandbox allows companies engaged in cryptocurrency matters to register or seek exemptive relief (generally on a time-limited basis) in order to test products and services in the Canadian market. SN 21-327 expanded the application of the Sandbox to relevant crypto-asset trading platforms, including cryptocurrency trading platforms.

Once a company becomes a member of the Sandbox, it becomes subject to CSA surveillance and compliance reviews to ensure its continued eligibility for membership. While the majority of current Sandbox members are financial technology companies – including cryptocurrency issuers and trading platforms – the Sandbox is open to all companies with innovative business models.[20]

Ownership and licensing requirements

As noted above in "*Sales regulation – Securities law requirements*", an individual or entity engaged in the business of distribution of securities, or advising others with respect to securities, may be required to register with Canadian securities regulators. Similarly, investment fund managers are required to be registered.

On December 11, 2017, IIROC, the organisation that governs persons and companies registered under securities law, issued a notice to its members regarding margin requirements for cryptocurrency futures contracts that trade on commodity futures exchanges.[21] According to the notice, members are required to market and margin crypto futures contracts daily at the greatest of: (a) 50% of market value of the contracts; (b) the margin required by the futures exchange on which the contracts are entered into; (c) the margin required by the futures exchange's clearing corporation; and (d) the margin required by the Dealer Member's clearing broker.

As noted above in "*Sales regulation – Regulator guidance*", SN 21-327 and the framework in SN 21-329 subject CTPs to various existing securities rules. In particular, according to SN 21-329, the CSA anticipates that CTPs classified as Marketplace Platforms will eventually be subject to IIROC oversight.[22]

Mining

Because mining converts electrical energy (typically drawn from the power grid or a private power source) into waste heat in proportion to the difficulty of the underlying mathematical problem, it can result in large quantities of power being used for what may be perceived as a socially undesirable purpose. Furthermore, because mining enables the operation of a variety of cryptocurrencies (*e.g.*, Bitcoin), it functions as a convenient point for regulatory intervention. For those reasons, many official bodies have started to explore, or in some cases have implemented, laws or policies that contemplate cryptocurrency mining. In Canada, governmental regulators appear to have adopted a largely "hands-off" approach for the time being.

However, Hydro-Québec (a Québec Crown entity) recently announced the implementation of restrictions on energy allocation to 300 megawatts for users involved in cryptocurrency mining, the effect of which may be to discourage such activities in that province. We expect to see further intervention by government actors, as the quantity of power used by cryptocurrency mining operations, along with the use of various cryptocurrencies to facilitate illegal activities, continues to grow. To counteract the deleterious effects of such regulations on their operations, we additionally expect to see Bitcoin miners move to private power sources as time goes on.

Border restrictions and declaration

There are no border restrictions or declaration requirements as such.

However, as discussed above, dealers in crypto-assets that qualify as MSBs are now subject to the record-keeping requirements under the PCMLTFA, which requires these dealers to keep a record of the transfer with the personal information of both parties to the transaction, as well as being required to take reasonable measures to ensure that any transfer received includes such information.

Reporting requirements

See "*Money transmission laws and anti-money laundering requirements*", above. MSBs are required to send a large cash transaction report to FINTRAC upon receipt of an amount of C$10,000 or more in cash in the course of a single transaction, or upon receipt of two or more cash amounts of less than C$10,000 each that total C$10,000 or more if the transactions were made by the same individual or entity within 24 hours of each other.

Canadian resident taxpayers are required to file Form T1135 to the CRA if the total cost of their specified foreign property, including cryptocurrency held outside of Canada, exceeds C$100,000 at any point during the tax year.[23]

Estate planning and testamentary succession

Canada levies no separate estate tax, unlike many countries. However, a deceased is deemed to dispose of their property on death for its fair market value, which can result in income taxes being payable by the estate. Although it is far from settled, the CRA currently

takes the view that cryptocurrencies are generally commodities rather than currency, and that trading in cryptocurrencies will usually (with some possible exceptions) be regarded as being on capital account. In such circumstances, the estate will have to pay tax on any capital gains accrued as of the date of death. For a more detailed discussion of tax issues, see "*Taxation*", above.

In terms of estate planning, given the anonymous, decentralised nature of cryptocurrencies held on a blockchain, it will be imperative to include instructions on where to locate a copy of the private key related to the cryptocurrency. It would be unwise to include a private key in the will itself, since wills generally become public documents following probate.

* * *

Endnotes

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11. *SN 51-363*, at page 5.
12. *SN 51-363*, at page 6.
13. Ryan Clements, "Emerging Canadian Crypto-Asset Jurisdictional Uncertainties and Regulatory Gaps" (2021) 37:1 BFLR.
14. U.S. Securities and Exchange Commission, "SEC Obtains Final Judgment Against Kik Interactive For Unregistered Offering" (October 21, 2020), online: Press Release 2020-262 https://www.sec.gov/news/press-release/2020-262.
15. *Securities Act* (British Columbia) [BCSA], at s 61; *Securities Act* (Alberta) [ASA], at s 110(1); *Securities Act* (Ontario) [OSA], at s 53(1).
16. *BCSA*, at s 155; *ASA*, at s 194; *OSA*, at s 122.
17. Certain provincial tax authorities, namely Revenu Québec, have also published their own administrative positions on certain narrow issues (*i.e.*, provincial sales tax) dealing with cryptocurrencies.
18. The taxation of ICOs is beyond the scope of this chapter, due to: (i) the significant differences in potential ICO structures and legal characterisation of the underlying transactions; (ii) the speed at which ICO structure and cryptocurrency "technology"

and forms of offerings are evolving; and (iii) the lack of meaningful legislative, judicial or administrative guidance from a Canadian tax perspective. However, the fundamental "building block" tax concepts discussed in this chapter likely form the basis of the analysis underpinning certain of the discrete transactions and legal relationships created in many current ICO structures.

19. https://www.bennettjones.com/Blogs-Section/Changes-to-AML-and-Virtual-Currency-Regulations-for-Reporting-Entities-and-Money-Service-Businesses.
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* * *

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