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Blockchain & Cryptocurrency Regulation 2026: Canada

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Government attitude and definition

As in many countries, the regulation of cryptocurrencies in Canada is divided among various levels of government and administrative agencies, depending on the nature of the activity undertaken. Despite these jurisdictional constraints, Canadian regulators generally continue to take a receptive and innovative approach to regulation, including, for example, in approving crypto-based exchange-traded funds ("**ETFs**") and developing a pragmatic regulatory oversight and compliance framework under provincial securities regulation. The Canadian market also appears to be moving to a new stage of maturity as a robust regulatory framework and enforcement environment and reduced market volatility appear to be driving renewed institutional interest in the asset class in Canada.

Cryptocurrency regulation

Provincial securities and derivatives regulation provides the main regulatory framework for the regulation of digital assets in Canada. As discussed below under "*Money transmission laws and anti-money laundering requirements*", jurisdiction is also exercised by the federal government through federal anti-money laundering legislation, which requires registration of certain virtual currency exchange or transfer services as money services businesses ("**MSBs**").

Securities regulation in Canada generally governs the distribution and trading of both securities and derivatives. These activities are primarily regulated through the imposition of prospectus requirements, dealer, adviser and investment fund manager registration requirements, and certain requirements imposed upon the operation of exchanges, alternative trading facilities or other marketplaces that facilitate trading activities, as well as related reporting and disclosure requirements.

The Canadian Securities Administrators (the "**CSA**") is an umbrella organisation of Canada's provincial and territorial securities regulators. While there are no specific rules or regulations for digital assets, the CSA has published guidance in the form of a number of staff notices with respect to virtual currencies with a view to addressing rapidly evolving developments in retail crypto markets and adapting the existing regulatory framework to digital assets. The CSA and the investment industry self-regulatory organisation known as

the Canadian Industry Regulatory Organization ("**CIRO**") set out their framework and proposed approach to regulating this asset class in Staff Notice 21-329 – *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements* ("**Staff Notice 21-329**").[1] Staff Notice 21-329 provided an actionable roadmap, building on earlier guidance, including the 2019 Consultation Paper 21-402 – *Proposed Framework for Crypto-Asset Trading Platforms* (the "**Consultation Paper**"),[2] Staff Notice 46-307 – *Cryptocurrency Offerings*,[3] Staff Notice 46-308 – *Securities Law Implications for Offerings of Tokens*,[4] Staff Notice 21-327 – *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* ("**Staff Notice 21-327**"),[5] and Staff Notice 51-363 – *Observations on Disclosure by Crypto Assets Reporting Issuers*.[6] Virtual currencies may be subject to Canadian provincial securities and derivatives laws to the extent that a virtual currency is considered a security or a derivative for the purposes of those laws, which define a security to include, among other things, an investment contract. The seminal case in Canada for determining whether an investment contract exists is *Pacific Coast Coin Exchange v. Ontario (Securities Commission)*,[7] where the Supreme Court of Canada identified the four central attributes of an investment contract, namely: (a) an investment of money; (b) in a common enterprise; (c) with the expectation of profit; and (d) where this profit is to be derived in significant measure from the efforts of others.

The application of the Pacific Coin test to virtual currencies is not always straightforward, however. Industry participants have taken the position that proper utility tokens, which have a specific function or utility beyond the mere expectation of profit (such as providing their holders with the ability to acquire products or services), should not be considered securities. This position appears to have generally been accepted by the CSA and CIRO. The CSA and CIRO have also acknowledged in the Consultation Paper that it is widely accepted that some of the well-established virtual currency assets that function as a form of payment or a means of exchange on a decentralised network, such as BTC, are not currently, in and of themselves, securities or derivatives and have features that are analogous to commodities such as currencies and precious metals.

In assessing whether a particular virtual currency will be considered a security subject to Canadian securities laws, the CSA has generally applied a very broad and multi-factor approach to determining whether an investment contract exists and focusing on the substance of the virtual currency over its form.

A particular virtual currency that meets the criteria of the Pacific Coin test or has certain of the characteristics described in the CSA guidance may be properly considered an investment contract and therefore a security, subject to Canadian securities laws. A similarly broad approach is generally expected to apply when reviewing non-fungible tokens ("**NFTs**"), including whether there is a capital-raising and/or investment element, how the number of tokens issued correlates to the original purpose, and whether the tokens are expected to trade on secondary markets. More recently, the CSA has expanded its regulatory approach to cover arrangements that are securities or derivatives because they are "crypto contracts" and, as discussed below, the consequences of characterisation as a security or a derivative include distribution-related (prospectus) requirements, as well as requirements to be registered as a dealer and/or marketplace.

The guidance set out in Staff Notice 21-327 further outlines the circumstances in which the CSA will consider "any entity that facilitates transactions relating to cryptoassets" to be subject to securities legislation requirements relating to platform recognition and dealer registration. In particular, the CSA has cautioned that securities legislation may also apply to platforms that facilitate the buying and selling of cryptoassets, including cryptoassets that are commodities, because the user's contractual right to the cryptoasset may itself constitute a derivative. This will generally be the case where the platform is determined to be merely providing users with a contractual right or claim to an underlying cryptoasset, rather than immediately delivering the cryptoasset.

While regulators will consider all the terms of the relevant contract or instrument, the CSA has taken the view that if there is no immediate delivery of the cryptoasset, securities legislation will generally apply. For these purposes, immediate delivery will be considered to have occurred if: (a) there is immediate

transfer of ownership, possession and control of the cryptoasset and the user is free to use, or otherwise deal with, the cryptoasset without any further involvement with, or reliance on, the platform or its affiliates, and the platform or any affiliate retaining any security interest or any other legal right to the cryptoasset; and (b) following the immediate delivery, the user is not exposed to insolvency risk (credit risk), fraud risk, performance risk or proficiency risk on the part of the platform.

Other factors to be considered include: (a) the contractual arrangements between the platform and the user; (b) whether there is immediate settlement of the transaction; (c) whether there is margin and leverage trading; (d) typical commercial practice with regard to immediate delivery; (e) whether there is immediate transfer to a user's wallet; and (f) who has ownership, possession or control over the transferred cryptoasset.

Sales regulation

To the extent that a virtual currency is considered a security or a derivative, the issuance or distribution to the public is subject to prospectus, qualification or similar requirements, or must be effected pursuant to applicable exemptions from prospectus or derivatives qualification requirements.

There are a number of options available for distributing securities in Canada on a prospectus-exempt basis, generally referred to as "exempt distributions" or "private placements". Most of these exemptions are harmonised under National Instrument 45-106 *Prospectus Exemptions*. The CSA has indicated that persons wishing to distribute virtual currencies may do so pursuant to these exemptions.[8]

Taxation

Taxation of virtual currencies

For Canadian tax purposes, the Canada Revenue Agency (the "**CRA**") has taken the position that virtual currencies constitute a commodity rather than a currency.[9] Gains or losses resulting from the trade of virtual currencies are therefore taxable either as income or capital for the taxpayer.[10] The treatment of a transaction as being taxable as income or capital is a question of fact and is determined by the CRA through an examination of the nature of the relevant transaction.[11] The CRA has taken the position that transferring, depositing or staking virtual currencies on centralised exchanges or lending platforms can trigger a taxable event. This is because the CRA views certain transfers as a change in ownership of the virtual currency.[12] However, the CRA recently clarified that whether a change of ownership occurs will depend on the nature of the legal relationship between the user and the platform, and its treatment under foreign law if the platform is based in a foreign jurisdiction.[13] The CRA further clarified that, in its view, as CSA-compliant platforms generally do not acquire beneficial ownership of deposited or staked virtual currencies, there should not be a disposition by taxpayers.[14]

Where a transaction is considered on capital account, the taxpayer will be required to include, in computing its income for the taxation year of disposition, one-half of the amount of any capital gain (a taxable capital gain) realised in that year. Subject to and in accordance with the provisions of the *Income Tax Act* (the "**ITA**"),[15] the taxpayer will generally be required to deduct one-half of the amount of any capital loss (an allowable capital loss) realised in the taxation year of disposition against taxable capital gains realised in the same taxation year. Allowable capital losses in excess of taxable capital gains for the taxation year of disposition generally may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year against net taxable capital gains realised in those taxation years, to the extent and under the circumstances specified in the ITA. Where a transaction is considered on income account, the resulting gains are taxed as ordinary income and the losses are generally deductible.

The CRA published a tax tip stating that taxpayers should keep proper financial records of all of their cryptocurrency transactions, including when they purchase, dispose, or mine cryptocurrency.[16]

Additionally, the 2024 Federal Budget released on April 16, 2024 also proposes to implement the framework of the Organisation for Economic Co-Operation and Development (the "**OECD**") for the automatic exchange of tax information relating to cryptoasset transactions, referred to as the Crypto-Asset Reporting Framework ("**CARF**"), in Canada by 2026. For tax purposes, the CARF provides for the automatic exchange between tax authorities worldwide of tax-relevant information collected from Reporting Crypto-Asset Service Providers ("**RCASPs**") on cryptoasset transactions.

Virtual currency mining and staking

The tax treatment of virtual currency mining or staking turns on whether the activity is undertaken for profit or as a personal endeavour.[17] A personal endeavour is an activity undertaken for pleasure and does not constitute a source of income for tax purposes, unless it is conducted in a sufficiently commercial and business-like way. However, the mining of virtual currencies is likely to be considered a business activity by the CRA given the complexity of the activity.

While, as an activity, the staking of virtual currency is typically less active than mining, the CRA recently clarified that user rewards received in a custodial staking arrangement will generally be considered to be derived from a business activity.[18]

The mining or staking of virtual currencies would therefore require the taxpayer to compute and report business income in compliance with the ITA, including the rules with respect to inventory.[19] The CRA has specifically stated that Bitcoin received by a miner to validate transactions is consideration for services rendered by the miner.[20] Where a taxpayer is in the business of Bitcoin mining, the Bitcoin received must be included in the taxpayer's income at the time it is earned. The CRA has confirmed that the miner must include as income the value of the services rendered or the value of the Bitcoin received, whichever is more readily valued. The CRA generally expects the value of the Bitcoin received to be more readily valued and, accordingly, this is the amount to be included as income.[21]

Paying with virtual currencies

Where a virtual currency is used as payment for salaries or wages, the amount must generally be included in the employee's income computed in Canadian dollars.[22] As a result of the qualification of virtual currencies as a commodity, the use of virtual currencies to purchase goods or services is subject to the rules applicable to barter transactions. Therefore, where virtual currencies are used to purchase goods or services, the value in Canadian dollars of the goods or services purchased must be included in the seller's income for tax purposes, rather than the value of the virtual currencies.[23] However, the CRA has stated that the fair market value of the virtual currency at the time the supply is made must be used to determine the goods and services tax ("**GST**") and harmonised sales tax ("**HST**") payable on the purchase of a taxable supply of a good or service.[24]

Specified foreign property

The CRA has stated that virtual currencies situated, deposited or held outside Canada fall within the definition of specified foreign property, as defined in the ITA.[25] As such, Canadian residents must report to the CRA when the total costs of virtual currencies situated, deposited or held outside Canada exceed C$100,000 at any time in the year by filing Form T1135 with their income tax return for the year.[26] The definition of specified foreign property under the ITA excludes property used or held exclusively in the course of carrying on an active business. The CRA clarified that virtual currencies used or held in an adventure or trade are not considered held "in the course of carrying on an active business" for purposes of this exception and therefore not exempt.[27]

In a recent roundtable,[28] the CRA provided some clarification on the situs of virtual currencies, stating that if held through an intermediary, the characterisation of the relationship between the intermediary and the taxpayer may be necessary to determine whether the virtual currency falls within the definition of specified foreign property. In Canada, intermediaries that offer virtual currency services (crypto-trading platforms) to Canadian clients must comply with the CSA's guidelines. As such, the CRA has clarified that virtual currency held through crypto-trading platforms for the benefit of Canadian clients will generally not be considered to be situated, deposited or held outside Canada if the crypto-trading platform is resident in Canada and complies with the CSA's regulations.

Collection of GST and HST on virtual currency transactions

The exchange of cryptocurrency is no longer considered a sale of an asset, but rather a sale of a financial instrument for purposes of GST/HST. Section 123(1) of the *Excise Tax Act* (Canada) (the "**ETA**")[29] includes "virtual payment instruments" to the definition of "financial instruments", rendering any sale of or transaction involving virtual currencies as a form of payment exempt from GST/HST collection. For example, the CRA has confirmed that sales of cryptocurrencies via automated teller machines ("**ATMs**") should not be subject to GST/HST.[30]

The definition of "commercial service" in the ETA excludes cryptoasset mining. As such, cryptoasset mining is not considered a supply, so GST/HST does not apply to hashpower services and input tax credits are not available to the person providing the service.

Furthermore, the concept of mining activity provided under Section 188.2 of the ETA expands who is considered involved in a mining activity in order to not give rise to input tax credits. For instance, the allowance of computing resources from one person to another for the purpose of mining will be considered a "mining activity". However, in a situation where the provider of the mining activity is a particular person and the recipient of such activity is known, subsection 188.2(5) of the ETA may provide an exception and supplies of such activities would be taxable supplies and expenses. The CRA recently confirmed that this exception is fact specific and depends on the type of arrangement between the provider of the mining activity and the recipient.[31]

Money transmission laws and anti-money laundering requirements

Under the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) (the "**PCMLTFA**"), any entity that is engaged in the business of foreign exchange dealing, remitting or transmitting funds, issuing or redeeming money orders or similar instruments, dealing in virtual currency or providing crowdfunding platform services, must be registered in Canada as an MSB. Under guidance issued by the Financial Transactions and Reports Analysis Centre of Canada ("**FINTRAC**"),[32] any entity that holds a permit, licence or registration related to any of these services, advertises by any means that it is engaged in providing any of these services, or reports income from any of these services as income from a separate business, must also register as an MSB. Any entity that does not have a place of business in Canada (which includes having employees, agents or branches in Canada), and directs any of the above services at, and provides these services to, persons or entities in Canada, must also be registered as a foreign money services business ("**FMSB**"). Both domestic and foreign MSBs must implement a compliance programme to implement know-your-customer ("**KYC**"), reporting, record-keeping, travel rule and related compliance requirements under the PCMLTFA.

The activities that are considered "dealing in" virtual currency are not specifically defined in the legislation. However, FINTRAC has clarified that these activities include virtual currency exchange services and virtual currency transfer services, with a view to regulating entities such as virtual currency exchanges, and not individuals or businesses that use virtual currency for buying and selling goods and services. A "virtual currency exchange transaction" is defined in this guidance as an exchange, at the

request of another person or entity, of virtual currency for funds, funds for virtual currency or one virtual currency for another. "Virtual currency transfer services" include transferring virtual currency at the request of a client or receiving a transfer of virtual currency for remittance to a beneficiary. An entity registered as the equivalent of an MSB and/or performing any of the covered services may also be required to be registered as an FMSB in Canada.

Under FINTRAC guidance, a business is considered to be "directing services" at persons or entities in Canada if: (a) the business's marketing or advertising is directed at persons or entities located in Canada (e.g., in Canadian newspapers and on websites aimed at clients in Canada or through emails to persons in Canada promoting its virtual currency services); (b) the business operates a ".ca" domain name; or (c) the business is listed in a Canadian business directory.

However, FINTRAC guidance also provides that even if none of the above factual elements apply, a business may still be directing services at persons or entities in Canada, and a combination of additional criteria should also be considered in order to make this determination, including: (a) describing services as being offered in Canada; (b) offering products or services in Canadian dollars; (c) making customer service support available in Canada; (d) seeking feedback from clients in Canada; and (e) having another business in Canada promote its services to clients in Canada.

These criteria are not exhaustive and apply regardless of whether a Canadian client to whom the services are directed is an individual or an institutional client. FINTRAC guidance provides that a client is deemed to be "in Canada" if they have a connection or residential ties with Canada (such as having an address in Canada), the document or information used to verify the client's identity is issued by a Canadian province or territory or by the federal government, or their banking, credit card or payment processing service is based in Canada. Failure to comply with applicable requirements of the PCMLTFA may result in criminal charges for non-compliance offences or administrative monetary penalties.

Canadian federal law also includes other laws and regulations governing money laundering, terrorist financing and the use/handing of proceeds of crime, and various trade sanction and similar restrictions. These rules may provide additional monitoring and reporting obligations and prohibitions, including offences such as knowingly collecting or providing funds to terrorist organisations or associated individuals, or otherwise dealing with sanctioned governments, entities or individuals. The rules generally apply to persons in Canada and Canadians outside of Canada. In a somewhat unprecedented development, FINTRAC announced on May 9, 2024 that it had imposed an administrative monetary penalty of C$6,002,000 on Binance Holdings Limited for failing to register with FINTRAC as an FMSB and for failuring to report large virtual currency transactions of C$10,000 or more. A few months later on September 19, 2024, FINTRAC imposed an administrative monetary penalty of C$33,000 on CoinSeason Capital Inc., a Canadian digital currency exchange platform, for failing to renew its registration as an MSB.

Québec is the only provincial jurisdiction to have implemented similar legislation, the *Money-Services Businesses Act* (Québec) (the "**QMSBA**"), requiring MSB registration. The QMSBA is administered by Revenu Québec, the taxation authority in that province. Unlike the PCMLTFA, the QMSBA does not distinguish between foreign and domestic MSBs. In British Columbia, the newly enacted *Money Services Businesses Act* received Royal Assent on May 11, 2023. Once this legislation is in force, MSBs subject to the jurisdiction of the BC Financial Services Authority (the "**BCFSA**") will similarly be required to register with the BCFSA.

Promotion and testing

The CSA and CIRO have addressed promotional activities in Joint Staff Notice 21-330 – *Guidance for Crypto-Trading Platforms; Requirements relating to Advertising, Marketing and Social Media Use* issued on September 23, 2021, including requirements, best practices and examples with respect to advertising, marketing, social media activities, fee disclosure and other compliance matters for crypto-trading platforms under Canadian securities legislation.

The CSA has also established a regulatory sandbox initiative to support fintech businesses seeking to offer innovative products, services and applications in Canada. It allows firms to register and/or obtain exemptive relief from securities laws requirements under what is stated to be "*a faster and more flexible process than through a standard application, in order to test their products, services and applications throughout the Canadian market on a time limited basis*". Certain provincial securities regulators have established their own specifically tailored programmes, such as Ontario Securities Commission's Launchpad, *Autorité des marchés financiers*' Fintech group and fintech lab, British Columbia Securities Commission's Fintech Advisory Forum and Advertising Standards Canada's InnoFinTeam.

Ownership and licensing requirements

Dealer registration

Any person or company engaging in, or holding themselves out as engaging in, the business of trading or advising in securities, and, in certain Canadian jurisdictions, in derivatives, must register as a dealer or as an adviser or, where available, conduct these activities pursuant to an exemption from the dealer or adviser registration requirement under the applicable securities or derivatives laws. A person or entity that directs the business, operations and affairs of an "investment fund" (as defined under applicable laws) must comply with the investment fund manager registration requirement or obtain an exemption from that requirement.

In Canada, the requirement to register as a dealer or an adviser is triggered where a person or company conducts a trading or advising activity with respect to securities or derivatives for a business purpose. The mere holding out, directly or indirectly, as being willing to engage in the business of trading in securities may trigger the requirement to register as a dealer. However, a number of factors must be considered when determining whether registration is required, including whether a business engages in activities similar to a registrant, intermediates or expects to be remunerated or compensated.

In the context of virtual currency distributions, the CSA has noted the following additional factors in determining whether a person or entity may be considered to be trading in securities for a business purpose, namely: (a) soliciting of a broad range of investors, including retail investors; (b) using the internet to reach a large number of potential investors; (c) attending public events to actively advertise the sale of a virtual currency; and (d) raising a significant amount of capital from a large number of investors.

Following the regulatory approach outlined in Staff Notice 21-329, a number of domestic platforms have been granted "restricted dealer" registration while other domestic and global platforms continue to engage with CSA members in the extensive process that is now required to be appropriately regulated.[33]

Exchanges and other platforms

As marketplaces, exchanges are regulated pursuant to their applicable provincial securities statutes, as well as under National Instrument 21-101 *Marketplace Operation* ("**NI 21-101**"), National Instrument 23-101 *Trading Rules* ("**NI 23-101**") and their related companion policies.

NI 21-101 defines a marketplace as a facility that brings together buyers and sellers of securities, brings together the orders for securities of multiple buyers and sellers, and uses established non-discretionary methods under which the orders interact with each other. Additional factors apply to further distinguish marketplaces that are exchanges.

To operate as an exchange in Canada, a person or company must first apply for recognition as an exchange or for an exemption from the recognition requirement. As another type of marketplace, alternative trading systems, which provide automated trading systems that match buyer and seller orders, are also regulated under NI 21-101 and NI 23-101.

It follows that exchanges or other platforms that facilitate the purchase, transfer or exchange of virtual currencies that are considered securities or derivatives may be subject to recognition requirements as securities or derivatives exchanges or marketplaces. In the institutional market, prescribed or negotiated exemptions may be available in respect of platform-related recognition requirements under securities or derivatives laws, subject to the satisfaction of certain conditions and acceptance by the applicable regulators.

The appropriate category of dealer platform registration depends on the business model and the nature of the platform's activities. Relevant factors include whether the platform offers margin or leverage.

Dealer platforms that trade crypto contracts and trade or solicit trades for retail investors will generally be expected to be registered as investment dealers and become members of CIRO. However, they are able to access a transitional "interim period" process by seeking "restricted dealer registration" (under the stated guidance, provided they do not offer leverage or margin trading) while they ramp up to full investment dealer registration and compliance. During that period, applicant platforms may expect to undergo a detailed regulatory screening of trade flows, financial controls and auditing, custody, liquidity, valuation, insurance, market integrity, professional proficiency and experience, ability to comply with prescribed business conduct requirements, cybersecurity and risk management, although some flexibility may be extended. In 2022, significant market volatility and liquidity issues impacting the broader industry led the CSA to introduce a series of additional measures to tighten the conditions for domestic and foreign platforms seeking registration to operate in the Canadian retail market. Expanded commitments were initially imposed in the form of pre-registration undertakings ("**PRUs**"), including enhanced governance, risk management, operational, custodial, liquidity, insurance, financial reporting and other compliance and reporting requirements.

On February 22, 2023, the CSA announced further restrictive operating conditions for platforms seeking registration in Canada through expanded PRU commitments covering more stringent custody and segregation requirements, prohibitions on pledging, hypothecating or otherwise using custodied assets, new commitments for controlling minds and global affiliates, excluding proprietary tokens from the calculation of regulatory capital, enhanced and more frequent financial reporting, enhanced Chief Compliance Officer ("**CCO**") requirements, and a prohibition on enabling trading in "value-referenced cryptoassets" ("**VRCAs**") (commonly referred to as stablecoins) and crypto contracts based on proprietary tokens except with the prior written consent of the CSA.

Platforms that were unable or unwilling to provide an enhanced PRU or implement the necessary system changes within 30 days of the publication of Staff Notice 21-332 (i.e., by March 24, 2023) were expected to take appropriate steps to identify and off-board existing users in Canada, restrict trading access to Canadian-resident users and provide periodic reporting to the CSA. Only a limited number of global platforms executed and delivered PRUs to the CSA by that deadline.

On October 5, 2023, the CSA published CSA Staff Notice 21-333 – *Crypto Asset Trading Platforms: Terms and Conditions for Trading Value-referenced Crypto Assets with Clients* ("**Staff Notice 21-333**"). Staff Notice 21-333 provides an interim framework for platforms proposing to allow customers to buy or deposit VRCAs, defined in the Staff Notice as an asset that is designed to maintain a stable value over time by referencing the value of a fiat currency, any other value or right or a combination thereof (also commonly known as a "stablecoin"). Staff Notice 21-333 outlines terms and conditions on which the CSA would consent to a platform continuing to allow exposure to VRCAs. On December 3, 2024, Circle Internet Financial Inc. became the first issuer of VRCAs to provide an undertaking to the CSA as contemplated by the interim approach.[34]

Asset management and investment funds

Persons and entities operating or administering collective investment structures that hold or invest in virtual currencies may also be subject to investment fund manager registration requirements, in addition

to dealer, adviser and prospectus or private placements requirements. The structures themselves may also be subject to reporting and business conduct requirements that apply to investment funds.

Prior to January 2024 when the U.S. Securities and Exchange Commission approved the first spot BTC ETFs in the United States, Canada had been at the forefront of regulatory and market breakthroughs in the retail crypto fund space. In 2020, Canada's 3iQ launched North America's first major exchange-listed Bitcoin and Ether Funds. In 2021, Canada's Purpose Investments obtained approval from the CSA for the world's first actively managed crypto-based ETFs, and more recently, the CSA has approved public offerings of spot Solana and XRP ETFs.

The CSA has since registered several managers of pooled investment vehicles and approved a number of retail closed-end funds and ETFs investing in cryptoassets.

On July 6, 2023, the CSA published Staff Notice 81-336 – *Guidance on Crypto Asset Investment Funds that are Reporting Issuers*, outlining their regulatory expectations with respect to public investment funds holding cryptoassets ("public cryptoasset funds") in light of recent crypto market events. This guidance includes compliance with the regulatory framework generally applicable to publicly distributed investment funds in Canada, the market characteristics of portfolio cryptoassets, liquidity, valuation and custodial practices, issues relating to staking and other high-yield generation activities, and know-your-client, know-your-product and suitability requirements.

In January 2024, the CSA published proposed amendments to National Instrument 81-102 *Investment Funds* that impose additional restrictions and conditions on investment funds having exposure to cryptoassets ("public cryptoasset funds"), including limiting such exposure only to alternative mutual funds and non-redeemable investment funds and restricting their use through derivatives, securities lending transactions and repurchase transactions and imposing additional requirements on custody of cryptoassets. Final amendments came into effect on July 16, 2025 and mark the second phase of a three-phase project of the CSA to implement a specific regulatory framework for public cryptoasset funds. Phase 3 of the project will involve a public consultation concerning a broader and more comprehensive regulatory framework for public cryptoasset funds.

In December 2024, the Ontario Securities Commission published OSC Staff Notice 33-757 outlining the results of a focused compliance review of KYC, account appropriateness assessments and "client limit" practices of Ontario-based crypto-trading platforms that are registered as restricted dealers, signalling that OSC Staff are actively monitoring compliance by platforms with their terms and conditions of registration and other registrant obligations under Ontario securities legislation.

Mining

The process of virtual currency mining, which employs specialised, high-speed computers, is energy intensive. However, Canada's cold temperatures and low electricity costs make it particularly attractive for virtual currency miners.[35] While virtual currency mining is not specifically regulated in Canada at this time, the use of virtual currency mining hardware may be subject to provincial and municipal requirements relating to the use of energy.

The increased demand for electricity in this sector and concerns over related environmental impacts have also led certain provincial and municipal governments to pause virtual mining applications. Effective May 17, 2024, the Province of British Columbia implemented legislative amendments to the *BC Utilities Commission Act* to allow the Province to make permanent regulations for the supply of electricity by public utilities to cryptocurrency miners such as prohibiting, restricting or regulating service for cryptocurrency mining projects.[36] Prior to this, in December 2022, the BC government issued a Direction to the BC Utilities Commission to allow BC Hydro to temporarily suspend new cryptocurrency mining projects for 18 months.[37] In January 2023, at the request of Hydro Québec, Québec's *Régie de l'énergie* (energy board) approved a suspension of the process for allocating capacity dedicated to cryptographic use applied to

blockchains while its request concerning the reassessment of the number of megawatts involved is being processed. Any new crypto mining project in Québec that involves utilisation of at least 50 kilowatts ("**kW**") of installed capacity for cryptographic use applied to blockchains is now subject to the price of 16.603¢/kWh specified in Rate CB with regard to energy consumption.[38] On November 28, 2022, the Manitoba government directed Manitoba Hydro to implement an 18-month pause on new cryptocurrency mining projects. The pause was intended to allow time for consultations with stakeholders and the Public Utilities Board regarding potential regulatory frameworks for cryptocurrency operations.[39] On April 18, 2024, Manitoba extended the pause until April 30, 2026, citing the need for additional time to conduct a thorough analysis and develop a long-term policy solution.[40] On November 11, 2022, Newfoundland and Labrador also exempted Newfoundland and Labrador Hydro from an obligation to provide services to any new cryptocurrency mining projects.[41]

Border restrictions and declaration

There are no border restrictions specific to cryptocurrencies, but persons entering or leaving Canada with C$10,000 or more in their possession must report it in person on *E677 – Cross-Border Currency or Monetary Instruments Report – Individual* in the case of persons reporting their own currency or monetary instruments, or *E667 – Cross-Border Currency or Monetary Instruments Report – General* in the case of persons transporting them for a third party. Canadian tax reporting requirements may also apply.

Reporting requirements

MSBs and FMSBs are subject to prescribed suspicious transaction reporting, terrorist property reporting, large cash transaction reporting, large virtual currency transaction reporting and electronic funds transfer ("**EFT**") reporting requirements. MSBs and FMSBs must take reasonable measures to ensure that prescribed travel information is included in relation to virtual currency and EFT transfers.

Estate planning and testamentary succession

Cryptocurrencies are inheritable property subject to taxation. Subsection 70(5) of the ITA deems a disposition of all of the deceased's capital property at fair market value on the death of the individual. Generally, cryptocurrencies included in a succession will be taxed as income or capital. Whether they are treated as income or capital is again a question of fact. However, in certain circumstances, cryptocurrencies left in a will to a surviving spouse will not be taxed, as a result of the exemption for spouses set out in subsection 70(6) of the ITA.

Endnotes

1 Canadian Securities Administrators, Staff Notice 21-329 – *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements* (Canadian Securities Administrators, 2021) (Staff Notice 21-329).

2 Canadian Securities Administrators and Investment Industry Regulatory Organization of Canada, Consultation Paper 21-402 – *Proposed Framework for Crypto-Asset Trading Platforms* (Canadian Securities Administrators and Investment Industry Regulatory Organization of Canada, 2019) (the Consultation Paper).

3 Canadian Securities Administrators, Staff Notice 46-307 – *Cryptocurrency Offerings* (Canadian Securities Administrators, 2017) (Staff Notice 46-307).

4 Canadian Securities Administrators, Staff Notice 46-308 – *Securities Law Implications for Offerings of Tokens* (Canadian Securities Administrators, 2018).

5 Canadian Securities Administrators, Staff Notice 21-327 — *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* (Canadian Securities Administrators, 2020) (Staff Notice 21-327).

6 Canadian Securities Administrators, Staff Notice 51-363 — *Observations on Disclosure by Crypto Assets Reporting Issuers* (Canadian Securities Administrators, 2021) (Staff Notice 51-363).

7 *Pacific Coast Coin Exchange v. Ontario (Securities Commission)* [1978] 2 SCR 112, which is itself based on the better known "*Howey* Test" set out by the Supreme Court of the United States in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946).

8 Staff Notice 46-307.

9 Canada Revenue Agency, Document No. 2013-051470117, December 23, 2013.

10 Canada Revenue Agency, Compliance, Virtual Currency, last modified December 13, 2023.

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28 *Ibid*.

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31 Canada Revenue Agency, Notice 324, June 2025.

32 FINTRAC is Canada's financial intelligence unit and is responsible for monitoring compliance, enforcement and registration under the PCMLTFA. The FINTRAC guidance can be found here: https://www.fintrac-canafe.gc.ca/msb-esm/intro-eng

33 See "*Registered cryptoasset trading platforms*", Ontario Securities Commission (https://www.osc.ca/en/industry/registration-and-compliance/registered-crypto-asset-trading-platforms).

34 https://www.osc.ca/sites/default/files/2024-12/vrca_20241203_circle-internet-financial_0.pdf

35 Naomi Powell, "*Crypto-miners flood into Canada, boosting the hopes of small towns looking for a break*", *Financial Post*, June 23, 2020.

36 New legislation ensures B.C. benefits from clean, affordable electricity | *BC Gov News*, April 11, 2024 (https://news.gov.bc.ca/releases/2024EMLI0019-000536). Bill 24, *Energy Statutes Amendment Act, 2024*, 5th Sess, 42nd Parl, British Columbia, 2024 (https://www.leg.bc.ca/parliamentary-business/overview/42nd-parliament/5th-session/bills/3rd_read/gov24-3.htm). Bill 24 came into force on Royal Assent on May 17, 2024.

37 B.C. Reg. 281/2022. The validity of the Direction was challenged by a crypto mining company before the BC Supreme Court, but the petition was dismissed and the Direction was upheld as "reasonable" and not "unduly discriminatory" (*Conifex Timber Inc. v. British Columbia* (Lieutenant Governor in Council), 2024 BCSC 177).

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