

Banking



Things to know

- The *Bank Act* (the Act) is the primary law governing the banking industry in Canada. It recognizes the following three categories of banks: 1) Canadian-incorporated domestic banks (listed in Schedule I to the Act); 2) Canadian-incorporated foreign bank subsidiaries (listed in Schedule II to the Act); and 3) authorized Canadian branches of foreign banks (listed in Schedule III to the Act). Schedule I and Schedule II banks are subject to the same requirements under the Act; however, while there are some similarities between the bank and the foreign bank branch regimes under the Act, there are also some differences. Notably, foreign bank branches are not permitted to accept retail deposits.
- The primary banking regulators in Canada are the Office of the Superintendent of Financial Institutions (OSFI), an independent agency that reports to the Minister of Finance (the Minister), and the Financial Consumer Agency of Canada (FCAC). Both regulators have ongoing, day-to-day supervisory duties. OSFI's mandate is focused on prudential matters in the financial services sector, while the FCAC focuses on market conduct with regard to financial services, products, and payments.
- In order to carry on business in Canada, a bank or a foreign bank branch must obtain approvals from each of the Superintendent of Financial Institutions (the Superintendent) and the Minister. The activities of banks and foreign bank branches are limited by the Act, which sets out the types of business that a bank or foreign bank branch may carry on, the types of investments that may be made, and, for banks, the types of transactions that the bank may enter with related parties. Notably, banks and foreign bank branches are limited in their capacity to deal in securities, act as a fiduciary, and distribute insurance products.
- Foreign banks may establish a presence in Canada by, with the approval of the Superintendent, establishing a representative office. However, these offices are extremely restricted in the types of activities that they can carry on in Canada. They are prohibited from carrying on a banking business in Canada, and instead can only act as a marketing office and referral conduit for Canadians who wish to carry on business with the foreign bank on a cross-border basis.

USEFUL RESOURCES

Government Resources

- [List of domestic and foreign banks regulated in Canada \(click on "Banks"\)](#)
- [Financial Consumer Agency of Canada](#)
- [Office of the Superintendent of Financial Institutions](#)

Third Party Resources

- [Canadian Bankers Association](#)

Things to do

LICENSURE PROCESS

- The licensure process for banks is extensive and requires the provision of substantial information related to the bank's ownership and financial strength, organizational structure, senior officers and composition of the board, among other things. Prospective applicants must also provide a minimum five-year business plan for the proposed bank, detailing its credit products and underwriting criteria, trading and investment strategy, information technology environment, and exit strategy if it is unable to execute its business plan, among other information. The licensure process for foreign bank branches is also extensive.

BUSINESS IN CANADA VERSUS CROSS-BORDER BUSINESS

- Foreign banks and entities associated with foreign banks must either obtain authorization from the Minister to conduct business in Canada, or conduct business on a cross-border basis. Entities must be careful to note the distinction between carrying on business in Canada (not permitted without authorization) and carrying on business on a cross-border basis with residents in Canada from outside of Canada (permitted).

REPRESENTATIVE OFFICES

- Foreign banks operating representative offices in Canada should ensure compliance with the requirements of the Foreign Bank Representatives Office Regulations. Representative offices must identify a chief representative who will be responsible for the operations of the office in Canada, and ensure that its activities do not entail carrying on the business of banking.

RELATED TOPICS

- [Financing and banking arrangements](#)
- [Regulated industries](#)
- [Payment processing](#)

Need more info?



Osler's Financial Services Group can help. Find out more at osler.com/financial-services