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<b>MANZER</b> <b>LAW IN INTERNATIONAL FINANCE</b> Manzer, Abudulai and Potter Release No. 1, April 2022
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### **What's New in this Update:**

This release features updates to the commentary in Chapter 1 (The Role of Law in International Finance), Chapter 2 (Structuring and Debt Agreements in International Finance), Chapter 4 (Financial Products in International Finance), Chapter 5 (Securities Law and the Public Markets), and Chapter 6 (Regulatory and Market Issues in International Finance).

### **Commentary Highlights**

**Chapter 1 — The Role of Law in International Finance — Financial Services Industry Wide Issues and Technology Solutions** — The global adoption of digital solutions for the delivery of financial services is leading to regulatory, product and delivery changes with related legal rights. The Canadian experience is consistent with that in most countries. Fintech approaches to the delivery of financial services in Canada are gaining momentum especially in sectors supporting the delivery of financial services, with a broader participation by start up and emerging companies. While there remains a focus on cryptocurrency and both its regulation and expanded use, the growth in the sector has been heavily in financial services and support applications. There is also a growing market segment of independent direct to consumer and peer to peer fintech solutions in compliance support, identification and verification, lending, trading, investment many providing services in unregulated sectors or sectors with minimal regulation such as consumer products.

The current trends in Canada are consistent with the global approach to increasing the digital delivery of financial services. It is expected this will continue with Canada firmly supporting the international approaches to the intervention of technology in the sector and its regulation. The approach to effective regulatory compliance differs between the portion of the sector that is providing applications to support regulatory compliance and those that are operating in a sector that is regulated or becomes regulated but both need a basis for assessment that uses the global incentives as a base and then applies an understanding of the aspects of the fintech service that reflect the policy concern (usually protection of customers, depositors or the financial system). Monitoring in that manner allows adaptation of the product to meet regulatory interventions on a real time basis while minimizing the need for retrofit to meet the specifics of regulation. The global discussion signals the issues of concern and the sectors that need to prepare to respond.

This section includes commentary on topics such as: Anti-Money Laundering, Anti-Terrorist Financing and fintech services; payment transfer systems; privacy and confidentiality; international regulatory incentives; cybersecurity; crypto currency; platforms developed for digital financial services; and a comparison of regulatory approaches across a selection of jurisdictions.

**Chapter 2 — Structuring and Debt Agreements in International Finance — New Issues Emerging in Syndicated Loan Transactions** — This section features a selection of provisions taken from syndicated loan transactions which are considered to reflect emerging issues in international debt finance in general, and in syndicated loan transactions specifically. These are issues that have been emerging in the recent past years (2015 to 2021) as presenting new challenges to the transaction structure and the drafting of the syndicated loan documentation. Many of these issues have exaggerated effect in an international finance transaction and in that context

are complex emerging issues with a need for consistent resolution. In each case the clauses have been selected to illustrate the issue and approach to the drafting of provisions intended to deal with the issue in the context of a syndicated transaction. This is not to suggest that these are the only issues which have been emerging in recent years, or that the solutions represented by the drafted clauses would be the only approach to dealing with the issue that is identified. It is expected over the course of the next years that these issues will continue to expand in importance, because each represents leading edge changes in the credit and regulatory environment for the financial institutions that routinely participate in syndicated transactions.

Topics covered include: currency exchange issues; *Foreign Account Tax Compliance Act*, replacement of LIBOR funding, bail-in legislation, agent rights as lender, required consents, discretionary protective advances, advanced swing line mechanics, accordion features, the regulatory panel of clauses, defaulting lenders, increasing lender responsibilities, privacy and information sharing, and erroneous payment clauses.

**Chapter 5 — Securities Law and the Public Markets — Securities Law — Trading in Digital Assets** — The regulation of digital assets requires a regulatory approach that considers their essentially jurisdictionless nature with their proclivity to move instantaneously across jurisdictional boundaries and without a physical presence. It is generally believed that a global, or at least a robust approach to bilateral or territorial agreements is necessary to regulate in the sector. Exemplifying this approach, Canadian securities regulators have entered into several international cooperation agreements for fintech.

The nature and classification of digital assets needs to be understood because regulation and securities law is evolving based on the attributes of the digital assets. This section provides an overview of emerging issues regarding such digital assets and, specifically, coins and tokens.

## 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