



November 4, 2013

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To: All CEOs/General Managers, British Columbia Provincially Regulated Financial Institutions

**RE: Information Bulletin CU-13-001 and INS-13-002: Storing and Processing Information Outside of Canada**

Enclosed is the Financial Institutions Commission (FICOM) Information Bulletin CU-13-001 and INS-13-002 to all provincially regulated financial institutions<sup>1</sup> (PRFIs) on its expectations for the storing and /or processing of information outside of Canada. The bulletin is effective immediately to all PRFIs.

As part of FICOM's on-going supervisory review and monitoring, PRFI's may be requested to provide information outlined in this bulletin. This information assists FICOM to assess a PRFI's operational risk and its quality of risk management.

If you have any questions, please contact Mr. Hugh Poon at [hugh.poon@ficombc.ca](mailto:hugh.poon@ficombc.ca), or your FICOM Relationship Manager.

Regards,

Frank Chong  
Executive Director  
Supervisory Support & Policy

MA/ac

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<sup>1</sup> PRFIs refers to BC authorized credit unions, trust companies, P&C and life insurance companies.

- Superintendent of Financial Institutions
- Superintendent of Pensions
- Superintendent of Real Estate
- Registrar of Mortgage Brokers

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<b>BULLETIN NUMBER:</b>	<b>INS-13-002</b>
<b>TITLE:</b>	<b>Storing and Processing Information Outside of Canada</b>
<b>REQUIREMENTS:</b>	
<b>LEGISLATION:</b>	<b>SECTION 133 OF THE FINANCIAL INSTITUTIONS ACT</b>
<b>DATE:</b>	<b>October 2013</b>
<b>DISTRIBUTION:</b>	<b>Provincially Regulated Financial Institutions</b>

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## **PURPOSE**

This bulletin sets out the Financial Institutions Commission's (FICOM) expectations for provincially regulated financial institutions (PRFI<sup>1</sup>) that engage, or are contemplating engaging, in activities that may require storing and/or processing sensitive information outside of Canada. This is irrespective of whether an activity is conducted in house, outsourced or is otherwise obtained from a third party.

## **BACKGROUND**

With the rapid technological advancement and proliferation of cloud computing vendors and innovative technology solutions, such as Backup as a Service (BAAS) and Software as a Service (SAAS), PRFIs may engage in outsourcing data activities that require storing and/or processing sensitive information outside of Canada.

Data activities conducted outside of Canada can expose PRFIs and their members/customers to complex cross-jurisdiction settings that could result in increased legal, reputational, operational and regulatory risks, due to differences in statutory and regulatory regimes between jurisdictions.

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<sup>1</sup> PRFIs (or Provincially Regulated Financial Institutions) refer to British Columbia authorized credit unions, trust companies, property and casualty (P&C) insurance companies and life insurance companies.

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## INFORMATION

PRFIs should conduct appropriate risk management due diligence and have in place a sound risk mitigation strategy, before engaging in activities that may expose a PRFI and members/customers to risks associated with cross-jurisdiction data activities.

### FICOM Access to Records

Section 133 of the *Financial Institutions Act* (FIA) requires PRFIs to maintain records facilities to the satisfaction of the Superintendent of Financial Institutions (Superintendent) with access as prescribed in the FIA.

PRFIs are responsible for ensuring compliance with the FIA. FICOM expects PRFIs to ensure that the current prescribed records are accessible within British Columbia, in a legible form and within a reasonable timeframe as determined by the Superintendent.

### Compliance with Canadian Law

PRFIs should conduct adequate due diligence to ensure compliance with applicable Canadian laws and regulatory requirements, including the Personal Information Protection and Electronic Document Act (PIPEDA) and British Columbia's Personal Information Protection Act (PIPA).

### Risk Disclosure

Before engaging in cross-jurisdiction data activities, a PRFI is expected to conduct appropriate risk assessment, and to be prepared to demonstrate to FICOM that a sound data governance and risk management process is in place to adequately mitigate any additional risks.

PRFIs should also be prepared to disclose to FICOM the nature, risk exposure and risk mitigation strategy of any cross-jurisdiction data activities conducted. This is irrespective of whether the activity is conducted in house, outsourced or otherwise obtained from a third party. PRFIs should also disclose to its members/customers the jurisdictions outside of Canada where personal information might be held.

At the Financial Institutions Commission, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Financial Institutions Act and Credit Union Incorporation Act*, Regulations and other pertinent legislation. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.