CANADIAN BANKS, BDC AND OSFI WORK TOGETHER FOR A SEAMLESS LAUNCH OF THE NEW HIGHLY AFFECTED SECTORS CREDIT AVAILABILITY PROGRAM (HASCAP)

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On February 1, 2021, the Highly Affected Sectors Credit Availability Program ("**HASCAP**") became effective and several Canadian banks have already indicated that they are accepting applications. HASCAP, initially outlined in the federal government's 2020 Fall Economic Statement, is designed to provide financial support to businesses that have been hit hardest by the COVID-19 pandemic. As a central tenet to the program, Business Development Bank of Canada (BDC) will provide a guarantee to the Canadian financial institution providing the loan (Lender) for 100% of the value. The guarantee covers loans ranging from $25,000 to $1,000,000.

In order to be eligible for HASCAP, the business must have been financially stable and viable prior to the current economic situation and be Canadian based. In addition, the business must have received payments either from the Canada Emergency Subsidy ("**CEWS**") program or the Canada Emergency Rent Subsidy ("**CERS**") program. If the business does not qualify for CEWS and CERS, but otherwise meets all HASCAP eligibility criteria, the business may still be eligible if it can provide financial statements that reflect three months (not necessarily consecutive) in which monthly year-over-year revenue decreased by at least 50% within the eight-month period prior to the date of the HASCAP guarantee application. The business will also need to meet the underwriting criteria of the participating Lender.

The loan being guaranteed can only be used to continue or resume operations, and cannot be used, for instance, to pay off or refinance existing debt.

On January 27, 2021, the Office of the Superintendent of Financial Institutions ("**OSFI**") issued timely guidance to federally regulated deposit-taking institutions ("**DTIs**") on the capital treatment of the loans guaranteed by BDC. In short, OSFI expects the Lender to treat HASCAP loans as a sovereign exposure. OSFI has confirmed that the guarantee from BDC meets the relevant operational requirements under sections 75 and 76 of Chapter 5 of OSFI's Capital Adequacy Requirements ("**CAR**") Guideline (meaning that it can be treated as an exposure to the Government of Canada). However, the amount of the guarantee recognized for capital purposes will need to be adjusted, in accordance with section 5.1.6. of the CAR Guideline, if there are currency mismatches or maturity mismatches between the loan and the BDC guarantee.

OSFI has further advised that the following risk weightings are to be applied under the CAR Guideline:

- under the Standardized Approach to credit risk, the HASCAP loan would receive the 0% risk weight applicable to the Government of Canada (as the loan guarantor) pursuant to section 3.1.3. paragraph 10(i) of the CAR Guideline; and
- under the Internal Ratings Based Approach to credit risk, the HASCAP loan would be treated with the Probability of Default substitution approach or the Loss Given Default adjustment approach pursuant to section 6.8.7.(ix) of the CAR Guideline.

The entire amount of the HASCAP loan is to be included in a lender's leverage ratio calculation. Specifically, the loan needs to be included in the exposure measure of the ratio in accordance with paragraph 12 of OSFI's Leverage Requirements Guideline.

This capital treatment is similar to the expectations for Export Development Canada's loan guarantee program for small and medium-sized businesses (for which the guaranteed amount may be up to USD 10,000,000).

OSFI will continue to issue direction, as needed, to assist DTIs in ensuring that capital and liquidity requirements are appropriate during the uncertainty of the COVID-19 pandemic.

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A Cautionary Note