

# CANADA ANNOUNCES THE CREATION OF THE REMEDIATION AGREEMENT REGIME AND IMPROVEMENTS TO THE INTEGRITY REGIME TO TACKLE CORPORATE CRIME

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As mentioned in our previous [bulletin](#), the Government of Canada recently initiated a public consultation process regarding the adoption of Deferred Prosecution Agreements ("DPAs") in Canada. DPAs are an alternative approach to the traditional criminal prosecution route in cases of economic crime committed within organizations, and use compliance, accountability and corrective measures to address corporate criminal liability. DPAs have become the topic of much discussion both nationally and internationally.

During the public consultation process, over 70 submissions were received and more than 370 parties participated in the conversations.<sup>[1]</sup> The Government of Canada released its [findings](#) on February 22, 2018, which showcased the Canadian public's support for the implementation of a Canadian DPA regime.

On March 27, 2018, Public Services and Procurement Canada ("PSPC") [announced](#) that Canada will be joining the roster of countries using DPAs (which include the United States and the United Kingdom). In fulfilling its commitment made in the 2018 Federal Budget, the Government of Canada has committed to implementing this alternative mechanism to effectively address corporate wrongdoing while simultaneously protecting Canadians and the Canadian economy. This new tool will be introduced by virtue of legislative amendments that will create the Canadian version of DPAs, which will be referred to as the "Remediation Agreement Regime". It is hoped that remediation agreements will ultimately advance compliance measures and hold corporations accountable for their transgressions while mitigating collateral negative impacts on innocent employees and shareholders. Similarly to DPAs in the United Kingdom, such agreements will be subject to prosecutorial discretion and judicial approval and oversight.<sup>[2]</sup> The Remediation Agreement Regime will come into effect 90 days subsequent to the *Budget Implementation Act* receiving Royal Assent.

Furthermore, the Government of Canada has committed to strengthening the existing Integrity Regime with respect to public procurement. The government-wide Integrity Regime ensures government conducts business with ethical suppliers.<sup>[3]</sup> Improvements made to this existing regime include introducing better flexibility in disbarment decisions, increasing the number of triggering factors that may lead to disbarment,

expanding the scope of business ethics and exploring alternative measures to mitigating the risk of doing business with unethical suppliers.<sup>[4]</sup> The improved Integrity Regime will become effective January 1, 2019.

These developments demonstrate Canada's willingness to strengthen its approach in addressing corporate wrongdoing and are a welcome addition to the prosecution's toolkit.'

by Guy Pinsonnault, Pierre-Christian Hoffman, Maria Nasr, Articling Student

[1] The Government of Canada, "[\*Remediation Agreements and Orders to Address Corporate Crime.\*](#)"

[2] The Government of Canada, "[\*Canada to enhance its toolkit to address corporate wrongdoing.\*](#)"

[3] *Ibid.*

[4] *Ibid.*

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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