

REMINDER: NEW LOWER CRIMINAL INTEREST RATE NOW IN EFFECT

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As of January 1, 2025, amendments to Section 347 of the *Criminal Code* (Canada) (the “**Criminal Code**”), announced in the *Budget Implementation Act 2023* (Canada), *Budget Implementation Act 2024* (Canada) and the *Criminal Interest Rate Regulations* (Canada) have come into force. These changes mark a significant reduction in the criminal interest rate and expand the scope of related offences.

Background

Over the last two years^[1], we summarized some of the federal government’s proposed changes to the criminal interest rate under Section 347 of the *Criminal Code*. This section prohibits:

1. Receiving payment of a criminal rate of interest; and
2. Entering into arrangements that involve charging interest at a criminal rate.

As of January 1, 2025, the criminal interest rate was reduced to a cap of 35% annual percentage rate (APR). Prior to these amendments, the criminal rate of interest was capped at 60% effective annual rate (EAR), which is approximately 48% APR. Additionally, under the new amendments lenders may not advertise or even offer to enter into an agreement that provides for the receipt of interest at the criminal rate.

Exemptions to the New Criminal Rate of Interest

While the new 35% APR rate applies to most loans, the most notable exemption is for commercial loans which is defined as loans where:

1. The borrower is not a natural person (e.g., a corporation);
2. The loan is for business or commercial purposes; and
 - a. The loan exceeds \$500,000 (loans over this threshold are not subject to the criminal interest rate cap as such transactions typically involve sophisticated parties capable of negotiating terms without strict regulatory oversight); or

b. The loan is between \$10,000 and \$500,000 (these loans maintain the old criminal interest rate but adjusted to APR, which is approximately 48% APR).

Grandfather Protections

Loan agreements entered into before January 1, 2025, that complied with the previous legal cap on the criminal interest rate will remain enforceable under the prior rules.

Next Steps

Going forward, lenders should review their existing template financings agreements to ensure they continue to comply with the lower criminal interest rate. Lenders should also review their marketing and promotional materials to remain compliant with the Criminal Code.

Should you have any questions or require further information, please contact one of the authors or another member of McMillan's Financial Services group.

[1] Please refer to our previous bulletins: [*Interesting Changes to Interest Rates, The Great Rate Escape: Commercial Loans No Longer Criminal*](#) and [*New Criminal Rate of Interest Comes into Effect January 1, 2025*](#) for more information on these changes.

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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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