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## • FCAC'S SUBMISSION ON OPEN BANKING: FINDING THE RIGHT BALANCE TO ACHIEVE CONSUMER PROTECTION AND BROAD FINANCIAL SECTOR PARTICIPATION •

By Darcy Ammerman and Courteney Rickert, McMillan LLP


**On** March 1, 2021, the Financial Consumer Agency of Canada ("**FCAC**") made a submission[1] to the Advisory Committee on Open Banking (the "**Committee**") for consideration as part of the Committee's consultation process on open banking (also called consumer-directed finance). FCAC's recommendations aim to achieve a balanced approach to open banking in Canada that prioritizes consumer protection and clearly establishes roles for both industry and government participants.

### • In This Issue •



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### CONSUMER PROTECTION

FCAC is a federal financial sector regulator responsible for, among other things, overseeing the compliance of federally-regulated financial entities with consumer protection measures. Many of its recommendations for open banking emphasize consumers' rights to control their financial data, to access a wide range of financial services and products, and to seek remedies for issues that may arise. FCAC asserts that "consumer protection must be embedded in every stage of accreditation, implementation, and in the governance and maintenance of any open banking system".

In particular, FCAC recommends that open banking participants be required to fulfill certain accreditation criteria, including legally binding consumer protection and financial inclusion requirements. These requirements would help ensure that: (i) consumers have fair and reliable access

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to financial services and products; (ii) financial entities have appropriate security, data protection, and privacy standards in place; and (iii) financial entities have the ability to compensate consumers for potential losses.

Accountability is another point of emphasis in FCAC's submission. FCAC recommends applying a user-friendly and efficient liability framework that assigns liability within the system and does not place the onus on the consumer. This includes a single external complaints body with binding authority that would be responsible for adjudicating open banking activities. FCAC points to the Dispute Management System established by the Open Banking Implementation Entity in the United Kingdom as an example that the Committee could draw upon.

Consumer education and consent are two other key components in FCAC's submission. Education will increase consumer awareness of the benefits and risks of open banking. Specifically, FCAC recommends that the Committee establish an investment fund for consumer education along with a trusted authority responsible for overseeing educational programs and materials. Consent, on the other hand, allows consumers to maintain control over their financial information. FCAC reinforces that consent should be express, especially when it comes to moving consumer data among open banking participants, and that it should not be tied to the provision of a product or service.

The above proposals aim to enhance consumer confidence, which the FCAC views as essential for the success of open banking in Canada. FCAC believes that the government, in particular, can play a key role in fostering this confidence.

## GOVERNMENT INVOLVEMENT

The Committee is currently contemplating a "hybrid model for open banking that is neither entirely industry-led nor government-led". FCAC proposes that the Committee leverage the knowledge and experience of existing financial sector regulators. Due to their experience developing market standards

and regulating market conduct, regulators are well-placed to mitigate risks and establish best practices.

FCAC suggests that the government fulfill the following duties:

- assist with setting appropriate accreditation criteria to ensure that consumer protection is prioritized;
- provide unbiased information on financial products and services and coordinate with financial entities in order to provide consumers with the information that they need to make well-informed open banking decisions; and
- establish market conduct, complaint standards, and liability standards (which FCAC believes should be determined by relevant federal and provincial regulators and not an industry-led body).

At a minimum, FCAC submits that open banking participants should be required to meet existing federal market conduct standards. However, FCAC acknowledges that a wide range of financial entities will be participating in the system (or at least trying to). In order to encourage broad participation, FCAC recommends that the Committee consider substituted compliance in some cases to help manage the regulatory burden and level the playing field.

## ISSUE REQUIRING FURTHER CONSIDERATION

While FCAC's submission offers several proposals for the Committee to contemplate, it also identifies potential issues that the Committee could explore further during its consultation process.

Jurisdictional boundaries and legislative constraints pose a challenge for establishing a single, unified standard for open banking across Canada. In particular, FCAC recognizes that existing financial sector regulators currently oversee various participants and will likely handle consumer complaints about open banking. Therefore, further consideration will need to be given to clearly defining the role and scope of regulators' authority and the extent of their involvement in the open banking system.

Finding the correct balance with respect to the proposed accreditation and implementation bodies is also important. FCAC acknowledges that an industry-led accreditation body may be in a better position to determine technical standards and governance practices for financial entities, but this body should still be subject to government oversight to reduce the risk that it will become "an industry group, rather than a public purpose entity." Similarly, FCAC urges the Committee to consider how provincial and federal financial sector regulators and government organizations will interact with the implementation organization, especially if the latter is responsible for setting rules for financial entities participating in open banking.

In sum, FCAC supports the proposed hybrid model for open banking in Canada, so long as the right balance between industry and government is attained.

Recognizing that a fulsome framework may still take some time to develop, FCAC recommends that immediate direction be provided, including a sunset date for screen-scraping (which open banking will replace). Screen-scraping requires consumers to share their bank log-in credentials with a third-party app who then logs into the consumer's account to obtain financial information. There are of course a whole host of liability and privacy concerns with the use of screen-scraping. Regardless, it is currently being utilized as part of the application process for certain financial services products and the monitoring of financial data as a condition to the continued use of those products.

While there will be challenges and difficult decisions, they are worth overcoming in order to implement a secure open banking system for Canadians that allows participation from a broad range of financial sector entities.

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[1] Available at https://www.canada.ca/en/financial-consumer-agency/corporate/publications/open-banking-fcac-comments.html.

## • OSFI LAUNCHES CONSULTATIONS ON BASEL III IMPLEMENTATION AND UPDATES TO PILLAR 3 DISCLOSURE GUIDELINE •

By Blair Keefe, Eli Monas and Hailey Schnier, Torys LLP



**On** March 11, the Office of the Superintendent of Financial Institutions (OSFI) released proposed revisions[1] to its capital, leverage and related disclosure guidelines (the Guidelines) for banks for public comment until June 4, 2021.[2] These changes seek to implement the final Basel III reforms set by the Basel Committee on Banking Supervision (BCBS),[3] while catering such reforms to the unique characteristics of the Canadian market.

OSFI is also proposing changes to enhance proportionality in its capital and liquidity regimes so they remain appropriate for smaller, less-complex banks. In connection therewith, OSFI released a draft SMSB Capital and Liquidity Requirements Guideline for public consultation until June 4, 2021, which is a new guideline that outlines revisions to the capital and liquidity frameworks for small and medium-sized deposit taking institutions (SMSBs).[4]

Finally, OSFI is consulting on proposed changes to its Pillar 3 Disclosure Guideline applicable to Domestic Systemically Important Banks (D-SIBs) until July 2, 2021. OSFI has also set out consultative questions for SMSB stakeholders to develop OSFI's future Pillar 3 Disclosure Guideline for SMSBs.

WHAT YOU NEED TO KNOW

- The revisions to the Guidelines reflect the Basel III final reforms and include enhanced disclosure requirements to support transparency and promote market discipline in Canada.
- OSFI has proposed changes to enhance proportionality in its capital and liquidity regimes so they remain tailored to, and appropriate for, smaller, less-complex banks.
- The public comment periods in respect of the proposed revisions to the Guidelines and

OSFI's new draft SMSB Capital and Liquidity Requirements Guideline close June 4, 2021.

- The public comment period in respect of proposed changes to OSFI's Pillar 3 Disclosure Guideline applicable to D-SIBs closes July 2, 2021.
- OSFI plans to develop a Pillar 3 Disclosure Guideline for SMSBs based on feedback received from stakeholders through this consultation.

## CHANGES TO CAPITAL ADEQUACY REQUIREMENTS (CAR) GUIDELINE

OSFI's proposed changes to its CAR Guideline[5] support the final Basel III reforms' efforts to improve the comparability and transparency of capital ratios. These changes build on OSFI's July 2018 discussion paper which set forth OSFI's proposed policy direction for the implementation of the final Basel III Reforms and are meant to make the CAR Guideline more resilient and risk-sensitive, including by better aligning capital requirements with risk and reducing excessive variability of modelled outcomes.

Proposed changes to the CAR Guideline include:

- clarification of OSFI's supervisory capital targets for deposit-taking institutions, including interactions with buffers;
- implementing a 72.5% Basel III output floor, a regulatory backstop to be phased in over three years following Q1-2023 to ensure a bank's model-based risk-weighted assets do not fall below a minimum level;
- deductions from Common Equity Tier 1 (CET1) capital for a) certain exposures formerly subject to a 1250% risk-weight, b) reverse mortgages with loan-to-value ratios greater than 80%, and c) capitalized premiums on mortgage portfolio insurance;
- deleting the transitioning arrangements for capital instruments that were deemed non-qualifying upon implementation of Basel III;
- new operational and market risk capital rules and reductions of credit risk capital requirements for certain qualifying revolving retail exposures;
- updates to the capital treatment of privately insured mortgages; and
- eliminating the 1.06 Internal Ratings Based (IRB) scaling factor.

## LEVERAGE REQUIREMENTS (LR) GUIDELINE

OSFI has proposed changes to its LR Guideline[6] to complement the risk-based revisions made to the CAR Guideline, and to continue to safeguard institutions against excessive borrowing, including by way of an application of a leverage ratio buffer to D-SIBs. Other changes to the leverage requirements include changes to the treatment of securities financing transactions and the treatment of off-balance sheet items to align with revisions to the CAR Guideline.

## LIQUIDITY ADEQUACY REQUIREMENT (LAR) GUIDELINE

The revised LAR Guideline[7] aims to improve risk-sensitivity and to ensure that institutions are holding enough cash or other liquid investments to provide for contingent liquidity demands and to support continued lending, particularly during periods of financial stress. The changes include: enhancements to Net Cumulative Cash Flow (NCCF) requirements to improve the recognition of cash flows related to asset growth (e.g., commitments) and operational expenses; a reduction of the time to report NCCF to OSFI for non-direct clearers; and clarifications of the time to report NCCF to OSFI for all institutions during periods of stress.

## SMSB CAPITAL AND LIQUIDITY GUIDELINE

OSFI's new SMSB Capital and Liquidity Guideline,[8] based on input from its 2019 discussion paper[9] and January 2020 consultative document,[10] "Advancing Proportionality", outlines revisions to the capital and liquidity frameworks for SMSBs,[11] clarifies which parts of the CAR, LR and LAR Guidelines are applicable to SMSB, and includes criteria to segment SMSBs into three different categories for purposes of determining capital and liquidity requirements:

Category I for SMSBs reporting more than $10 billion in total assets, Category II for SMSBs reporting more than $100 million in total loans, and Category III for SMSBs reporting less than $100 million in total loans.[12]

## PILLAR 3 DISCLOSURE REQUIREMENTS

OSFI's updates to its Pillar 3 Disclosure Guideline[13] applicable to D-SIBs will replace OSFI's April 2017 Guideline on Revised Pillar 3 Disclosure Requirements (Phase I) and provide clarification on the domestic implementation of Phases II and III of the Pillar 3 Framework for Canadian D-SIBs. The draft guideline seeks to enhance transparency surrounding the capital, leverage and liquidity positions of D-SIBs and to promote market discipline, to ensure that stakeholders have access to key risk information to gain a thorough understanding of D-SIBs to ensure public confidence. OSFI's draft Guideline took into account the relevance and importance of improving the overall comparability and consistency of disclosures across Canadian D-SIBs and alignment with internationally active banks in other jurisdictions.

The D-SIBs Pillar 3 disclosures are based on five guiding principles, namely, that disclosures should be: i) clear, ii) comprehensive, iii) meaningful to users, iv) consistent over time, and v) comparable across D-SIBs. In the Pillar 3 Disclosure Guideline, OSFI sets out requirements for reporting frequency, disclosure format, disclosure of qualitative narrative, and location of disclosures. OSFI also sets out its expectations for D-SIBs' internal audit process for Pillar 3 information disclosed, which must be subject, at a minimum, to the same level of internal review and internal control process as the information provided for their D-SIBs' reporting and reviewed periodically.

Similar updates are being developed for SMSBs and will incorporate feedback from stakeholders obtained from this consultation.

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1 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/omni22_let.aspx.

2 The capital, leverage and liquidity guidelines also apply to federally regulated trust companies and federally regulated loan companies.

3 The Basel III Framework is a response to the financial crisis of 2007-09. The final set of Basel III reforms were issued in December 2017. As part of the consolidated Basel III Framework, more robust market risk standards were introduced in January 2019 and the disclosure requirements (Pillar 3 in the Basel III framework) were updated in December 2019.

4 The SMSB Capital and Liquidity Requirements Guideline applies to banks (including federal credit unions), federally regulated trust companies and federally regulated loan companies.

5 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/omni22_let.aspx.

6 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/LR22.aspx.

7 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/LAR22_index.aspx.

8 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/SMSB.aspx.

9 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/in-ai/Pages/smsb.aspx.

10 Available at https://www.osfi-bsif.gc.ca/Eng/osfi-bsif/med/Pages/SMSB20_nr.aspx.

11 Examples include: the option for Category I and II SMSBs to use a Simplified Standardized Approach to calculate credit risk capital for certain asset classes

based on a materiality threshold; the introduction of a Simplified Standardized Approach for operational risk capital; and the introduction of a Simplified Risk Based Capital Ratio for Category III SMSBs that replaces the current risk-based capital ratio and the leverage ratio.

12 Subsidiaries of SMSBs are subject to the same capital and liquidity requirements as their parent institution, with some exemptions to minimum liquidity requirements based on an exemption set out in the LAR Guideline. Subsidiaries of D-SIBs are considered to be in Category I for the purposes of capital and liquidity requirements.

13 Available at https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/plr3-dft23.aspx.

# • IN PURSUIT OF A CLIMATE CHANGE RISK FRAMEWORK FOR CANADA'S FINANCIAL INSTITUTIONS •

By Tyson Dyck, Eli Monas and Walter Williams, Torys LLP


**While** the pandemic occupied the attention of governments, businesses, and the public throughout 2020, environmental, social and governance (ESG) issues, including climate change, also continued to receive significant attention.

All indications suggest that ESG issues will remain at the forefront in 2021, and for the Canadian financial services sector, recent climate change-related initiatives by regulators and government, as well as industry participants, demonstrate this ongoing focus. In this article, we discuss the gathering momentum of activity toward a climate change risk regulatory framework for the financial sector in Canada.

## REGULATOR AND GOVERNMENT ACTIONS AND THE TCFD FRAMEWORK

To date, there has yet to emerge a formal regulatory framework governing climate change risk analysis and reporting. While the framework for climate change disclosures developed by the Financial Stability Board (FSB) and the Task Force on Climate-related Financial Disclosures (the TCFD Framework) has received widespread support from businesses and governments,[1] the federal government is still considering whether the TCFD Framework should be adopted.

Two recent initiatives from regulators and government offer insight into what direction regulators and government may take in seeking to fill the current void in climate change risk analysis and reporting:

- **The Scenario Analysis Project:** a pilot project by the Bank of Canada, OSFI and volunteer financial institutions to evaluate the possible effects of climate change and the transition to a low-carbon economy through scenario analysis to stress test participating financial institutions; and
- **The OSFI Climate Change Consultation**: OSFI's 2021 discussion paper, *Navigating Uncertainty in Climate Change: Promoting Preparedness and Resiliency to Climate-Related Risk*, is the first step in a consultation process with federally regulated financial institutions (FRFIs) and federally regulated pension plans (FRPPs) to understand how climate change risks can affect the safety and soundness of FRFIs and FRPPs, and how these institutions are approaching related risk management.[2]

The mandates of the Scenario Analysis Project and OSFI Climate Change Consultation suggest that the focus of Canadian financial services regulatory bodies is turning towards implementation of a regime based on the TCFD Framework. For example, while neither the Bank of Canada nor OSFI has settled on a standard for climate change risk disclosure or scenario analysis, both the Scenario Analysis Project and the OSFI Climate Change Consultation bear the clear imprint of the TCFD Framework respecting climate change disclosures, risk assessment, and scenario analysis.[3]

The OSFI Climate Change Consultation in particular provides valuable insight into OSFI's current views on

these issues and its expectations of FRFIs regarding the ways institutions can prepare for, and build resilience to, climate related risks. For example:

- OSFI has indicated that, in order to respond adequately to the financial (e.g., credit, market, liquidity, insurance), operational, and strategic risks posed by climate change, institutions will need to revise their risk appetite and strategy, and their governance and risk management approaches and tools to take specific account of climate change risks.
- FRFI preparedness will require aligning the risk appetite for climate change risk to the FRFI's objectives. This will necessitate an understanding of the dynamic nature and scope of the FRFI's climate-related risk exposure, complemented by a strategy that adheres to the FRFI's climate change risk appetite and that is commensurate with the nature, size, complexity and risk profile of the FRFI.
- While OSFI does not take a position on the merits of mandating climate change risk financial disclosure in the Consultation paper, it does note that it is closely following the federal government's response to the recommendation of the Expert Panel on Sustainable Finance that the government require companies to adopt the TCFD Framework (read more in our article "Sustainable finance gaining traction"[4]).

## INDUSTRY INITIATIVES AND BEYOND

There are also signs that the financial services sector is independently moving towards implementation of TCFD Framework-style disclosures. The Canadian Bankers Association recently disclosed that all large banks are working to implement the TCFD Framework disclosure regime, while a number of Canadian asset management operations, including those owned by the Royal Bank, the Bank of Montreal and the Bank of Nova Scotia, endorsed a submission by the Shareholders Association for Research and Education (SHARE) to the Ontario Capital Markets Modernization Task Force in support of the proposal to mandate adherence to the disclosure standards of the TCFD Framework.

These moves by members of the Canadian financial services sector to implement climate change disclosure, risk assessment, and scenario analysis on the model of the TCFD Framework are timely despite the continuing uncertainty as to final form of governmental or regulatory standards or guidance on these issues in Canada. The pressure for greater ESG disclosure increased significantly during 2020 and shows no signs of slowing. As noted in Pandemic-proof"?: the resilience of sustainable finance through COVID-19[5], investors have embraced ESG-based investment enthusiastically as demonstrated by the 72% increase in assets under management in sustainable investment funds even in the midst of the COVID-19 pandemic. Institutional investors have also increasingly emphasized ESG factors in their investment practices and some, such as BlackRock, are taking steps, such as voting action, against companies that fall short of expectations in relation to ESG performance. An in-depth survey by the Chartered Professional Accountants of Canada of financial services market providers (including institutional investors with assets under management totaling approximately $1.9 trillion) revealed that investors want increased, relevant, and timely disclosure about governance, high-level risk management, and strategic assessment in relation to climate change risk. The survey also revealed that where climate-related financial information is material to a company, investors want relevant information to be disclosed as set out in the recommendations of the TCFD.[6]

These trends are apparent outside of Canada as well. The UK government has recently introduced measures to require large companies, pension funds, and banks to start making climate change risk disclosures in line with the TCFD Framework by 2021. This requirement will be extended to all companies in the following five years.[7] While the UK is on the leading edge of implementing TCFD Framework disclosure requirements, governments and regulatory bodies globally, including the Federal Reserve in the United States,[8] are taking similar steps towards requiring implementation of climate-change risk assessment and disclosure by companies.[9]

The steps underway at Canadian FIs and Canadian financial sector regulators are therefore timely and part of a global movement toward a standardized approach to assessing and disclosing climate-change risk exposure.

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1 See the TCFD publications "Recommendations of the Task Force on Climate-related Financial Disclosures" (June 2017); "Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures" (June 2017); "The Use of Scenario Analysis in Disclosure of Climate-Related Risks and Opportunities" (June 2017).

2 See also the publication in January, 2021 of the Ontario Capital Markets Modernization Taskforce's Final Report (the "Taskforce Report"); the final report of the CSA Climate Change Disclosure Review Project in 2018 and ensuing guidance set out in CSA Staff Notice 51-133 Environmental Reporting Guidance and CSA Staff Notice 51-358 Reporting of Climate Change-related Risks; read our "New public company guidance on material climate change-related risk disclosure" for more; and the publication of the final report of the Expert Panel on Sustainable Finance in 2019; read our "Sustainable finance gaining traction" for more.

3 *Navigating Uncertainty in Climate Change: Promoting Preparedness and Resiliency to Climate-Related Risk* (OSFI 2021) at paragraph 6.4.

4 Available at https://www.torys.com/insights/publications/2020/01/sustainable-finance-gaining-traction.

5 Available at https://www.torys.com/insights/publications/2020/11/pandemic-proof-the-resilience-of-sustainable-finance-through-covid-19.

6 "Progressive Investors and Corporate Disclosure: The Unstoppable Transition to a Resilient, Low Carbon Economy." 2019 Chartered Professional Accountants of Canada. Available at https://www.cpacanada.ca/en/business-and-accounting-resources/financial-and-non-financial-reporting/mdanda-and-other-financial-reporting/publications/investor-interviews-on-climate-disclosure.

7 "Companies Can No Longer Dodge Climate Risks as U.K. Raises Bar." November 10, 2020. Available at https://www.google.com/search?q=companies+can+no+longer+dodge+climate&rlz=1C1GCEA_enCA885CA885&oq=companies+can+no+longer+dodge+climate&aqs=chrome..69i57j69i60.7174j0j4&sourceid=chrome&ie=UTF-8.

8 "Climate Change Is a Source of Financial Risk" Federal Reserve Bank of San Francisco Feb 8 Economic Letter; available at https://www.frbsf.org/economic-research/publications/economic-letter/2021/february/climate-change-is-source-of-financial-risk/; "Strengthening the Financial System to Meet the Challenge of Climate Change" December 18, 2020 speech by Governor Lael Brainard of the Federal Reserve at "The Financial System & Climate Change: A Regulatory Imperative" hosted by the Center for American Progress, Washington, D.C. Available at https://www.federalreserve.gov/newsevents/speech/brainard20201218a.htm.

9 "Stocktake of Financial Authorities' Experience in Including Physical and Transition Climate Risks as Part of Their Financial Stability Monitoring." FSB 22

July 2020. Available at https://www.fsb.org/2020/07/stocktake-of-financial-authorities-experience-in-including-physical-and-transition-climate-risks-as-part-of-their-financial-stability-monitoring/.

## • BUDGET 2021'S IMPACT ON THE CANADIAN FINANCIAL SECTOR •

By Blair Keefe, Brigitte Goulard, Peter Aziz, Eli Monas and Marissa Daniels, Torys LLP


**On** April 19, Parliament tabled the federal budget[24] (Budget 2021), which included a number of measures to be introduced affecting financial institutions.

### WHAT YOU NEED TO KNOW

Budget 2021 contains a number of proposals pertinent to financial institutions, including to:

- modernize the unclaimed assets regime;
- clarify that the right to cancel certain contracts with a bank under the proposed bank consumer protection framework does not apply in respect of large businesses;
- implement a new retail payments oversight framework;
- engage in a consultation with stakeholders regarding credit card fees, pricing and rewards;
- extend the sunset date in the federal financial institution statutes to 2025; and
- introduce legislative amendments to provide CDIC with greater flexibility to facilitate a transaction where it takes control of a failed member institution.

### UNCLAIMED ASSETS REGIME

The government proposes to amend the *Bank of Canada Act*, the *Bank Act,* the *Trust and Loans Companies Act* and the *Pension Benefits Standards Act, 1985* to modernize the federal unclaimed assets regime by increasing the information available and the use of electronic communication to match Canadians with their unclaimed assets, and expanding the scope of the regime to include unclaimed balances from terminated federally regulated pension plans and foreign denominated bank accounts.

### CLARIFYING THE BANK CONSUMER PROTECTION FRAMEWORK

In December 2018, amendments to the *Bank Act* introducing a new consumer protection framework received Royal Assent. The framework granted all bank customers, including large businesses, a limited right to cancel certain contracts with a bank. The framework added a limited right of all bank customers, including large businesses, to cancel certain contracts with a bank. In Budget 2021, the government reiterated a proposal first announced in the 2020 Fall Economic Statement to amend the framework to clarify that the statutory cancellation right only applies to retail consumers (which are individuals and small and medium-sized businesses) and excludes large businesses.

### RETAIL PAYMENTS OVERSIGHT FRAMEWORK

The government is proposing to introduce legislation to implement a new retail payments oversight framework (RPOF) to continue to promote growth and innovation in digital payment services, such as digital wallets, while ensuring that these payments services are safer and more secure.

The RPOF was initially announced by the government in 2019 in response to the rapid pace of innovation in the retail payments space. It will require non-financial institution payment service providers (PSPs) to establish sound operational risk management practices and protect users' funds against losses. The RPOF will include a public registry of regulated PSPs maintained by the Bank of Canada to ensure their compliance with operational and financial requirements.

By ensuring that all competitors face comparable regulatory oversight, and checks and balances for the functions they perform, the intention is to create an enhanced level of trust amongst incumbent financial institutions and PSPs.

## CREDIT CARD ACCEPTANCE FEES

The government will engage with key stakeholders to work towards three objectives:

- Lower the average overall cost of interchange fees for merchants
- Ensure that small businesses benefit from pricing that is similar to large businesses
- Protect existing rewards points of consumers

Following consultations with stakeholders detailed next steps will be outlined as part of the 2021 Fall Economic Statement including legislative amendments to the *Payment Card Networks Act* that would provide authority to regulate interchange fees if necessary.

## 2023 SUNSET DATE OF FINANCIAL INSTITUTIONS STATUTES

The government is proposing to extend the sunset dates in the *Bank Act*, the *Insurance Companies Act*, and the *Trust and Loans Companies Act* by two years (to 2025) to enable full consideration of the impacts of the pandemic on the financial sector as part of the next legislative review. This extension makes sense because the statutory amendments for the last financial sector review received Royal Assent on June 21, 2018, but most of the amendments have not been proclaimed in force (as supporting regulations have not yet been publicly released for comment).

## FINANCIAL INSTITUTION RESTRUCTURING POWERS (FIRP) EXTENSION

The government proposes to amend the *Canada Deposit Insurance Corporation Act* to provide the Canada Deposit Insurance Corporation with greater flexibility to facilitate a transaction in circumstances where it takes control of a failed member institution.

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[1] Available at https://www.budget.gc.ca/2021/home-accueil-en.html.