Review of the Federal Financial Sector Framework

Submission to the Department of Finance Canada

Prepared by Canadian Bankers Association

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ASSOCIATION DES BANQUIERS CANADIENS | CANADIAN BANKERS ASSOCIATION

EXPERTISE CANADA BANKS ON
LA RÉFÉRENCE BANCAIRE AU CANADA

Introduction and Overview

The Canadian Bankers Association (CBA) is pleased to participate in the Review of the Federal Financial Sector Framework and respond to the government's initial consultation document for the Review. The CBA works on behalf of 59 domestic banks, foreign bank subsidiaries, and foreign bank branches operating in Canada. The CBA advocates for effective public policies that contribute to a sound, successful banking system that benefits Canadians and Canada's economy. The CBA also promotes financial literacy to help Canadians make informed financial decisions and works with banks and law enforcement to help protect customers against financial crime and promote fraud awareness.

Banks are an active and essential part of the daily life of most Canadians. Ninety-nine per cent of Canadians over the age of 15 have an account with a financial institution, so millions of Canadians turn to banks every day for products, services, and financial advice. Banks help Canadians safeguard their money, finance a home, manage their savings, plan their investments, and prepare for retirement.

Canadian banks are a key driver of economic growth, representing over half of the business lending market and roughly one-quarter of the overall business financing market in Canada. In 2015, total authorized credit to businesses neared $1 trillion, of which $209 billion was provided to small and medium-sized businesses. Banks will continue to support their business clients, just as they did during the global financial crisis when other lenders reduced the availability of credit or left the market altogether.

A strong and sound banking system is critical to Canada's economic success. The contribution of the banking industry to Canada's GDP has grown by more than 35 percent over the past seven years, accounting for approximately 3.3 percent, or $60 billion, of GDP as of December 2015. While continuing to grow domestically to better serve Canadians, by competing globally and earning foreign income, banks not only bolster Canada's international reputation, they generate important economic benefits at home, including highly-skilled, well-paying head office jobs and higher revenues from which dividends are paid to Canadian shareholders. Canadian banks have contributed to job creation by employing more than 280,000 Canadians in a workforce that reflects the diversity of the labour market. Banks and their subsidiaries paid $26.5 billion in salaries and benefits in 2015.

Canadians also benefit as shareholders in Canada's banks through the Canada and Quebec Pension Plans, employer pension plans, registered plans (such as RRSPs and TFSAs), mutual funds, and direct investments. In total, banks paid almost $16 billion in dividends to shareholders in 2015, helping Canadians save for a secure future. The vast majority of Canadians either directly or indirectly benefit as shareholders of banks. Furthermore, banks are leading taxpayers, with the six largest banks paying $7.3 billion in taxes to all levels of government in Canada in 2015.

Canada's financial services sector continues to be one of the most highly competitive sectors in the Canadian economy. Of the 80 banks operating in Canada, more than 40 offer financial products and services to Canadian consumers, including bank accounts, credit cards, loans, and investments. Canada has more large banks actively competing against each other for customers than practically any country in Europe, including the United Kingdom which has almost double the population of Canada. This is in addition to the more than 600 credit unions and Caisses Populaires located across the country. With this high degree of choice and competition, consumers benefit through better products and services, more convenience, and lower prices.

Submission Overview

The setting for the last financial sector review was the aftermath of the global financial crisis. Due to the unprecedented amount of regulatory change that followed, the government opted to limit the focus of the 2012 review process to technical amendments. Given the dynamic nature of financial services however, regular reviews of the legislative framework are critical to ensure it maintains its utility and is responsive to the evolving needs and expectations of Canadians while continuing to foster stability for the benefit of the Canadian economy. This review is timely as there has been dramatic change in how financial institutions and new entrants provide financial services to consumers.

Canadian banks support the government's core policy objectives outlined in the consultation document – stability, efficiency, and utility. To achieve these three objectives and position the financial sector for the future, our submission identifies the following priorities for reviewing the financial sector framework.

1. **The Regulatory Landscape for Canadian Banks:** The financial sector regulatory framework must strike the right balance between efficiency and stability. To do so, the review must be sufficiently comprehensive so as to consider all regulatory agencies that impact the financial sector.
2. **Canada's National Banking System:** The stability and efficiency of Canada's financial sector is rooted in prudent management by banks, which is overseen by a strong national regulatory system. The federal government must continue to protect and enhance its jurisdiction and role in financial services regulation.
3. **Innovation in Financial Services:** Banks support a competitive and innovative financial services sector. The objective of innovation needs to be balanced with a smart regulatory framework that protects consumers and supports the continued strength of Canada's financial system. Consideration should be given to adjusting regulatory requirements to facilitate greater innovation while still protecting consumers.
4. **Supporting Innovation by Reforming the Existing Framework:** A stable, efficient and useful Canadian financial sector can only be fully realized with a regulatory framework that accommodates and encourages innovation and competition. To achieve this, the existing framework must be reformed to permit financial institutions to fully engage in financial technology activity, invest in and enter into commercial relationships with fintech companies and promote further innovation.
5. **Modernizing Financial Services Legislation:** Canadians are rapidly adopting new and more convenient means of conducting their banking. In order to remain a useful and efficient regulatory framework, the *Bank Act* and other financial services legislation and regulations must be modernized to keep pace with innovations in financial services and the needs and expectations of consumers.

In addition to the priorities outlined above, we are currently working with our member banks to develop a comprehensive list of amendments and recommendations to strengthen the *Bank Act* and its related, regulations, statutes and guidance. In the meantime, we hope our contributions below will help assist the government as it prepares its policy paper for the second phase of this important consultation process.

1. The Regulatory Landscape for Canadian Banks

With the start of the global financial crisis now nearly a decade behind us, it is essential to be mindful that the Canadian banking system continues to be recognized as one of the soundest in the world. While the strength and resilience of Canada's banking system was proven during the crisis, there was significant turmoil in the global financial system and a number of banks in other countries became insolvent and either failed or received taxpayer-funded bailouts in order to survive. In Canada, however, no bank was in danger of failing and no government bailouts were needed.

An unprecedented amount of regulatory change followed the crisis as international and domestic regulators moved to strengthen the global financial system, particularly in the areas of capital and liquidity. While these rules are developed internationally, domestic regulators and banks are responsible for their implementation. Many of the international regulatory reforms coming out of the financial crisis are still ongoing, with implementation occurring over the next few years.

The Canadian banking industry is one of the most heavily regulated and supervised sectors of the economy. The legislative framework governing banks is complex and the industry is subject to an extensive set of laws, regulations, guidelines, and codes of conduct developed and enforced by a number of departments and regulatory agencies, including:

- Department of Finance;
- Office of the Superintendent of Financial Institutions (OSFI);
- Financial Consumer Agency of Canada;
- Financial Transaction and Reports Analysis Centre (FINTRAC);
- Canada Deposit Insurance Corporation; and,
- Canada Mortgage and Housing Corporation.

Banks incur significant costs in ensuring that they are compliant with legislative and regulatory requirements. The CBA and its member banks recognize the importance of effective and appropriate banking supervision given the industry's critical role in the economy. Canadians trust their banks because they are well-managed, well-capitalized institutions operating within a well-regulated financial system.

Balancing Efficiency and Stability

Canada's banks support the government's core policy objectives for the review of efficiency and stability. Strong prudential and regulatory oversight are essential elements of the ongoing stability of the banking sector. This must be balanced with a regulatory system that is efficient so that banks can continue to contribute to economic growth and innovation in Canada. There is always a risk when reviewing financial services legislation that additional regulatory burden could stifle innovation, diminish consumer choice, and restrict economic growth. Moreover, additional regulatory burden can have a disproportionately large effect on smaller financial institutions.

It is our view that this balance between two of the core objectives of this review – stability and efficiency – should be an overarching and broad principle of the review. Because the regulatory system is complex, we also believe there is merit in taking a holistic view of all the regulatory agencies and legislation that have a direct impact on the banking sector, in addition to the financial sector legislation that is subject to the sunset provisions.

Crown Financial Agencies

The global financial crisis demonstrated that any disruption in a specific part of the financial sector can spread quickly and destabilize the entire system. All financial services institutions, including crown financial agencies that are not subject to rigorous regulatory oversight, can have a substantive negative impact on the stability and soundness of the broader financial sector. The CBA has long been an advocate for strengthening the regulatory framework for crown financial agencies, including Farm Credit Canada, Business Development Bank of Canada, and Export Development Canada. Consideration should be given to what other changes are necessary to ensure these crown financial agencies have a clearly defined public policy mandate along with an appropriate level of oversight in order to ensure ongoing public confidence in the financial system.

Enhancing Competition and Choice for the Benefit of Consumers

The banking industry remains of the view that the inability of consumers to obtain insurance information in the branches and on the websites of banks and other federal deposit-taking institutions does not serve consumers well. We continue to believe that these restrictions have the effect of reducing consumers' choice and limiting their ability to plan their financial future through their chosen bank advisor, since insurance is a key element of a full financial plan. This is particularly important as consumers seek speed, convenience and accuracy as the hallmarks of companies that deliver innovation successfully. Consideration should be given to how existing business practices in relation to insurance might change to support consumer interests in this regard.

2. Canada's National Banking System

The stability and efficiency of the Canadian banking system is founded in a streamlined regulatory system with national laws applicable across the country. Canada's Constitution gives the federal government exclusive federal jurisdiction over banks and banking, but recent court decisions and provincial regulatory actions applying provincial legislative requirements to banking activities threaten the federal government's ability to implement exclusive banking policy. In many instances, the provincial legislative standards relate to issues already regulated federally, where banks already meet or exceed the federal requirements. Fragmentation of a national banking system leads to consumer confusion and impairs the ability of the federal government to inform and protect consumers. A consistent set of rules and regulations helps to foster innovation in financial services by permitting banks to more quickly respond to customer demand by developing and enhancing products and services that are available and consistent in all provinces and territories.

Enhancing Federal Jurisdiction over Banking

Given the importance of a national banking system, we were pleased to see Bill C-29 introduce amendments that further protect the exclusive jurisdiction of the federal government over Canada's banks. As case law evolves, new provincial rules are introduced and banks continue to innovate through their product and service offerings, it will be important to ensure on an ongoing basis that federal jurisdiction over banking is maintained.

3. Innovation in Financial Services

Banks are strong proponents of an open, competitive, and innovative financial services sector. Canadian banks have been leaders in the development and adoption of new technologies that facilitate and improve service to their clients. Banks' investment in new technologies has been substantial, with the six largest banks in Canada spending $70.2 billion on technology between 2006 and 2015, including $10.2 billion in 2015 alone. The development and use of leading edge technology by Canadian banks has contributed to Canada being ranked first out of thirty-two countries in the Capgemini/Efma World Retail Banking Report's Customer Experience Index every year since 2012.

How Canadians Bank

Banks are offering Canadians faster and more convenient ways to do their banking. Now consumers can bank anytime from virtually anywhere in the world through online banking and mobile apps. Canadian consumers are embracing these new banking technologies and have come to expect and demand greater convenience when using and accessing financial services.

When online banking was first introduced, some consumers were initially hesitant. However, it has quickly become the most preferred means of banking for the majority of Canadians. Now 55 per cent of Canadians use online as their preferred means of banking, up from only 8 per cent in 2000. Additionally, 48 per cent of Canadians use online banking as their primary method of bill payment. Further, the number of transactions that take place online keeps growing, with nearly 615 million internet banking transactions being completed in 2015.

With more and more Canadians carrying mobile devices, banks offer mobile banking services and apps that allow customers to carry out a variety of day-to-day banking transactions through their mobile devices. Over a few short years, the number of Canadians who use these applications has grown dramatically, with 31 per cent of Canadians using mobile banking last year, up from five per cent in 2010. Banks have successfully implemented these new technologies while ensuring that the personal information of their clients is kept safe and secure, fostering customer trust and confidence.

Banks as Leaders in Financial Technology

The development and use of financial technology is not limited to small start-up fintech companies – banks also engage in fintech activities. All entities that engage in the use of new technologies to provide financial services are providers of fintech products and services. Financial institutions, telecommunications firms, and large global technology companies that use technologies to provide financial services are all engaged in fintech to improve the consumer experience in financial services.

The use of technology to provide financial services is not novel. Canadian banks have an extensive track record of developing and adopting technology to serve their clients. Banks have applied technology to positively impact customer interactions to such a degree that innovations that once seemed cutting edge are now ubiquitous. Below are a number of examples of how banks have incorporated technology to serve customers:

- Automated banking machines (ABMs) located throughout Canada allow account withdrawals, transfers, bill payments, and deposits. Although ABMs have been around for a long time, banks continue to innovate in this space, for example, by making ABMs accessible to the visually impaired and by offering foreign currency.

- Internet and mobile banking enabling customer-directed 24/7 banking access. Mobile apps enabled Canadians to conduct over 200 million transactions on their mobile devices in 2015. New innovations in the mobile space have recently been introduced such as remote-deposit of cheques through imaging, tools for expense tracking and budgeting, and fraud identification tools.
- Technology-based security features on payment solutions such as chip and PIN, data encryption, tokenization, one-time passwords and biometrics significantly reduce the incidence of fraud.
- Contactless payments and mobile wallets, in respect of which Canada is a leader globally. 75% of major Canadian retailers now accept contactless payments and 35% of all in-person card transactions are now contactless.
- Interac e-Transfers offered both online and via mobile by most Canadian financial institutions enable consumers to securely and easily send funds to others. The online and mobile money transfer service is used by 13.5 million active online banking accounts, with over 65% of all deposits now taking place via a mobile device.

Constantly looking to the future, banks have established internal innovation hubs and partnered with outside organizations, including universities, incubators, and technology companies, to pursue, design and deliver digital innovations and solutions for bank customers. Key contributors to these hubs and partnerships are technology-experts specializing in user interface and experience, data scientists and other advanced analytics specialists.

Balancing Innovation with Consumer Protection and Stability

Banks are strong proponents of a competitive financial services sector. The recent emergence of companies that focus on financial technology has had a positive impact on the marketplace by heightening competition and accelerating innovative solutions to provide increased choice to Canadian consumers. The continued accelerated pace of technological developments is creating significant opportunities in the financial and commercial realms for banks and new market players such as fintech companies. Not only do banks compete with these players, they seek to work with them whether as suppliers, through referral arrangements or shared delivery of services, in order to accelerate the development and introduction of new solutions to the marketplace. In turn, many fintech companies benefit from having access to banks for capital, funding, distribution, and advisory services.

Banks have been able to provide innovative products while working within a comprehensive regulatory framework that protects consumers. Canadians have trust and confidence that their interactions with banks will be efficient, accurate, and secure. Banks have extensive security measures in place to protect customers from fraudulent activity, including transaction monitoring to look for unusual activity, authentication measures for online banking, and the move to more secure chip and PIN debit and credit cards and tokenization of customer credentials in mobile wallets. Many of the new entrants to the financial services marketplace are not subject to similar regulatory requirements.

The objectives of innovation need to be balanced with consumer protection and the continued strength of the financial services sector. New players in financial services could cause significant disruption to the financial system and a deterioration of consumer confidence if they fail to meet their obligations to consumers. For example, if a consumer provides instructions to transfer funds based on disclosure of terms and conditions that are unclear, the consumer may be exposed to penalties and additional charges, as well as adverse credit reports, if the funds fail to clear in time to meet a bill payment deadline. Similarly, from a financial risk perspective, a payment service provider that has insufficient liquidity may fail to settle its payment obligations during the clearing and settlement process, exposing consumers and other market participants to negative impacts. Finally, a payment services provider that does not have adequate security measures may put consumer funds and consumer personal information at risk.

Smart Regulation for Financial Services

Canadian consumers would benefit from a framework that ensures participants in the financial system, including non-bank players, meet standards appropriate to the financial services activities they engage in and the level of risk they pose. This approach would not only be compatible with innovation but would support and facilitate innovative solutions that are beneficial to consumers. As already noted, such standards should include requirements relating to:

- Market conduct risks including disclosure, dispute and recourse, and anti-money laundering;
- Financial risks such as default and liquidity; and,
- Operational risks such as fraud and system disruption, among others.

Managing these risks can reduce the impact on consumers of compromised privacy, a reduced credit score, and financial loss.

Innovation is critical to the continued success of the Canadian economy. Competition fosters innovation and should always be encouraged. At the same time, risks that can affect the safety and stability of the financial system need to be properly managed through appropriate regulation. Without consumer confidence, financial technology will not continue to evolve. Canada must develop a policy environment that recognizes and accommodates innovation while setting reasonable rules to appropriately manage risk to customers and the financial system. This will ensure Canadians can seamlessly interact with financial services technology while appropriately managing the risks created by an electronic, interconnected environment.

Regulatory Innovation

Financial and consumer protection regulators around the world are contemplating specific opportunities to adjust the regulatory requirements for organizations (financial institutions and fintechs) to enable the testing of innovative products, services, business models and delivery mechanisms in a live environment. The CBA encourages coordination between the various regulators that oversee the financial services industry at both provincial and federal levels to consider a similar approach to proofs of concept, pilots and testing that involves the following common characteristics:

- An invitation from regulators to industry to bring forward novel ideas that require relief from certain regulatory requirements for testing purposes;
- Sufficient personnel with the appropriate expertise at each regulator who are mandated to work with and assess innovative ideas for products, services and business delivery models;
- A commitment to early and frequent access by financial institutions to such resources to enable regulatory oversight in a fast-paced landscape;
- Customized requirements on a case-by-case basis with associated mitigants in place for prudential and consumer protection;
- A commitment to confidentiality due to the proprietary information being shared with the regulators; and
- Minimal written reporting requirements (reduce red tape).

This type of regulatory innovation would have the advantage of enabling all market players to assess fintech solutions in Canada and would facilitate and accelerate innovation in the development and implementation of fintech products and services. It would also have the added benefit of allowing regulators to become familiar with new business models and financial services technologies before they are broadly available in order to facilitate their effective regulation.

Within the context of this type of regulatory model, appropriate parameters should be established in order to balance risks while fostering innovation. To that end, lessons may be learned from other jurisdictions where "regulatory sandboxes" and other types of regulatory innovation are already being proposed or developed. Although the approaches taken by regulators differ from country to country, they share the commonality of adjusting regulatory requirements to allow organizations to experiment with financial technology in a live market environment while still protecting consumers.

In Canada, some initial steps have been taken in this direction. Quebec's *Autorité des marchés financiers* recently created a fintech working group whose mandate includes analyzing technology innovations in the financial sector and anticipating provincial regulatory and consumer protection issues. The Ontario Securities Commission introduced a hub called LaunchPad to work with fintech companies to help them navigate the provincial regulatory framework. The CBA requests the opportunity to collaborate with the federal government to develop approaches to innovation as described above.

4. Supporting Innovation by Reforming the Existing Framework

The accelerated pace of technological developments is creating significant opportunities for consumers to benefit from innovation in the financial and commercial sectors, and banks should continue to play a role in offering consumers innovative products and services. Many emerging fintech companies will benefit from commercial relationships with banks to have, among other things, access to capital, funding, distribution, and advisory services. Consistent with the federal government's Innovation Agenda, banks should be provided with an opportunity to partner and collaborate with emerging fintech companies to drive meaningful growth and innovation. The current legislative and regulatory framework for banks, however, limits the nature of fintech activities in which banks may engage, precludes certain types of commercial relationships amongst banks and emerging fintech companies, and imposes barriers on banks making capital investments in emerging fintech companies through lengthy regulatory approval processes or onerous outsourcing requirements.

The following are just some examples of restrictions that should be reconsidered in the context of the Review of the Federal Financial Sector Framework.

Fintech activities carried on directly by banks

A bank needs to ensure that any fintech activity it wishes to engage in fits squarely within one of the permitted business activities that can be conducted by a bank under the *Bank Act*. The business powers granted to banks must be reviewed in the context of today's market and the emerging fintech sector to foster Canadian innovation and enable banks to remain competitive. In some cases, the permitted business powers set out in the *Bank Act* may not reflect the way that banks could be leveraging technology to provide new types of services that consumers expect from banks. This has the potential to restrict a bank's activities or require a bank to obtain regulatory approval for certain activities.

To ensure that banks can lead in financial innovation and conveniently deliver the services that enrich the lives of Canadians, and that Canadians demand, the business and powers section of the *Bank Act* should be updated to pave the way for financial sector evolution. This includes broadening the scope of activities that a bank may engage in under the *Bank Act* and adopting a broad and liberal interpretation of these provisions, including broadly interpreting what is a financial service and what is the business of banking. The *Bank Act*, and the ongoing interpretation of the *Bank Act* through OSFI Guidelines, Advisories and Rulings, should recognize that innovation in financial services means that the types of services provided by banks are, and will continue to be, rapidly changing. There should be a recognition that the use of technology is inherent in all financial services and that the mere use of technology to provide services, including new types of services and new ways to provide services, does not exclude such services or the provision of such services from the meaning of "financial service" or make them any less of a service that is within the business of banking.

In addition, in those limited cases where a service is not a financial service or within the business of banking, it is imperative that a bank be permitted to engage in information processing, online or information technology services without the requirement for ministerial or other approval. These much needed reforms will provide banks flexibility and agility to determine the scope of innovative activities they engage in, as well as how and with whom they do these activities, as more specifically described below.

Limited investment powers

The *Bank Act* restricts banks' investment powers by limiting investments to entities carrying on specific types of activities, with such entities referred to as permitted entities. In some cases, the activities of a fintech entity do not fit within the ambit of the permitted entity categories, therefore restricting a bank from making a much needed strategic investment. Inability of banks to contribute capital to a broad spectrum of fintech companies has the potential to stifle Canadian innovation and growth.

Restrictions on referral and networking arrangements

The *Bank Act* rules governing banks' referral and networking arrangements with third parties, such as fintech companies, should be clarified. In other jurisdictions, banks have extensive referral and networking powers resulting in customers reaping tangible and intangible benefits. In Canada, banks must have greater latitude to refer and network customers for non-financial services particularly as lines blur between financial and non-financial services and products. Customers will benefit from having greater access to innovative products and services and banks will be galvanized to collaborate more with emerging fintech and other companies in delivering services to their clients.

Regulatory Approval

In some cases, a bank will be able to fit the activities of the emerging fintech company in which it wishes to invest into a permitted entity category, but the investment for that type of permitted entity requires regulatory approval.

The requirement for a bank to obtain regulatory approval for an investment has the potential, in some situations, to make a bank seeking to invest in a fintech uncompetitive relative to other bidders. For example, in an auction seeking investors, a bank's bid that is conditioned on regulatory approval will make that bank's bid less attractive than a bid from another entity that is not required to obtain regulatory approval. This is particularly so in the case of a proposed bank investment in an entity owned by foreign investors who are unfamiliar with the *Bank Act* regulatory approval process, including the timing and likelihood of approval.

In addition, the requirement for regulatory approval gives rise to a timing issue as emerging fintechs may need an infusion of capital quickly which banks cannot provide if they require a regulatory approval. Smaller start up fintech companies in particular need investors to grow and scale and the rapid cash burn rate of these companies may result in companies not staying solvent, therefore stifling innovation and resulting in a missed opportunity for all, including Canadian consumers.

Other activities and investments by fintech companies

Further, once a bank has invested in a fintech company, the fintech company may well find itself limited in its ability to innovate in the future. This is because the *Bank Act* requires that the fintech company's activities and its downstream investments need to be limited entirely to only those activities that are permitted under the *Bank Act*. If any of the activities of the fintech or its downstream investments change, a bank may need to divest its investment or seek approval. In the world of fintech where companies look to be innovative and leverage existing capabilities to take advantage of new opportunities, often on an accelerated basis, the inability of banks to invest in a fintech company or maintain an investment in a fintech company where even one of the fintech company's activities or downstream investments is not permitted under the *Bank Act* constitutes a significant impediment that has the potential to unduly restrict Canadian innovation.

5. Modernizing Financial Services Legislation

In order to ensure that the legislative framework for financial institutions achieves utility by keeping pace with consumer needs and the evolving trends identified above, financial services legislation should be modernized to reflect how Canadians organize their economic lives. The consultation document notes that "the environment in which Canadians interact with financial institutions is rapidly evolving. Most routine transactions are now conducted electronically, and branches are increasingly used to provide advice and value-added services." Indeed, the rapid pace of technological change in recent years has paved the way for the financial sector to leverage new technologies to deliver services to Canadians, while continuing to accommodate consumers who prefer to access services through in-branch channels.

Reforms to the financial sector legislative and regulatory framework in the current Review will shape how banks are permitted to operate for the next decade. Given the accelerating pace of technological developments, it is imperative to ensure that the Review achieves the objective of a legislative and regulatory framework that allows banks to provide products and services in a manner that is aligned with commercial realities and the expectations of consumers that banking and financial services be delivered in a manner that is convenient and efficient for them.

Technology-neutral Rules

The legislative and regulatory framework for the sector must be reformed to be technology-neutral so that it remains relevant as technology and consumer banking needs continue to evolve. Many of the current *Bank Act* provisions were drafted at a time when individuals did most of their banking on paper and through regular visits to their local branch. Today, consumers can, and want to, bank anytime from virtually anywhere in the world through online banking and mobile apps. As noted above, online banking has become the most preferred means of banking for the majority of Canadians.

There are several benefits of technology neutral legislation. It permits banks to continue meeting the needs of consumers who prefer to access branches and paper-based solutions for their daily banking needs, while at the same time delivering technology-driven banking products and services to those consumers who prefer to bank through digital channels. It also encourages more technology-savvy consumers to engage more deeply with financial institutions to better understand and secure their finances, if they wish to do so.

Although financial services statutes are the focus of this review, the federal government should also modernize other key rules and statutes that impact how financial institutions operate, such as anti-money laundering legislation, the *Bills of Exchange Act*, and relevant OSFI Guidelines. As the consultation process for the Review continues, the CBA will propose amendments to specific requirements that currently restrict the ability of banks to fully utilize and leverage technology to deliver products and services and meet regulatory requirements.

Below, we have identified just some examples of areas where we believe reforms are necessary to bring the *Bank Act* fully into the market realities of the twenty-first century and the expectations of consumers.

Delivery of mandated disclosures to consumers and shareholders

Increasingly, Canadians seek to engage with banks and other service providers through electronic means. With the ubiquitous connectivity available to consumers resulting in the widespread use of online and mobile banking on smartphones and tablets, Canadians increasingly rely on these channels as a means of obtaining products and services, and related information. The *Bank* Act should be amended to permit banks the ability to readily communicate and do business through "electronic means". To achieve this, prescriptive disclosure and delivery requirements should be reviewed to ensure that materials can readily be made available to clients through a variety of channels, including by online or electronic means, and to permit access to documents to equal delivery.

The *Bank Act* should also be amended to better enable banks to provide shareholder-related documents, such as proxy circulars and annual reports, through electronic means. Such amendments would also align requirements in the *Bank Act* with shareholder document delivery obligations under securities legislation in Canadian provinces and foreign jurisdictions. These changes are consistent with Bill C-25, which was recently introduced in the House of Commons to amend the *Canada Business Corporations Act*. Similar amendments should be introduced to modify the *Bank Act* to replace paper-based communications with a "notice and access" system, allowing banks to use electronic communications when communicating with shareholders. In addition to being better able to meet the needs to shareholders' changing preferences to receive information of this kind, there are clear environmental considerations as well. Banks in Canada are proud of their record as leaders in environmentally-friendly approaches to serving customers and supporting the economy. While banks have been effective in "greening" their operations, they are constrained in some areas by these out-of-date regulations.

Client authentication

While client authentication requirements under anti-money laundering/anti-terrorist financing legislation have been modified to permit non-face-to-face identity verification for all retail banking products, these requirements continue to be highly prescriptive. These requirements, which are interpreted by FINTRAC, are not set out in a manner that fully accommodates client authentication in the digital age and should be reviewed to permit emerging trends in this space; that is, the use of innovative identity verification methods such as document review through a live video connection, digital identity products, use of blockchain, biometrics and other methods that will likely become available in the near future. Many of these methods have the potential to prove a customer's identity more securely and accurately than does the requirement to show physical identification at a branch, which is the prevailing method of authentication in use today.

Conclusion

The CBA appreciates this opportunity to provide our comments on the consultation document for the Review of the Federal Financial Sector Framework. The recommendations contained in this submission are meant to support the government's core objectives of stability, efficiency, and utility and position the banking industry so it will continue supporting Canada's economic growth into the future. We encourage the government to modernize the legislative framework to reflect the changing landscape for financial services. We look forward to participating in second phase of the consultation process following the release of the government's policy paper in 2017.