



The Advisory Committee to the Open Banking Review
Financial Services Division
The Financial Sector Policy Branch
Department of Finance Canada
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[Submitted by email to fin.OBBO.fin@canada.ca]

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About FDATA

The Financial Data and Technology Association (“FDATA”), headquartered in Edinburgh, Scotland, is the leading trade association advocating for Open Banking across many global markets.

FDATA was formed in the United Kingdom during the negotiations to add account data access to the Second Payments Services Directive (“PSD2”) in 2013. In addition to working with European Union policymakers, FDATA was integral to the UK Open Banking Working Group in 2015. In 2016, the working group’s output was published by Her Majesty’s Treasury as the Open Banking Standard.

Having helped UK regulators to shape the agenda that led to the formation of UK Open Banking Implementation Entity (“OBIE”), FDATA was asked to serve on the Entity’s Steering Group and played a significant role in helping OBIE in the drive for high-quality standards and continues to ensure that regulators and policymakers are fully engaged in areas of challenge.

FDATA North America was founded in early 2018 by several firms whose technology-based products and services allow consumers and small businesses to improve their financial wellbeing. We count innovative leaders such as Cardlytics, Envestnet Yodlee, Flinks, Intuit, Kabbage, Lendified, Moven, Morningstar, Onist, Plaid, Questrade, Quicken Loans, Quovo, and others, as our members.

FDATA North America’s members provide approximately 3.5 million Canadians, or roughly 15 percent of Canada’s adult population, with personalized aggregation-based tools to better manage

their finance health.

Introduction

The Financial Data and Technology Association of North America (“FDATA North America”) wishes to thank the Department of Finance (“Finance Canada”) for conducting a thorough consultation regarding Open Banking in Canada. As the leading global trade association advocating for the design and deployment of consumer-centric Open Banking regimes, we appreciate the opportunity to provide this submission. We consent to the full disclosure of this submission to the public in its entirety. The document will also be posted on our organization’s website.

We believe the document associated with Finance Canada’s consultation, “*A Review into the Merits of Open Banking*,” captures many of the benefits of Open Banking to consumers, businesses, regulators, and financial institutions, as well as to Canada’s economic development. This submission will provide further context for these socioeconomic benefits and will outline the legislative and regulatory steps necessary to create an Open Banking system that will benefit all stakeholders in Canada’s financial system.

Open Banking implementations are underway in many countries across the globe as policymakers recognize the regime enables significant innovation with impactful consumer benefit. Various markets around the world are considering, adopting, and/or implementing laws and regulations to support Open Banking systems, including the United Kingdom, the European Union, the United States, India, Japan, Australia, Russia, China, Singapore, as well as many other significant markets. In these markets, the data and technology-powered products and services provided by incumbent financial services firms and financial technology (“fintech”) firms alike are empowering consumers and businesses to make better decisions and take fuller control of their financial lives.

Fintech includes a number of positively disruptive financial services, including usage of data aggregation, diversity in business models for the provision of loans and credit, new payment technologies, innovations in payroll, invoice, billing and accounting services, and vastly improved financial access. In Canada and in markets around the world, this innovative sector continues to attract a great deal of attention due to increases in investment in fintech companies, innovative delivery of products, and the rising number of end users adopting these tools.

An Open Banking framework is one in which the consumer is granted the absolute right to their own financial data, and, so empowered, can choose to receive products and services from any provider of their choosing. Providers in an Open Banking system can be either new entrants or incumbents and offer their services by connecting, with the end user’s consent, to current providers of financial services to share access to the consumer’s own financial data. Open Banking regimes can rely on Application Program Interfaces (“APIs”) to facilitate the exchange of data and use token-based authentication to verify the user consenting to an information exchange is the appropriate owner of that information. APIs are a set of routines, protocols, and tools for building software applications that specify how different software components should interact.

At present, behavior by traditional financial institutions and current regulatory regimes restrict or prevent altogether the deployment of Open Banking services. Some Canadian FIs, for example, do not allow their customers the choice to give access to their own information to a third-party provider. Restrictions in customer account agreements make clear that consumers are violating the terms and conditions set forth by their bank by connecting their accounts to third-party tools. Additionally, there are minimal technological solutions offered by the less restrictive financial institutions in Canada to facilitate this sharing of information, which limits the ability of innovative new products to come to market. At its core, Open Banking solves these issues by providing legal certainty regarding the right of the consumer to their own financial data and by creating a fully transparent, competitive marketplace in which consumers have the ability to freely choose financial services providers.

The Open Banking movement globally is the result of consumer demand for innovative new products and services to help them improve their financial wellbeing, as well as advocacy by consumer champions, fintechs, and other engaged stakeholders – including some traditional financial institutions – who have campaigned for the right of the consumer to share financial data with a third party so that they may benefit from that third party’s products or services. Champions of the movement have stressed the importance of protecting customer interests and their rights to data, while delivering in a way that promotes a secure and safe ecosystem.

Canadian consumers will receive significant value from regulated and standardized Open Banking. A well-framed regime will:

- Support financial inclusion by reducing the number of Canadians who are currently underbanked or entirely left out of the banking system;
- Provide to the consumer or small business full control and utility over their financial data;
- Reduce costs and burdens associated with switching financial service providers; and,
- Spur innovation and create new consumer services and result in lower fees due to new competition in the market.

Given the enormous consumer benefits of Open Banking, and the move toward this framework globally, it is urgent that Canada move forward, and move forward quickly. Thoughtful, yet swift implementation of Open Banking will put Canada in a position to compete with services customized to individual customer needs and will yield greater economic opportunity for consumers along the income spectrum. Delaying the inevitable roll out of these new business models in financial services will negatively affect the country’s economy by putting Canadian citizens and businesses at a significant competitive disadvantage. Further, with so many Canadians already having adopted technology-powered tools to help them manage their finances, a thoughtful approach to building an ecosystem that further encourages the use of these tools, which balances legal requirements with the ability of the market to innovate over time, will provide for more widespread consumer benefit.

Responding to Finance Canada’s Consultation Questions

1. Would Open Banking provide meaningful benefits to and improve outcomes for Canadians? In what ways?

Direct Consumer Benefits

Canadian household debt is a matter the Bank of Canada is watching closely. In a 2018 speech to the Yellowknife Chamber of Commerce, Bank of Canada Governor Stephen Poloz confirmed that debt held by Canadian households has been rising for about 30 years, not just in absolute terms but also relative to the size of the economy. At the end of 2017, Canadian households owed just over \$2 trillion. The average Canadian owes about \$1.70 for every dollar of income he or she earns per year, after taxes¹. According to Poloz, eight per cent of indebted households owe 350 per cent or more of their gross income, representing a bit more than 20 per cent of total household debt². A 2017 Organisation for Economic Co-operation and Development (OECD) report found that Canadian household debt is higher than in any country included the report³. The Bank for International Settlements has also “red flagged” Canada given its debt to GDP ratio⁴.

New competitive products flowing from Open Banking allow for new loan options at a lower cost, choice, and tools that support managing of debt ratios. Given global economic uncertainty it is critical that Canadian consumers and our businesses have access to the most competitive and advantageous offerings available through competition and the application of technological innovation.

Allowing consumers the option to share information opens the door to a more equal playing field for financial service providers and will bring forward greater efficiencies, choice, and transparency. It is FDATA’s view that Canadian consumers will receive the greatest advantages from Open Banking. Simultaneous innovation to address consumers’ pain points in the existing financial system will be coupled with better methods of accessing and paying for the services and improved timeliness of switching financial services providers. Services will be more insightful and intuitive. Risk-based services will be better priced. Financial inclusion will improve. Friction and frustration in application, onboarding, and leaving service suppliers will be radically reduced. This will all be done in a way that mitigates risk and significantly increases transparency. In short, consumers will be able to trust the new ecosystem and avoid bad actors.

As stated above, there are several areas where Open Banking will improve the lives of Canadians and enhance the productivity of Canadian businesses, more than 99 per cent of which are small:

- **Consumer centricity:** As in many jurisdictions, Canada’s current banking framework contributes to a condition where traditional financial institutions are the dominant consumer-facing enterprise. Enabling a financial services platform approach will

¹ <https://www.bankofcanada.ca/2018/05/canada-economy-household-debt-how-big-the-problem/>

² <https://www.bankofcanada.ca/2018/05/canada-economy-household-debt-how-big-the-problem/>

³ OECD Economic Outlook, RESILIENCE IN A TIME OF HIGH DEBT, Volume 2017 Issue 2, Chapter 2

⁴ The Bank for International Settlements, BIS March 2018 Quarterly Review

incentivize consumer-centric services through an open ecosystem⁵. In the digital age, customers are becoming increasingly sophisticated. They expect excellent, intuitive customer service in all areas of their lives and will pursue the best solution. New players with a unique perspective can create and offer innovative financial service solutions. Fintechs, platform companies, and other new market entrants are focused on customer experience and removing friction from the existing financial services value chain. Allowing customers to, at their discretion, grant these parties access to their financial data stimulates investment and innovation in products and services.

- Financial inclusion and literacy: Financial inclusion is a meaningful policy goal that aims to bring citizens who currently do not have access to or do not fully utilize the banking system. As stated by Dr. Jerry Buckland, “*The purpose of inclusion is to improve the quality and safety of the financial services that excluded people use in order to advance their financial and over-all well-being*⁶.”

It has been estimated that between 306,000 and 1.53 million Canadians do not have a bank account⁷. The unbanked rate for Indigenous Peoples in Canada is estimated to range from 4.2⁸ percent to 15 percent⁹. Those most vulnerable include low-income households and Indigenous Peoples who, due to their lack of access to traditional providers, resort to more expensive services such as payday lenders. Financial exclusion leads to poor financial management and lack of access to services and tools to support personal financial prosperity.

Around the world, Open Banking is being utilized as to provide access to the financial system for traditionally underserved markets. Many countries are using the fast-growing social network and e-commerce platforms to reach people who would not otherwise interact with safe or affordable financial services providers. In other markets today, for example, third party providers: offer credit card products with no fees and affordable interest rates to consumers with little or no traditional credit history; provide vital access to low-interest small business loans by utilizing cash-flow underwriting; and, enable consumers who otherwise do not save to create budgets and automate their savings or investing.

A successful Open Banking regime will: support expanded provision to underserved populations with tools that will help consumers understand their financial habits and the full range of available services; identify ways to predict when a particular individual might struggle financially; and, improve access to lower cost services and financial advice¹⁰. These benefits will ultimately have a positive impact on the financial literacy and outcomes of many Canadians.

⁵ <https://www.theglobeandmail.com/business/commentary/article-why-all-canadians-should-care-about-open-banking/>

⁶ Opening Remarks from Jerry Buckland, PhD to the Standing Committee on Banking Trade and Commerce, Feb. 1 2018

⁷ Opening Remarks from Jerry Buckland, PhD to the Standing Committee on Banking Trade and Commerce, Feb. 1 2018

⁸ 2009 Canadian Survey of Financial Capability

⁹ Bowles, Paul, Keely Dempsey, and Trevor Shaw. 2010. Fringe Financial Institutions, the Unbanked and the Precariously Banked: Survey Results from Prince George, B.C.

¹⁰ Marloes, N; Laycock, A; Styles, K., Briefing: Open Banking and Financial Health, The Finance Innovation Lab, 2018

- Reducing friction: In the existing Canadian financial services framework, consumers face a highly onerous process when switching banks or moving funds from one financial account to another. Depending on the number of accounts involved, there is a cost associated with changing banks, including closing fees, and the time and effort to make the switch, which usually involves physically visiting a branch. Given the complexity of pricing and varying accounts, it can take a great deal of effort to determine the best option for your financial needs. Open Banking provides consumer-centric tools, using the consumer's own data, to determine optimal services. Customer service and satisfaction should improve with greater transparency and choice, while frustration with linking or switching providers should decrease.
- Choice and innovation: User behavior has become a core driver of change. Payment innovations, for example, are strongly driven by the end users' need for payment instruments that are more secure, efficient, convenient, and cost effective. Every payment instrument has different characteristics with respect to each of these factors, upon which different players place varying levels of importance¹¹. Open Banking can facilitate real-time credit monitoring to confirm eligibility and best rates for a loan or mortgage, could result in an app-based budgeting tool that allows someone to track their spending, and could facilitate easy, no-fee P2P payment options. For core banking functionality, users could easily monitor and switch between banks depending on promotional offerings, lower transaction fees or higher interest savings accounts.

Open Banking responds to consumer demand by stimulating investment and innovation in products and services that will help consumers understand and manage their finances.

Creating Jobs and Strengthening Our Economy

In addition to the numerous opportunities for consumers and small businesses, supporting an innovative system will create both high and low skilled jobs while strengthening Canada's economy. The digital economy is a substantial driver of global economic growth. According to McKinsey, the internet has generated as much economic growth in the past 15 years as the Industrial Revolution did in 50 years. The efficiency and productivity gains realized from increased digital usage accrue to all segments of a modern economy¹².

By moving forward with the design and deployment of Open Banking, Canada has the opportunity to realize economic benefits seen in the UK and many other countries. Funding of fintech startups has increased globally at a compound annual growth rate of 41 percent over the last four years, with over US\$40 billion in cumulative investment¹³.

¹¹ Berman, "Canadian banks see threat in tech companies offering mobile payments".

¹² Pélissié du Rausas et al., "Internet matters", 3.

¹³ PwC, 2017 Global FinTech report

A Matter of Competition and a Litmus Test for Data Ownership

While cyber security and privacy (addressed below) are essential components of a regulated and standardized Open Banking framework, at its core, Open Banking recognizes the fundamental right of the consumer to access their own financial data and is a delivery mechanism for free and fair competition.

Canadian banks are generally regarded as reasonably stable, which was demonstrated by the performance of Canada's financial system during the global financial crisis. There are 86 banks in Canada^{14,15}, but the six largest banks account for approximately 90 per cent of total assets among Canada's federally regulated deposit-taking institutions ("DTIs")¹⁶. Although this concentration enables simpler regulatory oversight, observers have raised concerns this tightly held market stifles innovation and merely protects the needs of incumbents.

Barriers to competition and innovation in financial services largely surround data ownership. Competition authorities are increasingly looking at access to data as a means to ensure competitive markets¹⁷. This has been seen in the United Kingdom, the European Union, Australia, and through a market study conducted by [Canada's Competition Bureau](#). In fact, the Federal Government's assessment of Open Banking is a litmus test for how Canada will manage the critical issue of data ownership in the evolving "data economy" landscape.

When it comes to increasing competition in financial services, there are two data types that are of particular importance: 1) consumer-provided data and 2) transaction data.

1) Consumer provided data is information consumers provide directly to their bank. This includes, but is not limited to, contact information, financial history, and payee lists for bill payments. Customers clearly own this data and should be able to make their own decision on sharing with a third party. The repetitive process of continually providing this information can be a barrier to switching providers or obtaining products or services from a third party, contributing to the friction described above. If a customer opening a new account could simply direct their current provider to share their personal details with a new provider, it may significantly reduce the friction of switching or opening new accounts.

2) Transaction data is generated by the consumer through the transactions they make via their bank accounts. Examples include withdrawals, transfers, and other transactions, account balances, interest earned and/or charged, etc. Transaction data should be shared at the express direction of a current or former customer.

¹⁴ Canadian Bankers Association (2018): Focus: fast facts about the Canadian banking system (<https://www.cba.ca/fast-facts-the-canadian-banking-system>)

¹⁵ Does not include credit unions or co-operatives; there are over 250 credit unions operating in Canada, according to the Canadian Credit Union Association

¹⁶ OSFI (2018): Financial Institutions (<http://www.osfi-bsif.gc.ca/Eng/fi-if/Pages/default.aspx>)

¹⁷ Moorcroft, V., & Le Strat, A. (2018). The Rise of Big Data: The Intersection between Competition Law and Consumer Data. *The Licensing Journal* (38.3), 8+.

Traditional Canadian financial institutions have seen a sharp increase in the collection of this information as a result of the high usage of online banking. Market research published by Yahoo Canada revealed 68 per cent of Canadians now conduct banking online, and 63 per cent would do all of their banking on a website or mobile app if they could¹⁸.

In the case of transaction data, regulators need to consider the amount of historical data that may be required. An open-ended period would put an excessive burden on data holders and we can expect advancements in digital archives and records as time progresses. In many jurisdictions, regulators have determined that a pragmatic approach is one where data holders may only be obliged to transfer data for the same period they are required to hold it for existing regulatory obligations.

Determining the scope of product types and data to be included in an Open Banking regime is also critical. The Australian government, in its Open Banking review, concluded that transaction data should include products related to the conduct of banking business as defined in its Banking Act, but only for those products that are widely available to the public. The UK's deployment of Open Banking, built atop PSD2, covers only payment accounts, but, following its inception, stakeholders are now exploring the expansion of the regime to include pensions, investment and savings accounts, as well as other account types. FDATA North America respectfully suggests that a system that is more inclusive – one that includes many different account types and ensures consumer access to as many data fields for each account type as possible, including, for example, interest rates and fees – at the outset both delivers greater consumer benefit and realizes efficiencies of scale forfeited by an incremental approach. Further, in the absence of any constraints imposed on it by PSD2, Canada has the unique opportunity to design and deploy an Open Banking regime uniquely scoped for the needs of Canadian consumers.

The first, critical step to implementation of Open Banking is the assertion of the customer's legal right to their data. Many Canadians currently take paper statements and financial information to their advisers and accountants. At its most basic, Open Banking is merely the provision of the technological rails that allow customers to digitize the act of bringing a shoebox filled with receipts and bank statements to their service providers.

Canadian banks have much to gain from financial technology innovations. As articulated in PwC's 2019 report entitled "Open Banking is Coming," the experience observed in other jurisdictions demonstrates that Open Banking offers financial institutions many opportunities and benefits, including new innovations and cost reduction¹⁹.

Yet, as the Competition Bureau itself has pointed out, according to a 2016 Ernst and Young study, in Canada, 8.2 per cent of digitally active consumers used only two fintech products within the last six months. This was a stark comparison to the 15.5 per cent of fintech adopters globally²⁰.

¹⁸ <https://www.itbusiness.ca/news/68-per-cent-of-canadians-now-banking-online-yahoo-infographic/67372>

¹⁹ PwC, "Canadian Banks 2019: Open Banking is Coming," pwc.com/ca/canadianbanks

²⁰ Earnst & Young LLP. (2016). *EY FinTech Adoption Index: Canadian Findings*.

The lack of choice, given traditional financial institution dominance, has made Canadians reliant on a few large traditional banks. Nearly 64 per cent of Canadians have been with their current bank for at least a decade, which is higher than other markets. In the United States, for example, the 10-year retention ratio is 40 per cent²¹. Ratehub.ca's [2017 Digital Money Trends Report](#) found a large portion of respondents indicated they have maintained the same bank account for roughly half their lives. Baby Boomers demonstrated the most loyalty of all generations, with 56 per cent of them saying they have held the same primary bank account for more than 21 years. The report notes that bank loyalty extends to millennials, who reported having kept the same primary account for 11 to 20 years 23 per cent of the time²². A regime in which end users can easily compare their current providers offerings with competitors' will facilitate a significant decrease in the friction consumers currently experience when switching accounts.

2. In order for Canadians to feel confident in an Open Banking system, how should risks related to consumer protection, privacy, cyber security and financial stability be managed?

Protecting Canadian Consumers

Consumers and small businesses in Canada are already sharing their financial data with service providers. Under current practice, this data sharing, though it takes place with the full consent of the end user, takes place in the absence of a thoughtful system, leaving the protections afforded to end users should something go wrong ambiguous at best. Open Banking will introduce much-needed transparency – for all stakeholders – into a system that consumers are already using.

The European Union's PSD2 has made it clear that forcing banks to open up data – with the consumer's consent – does not create chaos. Companies that hold, transmit, or provide services based on an end user's financial data are regulated and accept liability and standards to protect data. PSD2 attempts to balance the need to enable existing and new service providers, regardless of the business model, to offer their services with a clear and harmonized regulatory framework. Canada should follow suit.

Consumer Consent Through Clear and Understandable Mechanisms

To ensure consumers are protected in the data economy, Open Banking frameworks must require a third party to obtain explicit consent from a consumer, using disclosures in clear language that can be easily understood. Consumers also must be permitted to opt out of using a service – and sharing their data – at any time. Regulatory oversight will be necessary so that all parties involved are ensuring the protection of their customers.

Should a customer elect to revoke consent, it is essential the third party has a means of being notified that this has taken place since their business model may depend on continuing access to data. For example, revocation of consent could necessitate the severance of a contractual relationship between the consumer and third party. It is therefore important that a customer fully

²¹ Global Risk Institute (2018): *An overview of FinTech in Canada* (<https://globalriskinstitute.org/publications/an-overview-of-fintech-in-canada/>)

²² 2017 Digital Money Trends Report produced by ratehub.ca

understands any impact of ceasing their relationship with a third party. There may be, for example, an important alert, line of credit, or some critical financial services provision that is effectively tethered to the access. Third parties should make clear to consumers that they have the right to revoke consent, but also that doing so will prevent the third party from continuing to offer services and prevent unintended consequences.

There should be no doubt that security principles must go hand in hand with the innovations coming forward. As the internet has expanded and integrated in all spheres of our lives, security matters are no longer a choice, but a requirement, in order to reap the benefits that the integrated digital world offers²³.

Maintaining the Safety and Soundness of the Financial Sector

A modernized financial regulatory system that includes the sharing of information related to the protection of privacy and evolving cyber security threats will enhance the safety and soundness of Canada's financial sector. Additionally, new business models to tackle underserved markets such as the unbanked will enhance that sector's stability to support financial management among consumers and businesses.

Consumers in Canada—and around the world—have made their intentions clear: they want to access their financial data and share it with third parties so that they make take advantage of their products and service offerings. The failure of bank terms and conditions to catch up to this reality introduces enormous risk into the financial system, depriving consumers of the protections they have come to expect without actually changing consumer behavior. A thoughtful framework should include clear information for customers on what all members of the ecosystem are responsible for in protecting consumers, grounded in the right of Canadians to own and share their data. Executed properly, Open Banking mitigates risks and protects consumers by ensuring providers are fully regulated and establishing recourse mechanisms to keep consumers whole if something goes wrong.

3. If you are of the view that Canada should move forward with implementing an Open Banking system, what role and steps are appropriate for the federal government to take in the implementation of Open Banking.

An appropriate Open Banking framework will require regulatory oversight and standardization, including investment to support such activities. Facilitating the sharing of data between consumers and third parties cannot result in a system that permits any third party to enter the market without appropriate oversight. Such oversight must ensure consumers are the owners of their data, clear consent agreements and the ability to revoke such consent, adherence to Canadian electronic privacy law, as well as standards and additional measures to mitigate cyber security threats. The Federal Government must play a proactive role in a new financial system framework by taking steps that:

²³ Hathaway, Melissa E., "The Data Driven Economy as a Matter of National Security"

- Define the scope of account types that will be included in Canada’s Open Banking regime, understanding that a carefully considered, broader deployment at the outset will provide greater benefits more quickly to Canadians.
- Ensure third parties entering the Canadian marketplace register with and are approved by an appropriate centralized authority to ensure oversight. This includes the provision of information on Canadian obligations such as complying with the Personal Information Protection and Electronic Documents Act (“PIPEDA”). A directory of approved providers should be published through a federal authority.
- Provide the government implementation entity and regulatory environment has the ability to ensure third parties conform to the most advanced security measures.
- Take steps so that a registration process is clear for new entrants. This should include an appropriately balanced approach to screen scraping practices that protects consumer privacy and mitigates against cyber security threats. This approach should not hinder the urgent need to provide Canadians with the benefits of Open Banking while perfecting the environment for APIs and provides for the provision of a fall-back option if financial institution’s APIs are not operating reliably.
- Include consistent measuring of outcomes, over time, that are aligned with objectives of ensuring consumer interests such as data ownership, transparency as well as safety, privacy and financial system stability goals.

Conclusion

FDATA North America appreciates this opportunity to respectfully provide its perspective on the merits of Open Banking in Canada and stands ready to offer its expertise to the Advisory Committee, Finance Canada, and any other government stakeholders with an interest in the design or implementation of Open Banking as further contemplation on this matter continues over the coming months. On behalf of our members, we thank you for your kind attention to our response to the consultation and look forward to working collaboratively with you in the months ahead.

Sincerely,



Steven Boms
Executive Director
FDATA North America