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March 15, 2021

The Hon. Chrystia Freeland, P.C. M.P.
Deputy Prime Minister and Minister of Finance
Department of Finance Canada
90 Elgin Street
Ottawa, Ontario
K1A 0G5

Dear Minister Freeland:

On behalf of the Financial Data and Technology Association of North America (“FDATA North America”), thank you for your prioritization of the work undertaken to date by both the Department of Finance (“the Department”) and the advisory committee of industry experts the Department assembled to explore the merits of building a customer-driven finance (“CDF”) regime in Canada.

FDATA North America is a consortium of leading financial technology companies empowering millions of Canadians to better manage and improve their financial wellbeing. With the conclusion of the second phase of the advisory committee’s consultations at the end of last year, FDATA North America respectfully encourages the Department, under your leadership, to advance the process of implementing a CDF system in Canada this year by undertaking two specific steps:

1. First, we suggest you consider appointing a full-time, senior staffer at the Department as soon as possible whose sole responsibility will be to oversee the design and delivery of a CDF regime in Canada.
2. Second, we request the Department create a CDF Implementation Entity tasked with the policy design and implementation of open finance in Canada, and we provide herein our perspectives regarding some of the most important elements that Implementation Entity should consider to deliver a fit-for-purpose CDF framework for the Canadian marketplace.

As it begins the process of establishing a CDF regime in Canada, I respectfully submit FDATA North America’s perspective for both the Department and the Implementation Entity regarding three of the most critical areas of the design of Canada’s CDF regime: governance, scope, and technology standards, which are detailed below in this letter.



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As the trade association representing many of the financial technology companies and financial aggregators most active in the Canadian market, FDATA North America's members are committed to seeing CDF become a reality for the benefit of Canadian consumers and SMEs. To achieve this goal, and to provide industry with the policy framework under which such a regime can be delivered, we respectfully encourage the Department to begin implementation of a CDF in Canada by appointing a senior staffer within the Department to be responsible for delivery of CDF and by creating the CDF Implementation Entity as soon as possible.

We would, of course, welcome the opportunity to meet with you virtually to discuss the important issues associated with implementing a CDF framework at your convenience. Thank you in advance for considering the views of our members.

About FDATA North America

FDATA North America's members collectively serve nearly four million Canadian consumers and small and medium-sized enterprises ("SMEs"), providing, for example, personal and SME financial management and accounting tools, digital banking services, access to investment and savings platforms, and affordable credit products. We were 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 the Alliance for Innovative Regulation, API Metrics, Betterment, Codat, Direct ID, EQ Bank, Envestnet Yodlee, Experian, Fiserv, Flinks, Intuit, Kabbage, Mogo, Morningstar, M Science, MX, Petal, Plaid, Questrade, Quicken Loans, Trustly, ValidiFI, VoPay, Wealthica, Xero, and others among our members.

We are a regional chapter of FDATA Global, which was the driving force for Open Banking in the United Kingdom, and which continues to provide technical expertise to policymakers and to regulatory bodies internationally that are contemplating, designing, and implementing open finance frameworks. With chapters in North America, Europe, Australia, South America, and India, FDATA Global has established itself as an expert in the design, implementation, and governance of open finance standards and frameworks globally since its inception in 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Boms", with a long horizontal flourish extending to the right.

Steven Boms
Executive Director



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Recommendations on CDF Implementation in Canada

A. Governance

During the advisory committee’s consultative process, there was some suggestion, primarily by large financial institutions, that the task of overseeing the transition to a CDF framework should be left to industry to manage on its own. FDATA North America strongly disagrees with this sentiment. To guard against commercial dynamics influencing the governance of the CDF ecosystem, and to address pragmatic concerns regarding the limitations of the federal government’s regulatory jurisdiction over third-party providers, it is essential that a strong, centralized governance entity oversee both the rollout of the system and, once it has been established, its ongoing operation. FDATA North America does not believe that any entity currently exists that could assume this responsibility and sees significant risk that the current vacuum that exists in the absence of a strong Implementation Entity will be filled by commercially-driven actors. This is why we urge you to create a new Implementation Entity specifically for this purpose, led by an empowered chief executive reporting to government, with strong subject matter expertise in financial services, innovation, and consumer financial data, with an advisory board evenly comprised of representatives from financial institutions, third-party providers, and consumer and SME advocates.

The CDF Implementation Entity should also have responsibility for operationalizing the oversight of third-party providers that choose to participate in the system; however, the Entity itself should not be responsible for conducting audits or attestations affirming third-party compliance. This is a key learning from other jurisdictions that built and deployed open finance regimes already: governance and accreditation should not be the responsibility of the same entity. Instead, the Implementation Entity should have the authority to certify third parties, such as auditing firms, to accredit third-party financial technology providers against a prescriptive set of standards outlined in the legislation or decree and which the governance entity would operationalize. A financial technology firm operating in the CDF ecosystem would, under this framework, be required to subject itself to an audit by a firm accredited by the governance entity before it could gain access to the CDF environment, and would be required to submit to periodic reviews, perhaps annually, following its initial certification.

B. Scope

Effective open finance frameworks must place the end customer – the consumer or the SME – at the center of their design. After all, one of the main rationales for transitioning to a CDF ecosystem in Canada is the significant benefits that a more vibrant, competitive financial services landscape will have for Canadian consumers and SMEs. With this in mind, FDATA North



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America respectfully suggests in the strongest possible terms that the data included within the scope of Canada's CDF environment be as expansive as possible, to include all information relevant to a consumer or SME's finances. A customer should expect that when they sign up for a third-party financial application that their data will be available to power that application and that they will be provided with a consistent set of protections regardless of which application they are using and which financial institution with which they bank. A regime under which some financial accounts are included in a CDF system but others are not creates customer confusion and introduces more complexity into the transition towards a more innovative financial services ecosystem. We have seen this dynamic play out in Europe and the United Kingdom under the second payment services directive ("PSD2") and Open Banking. With both frameworks initially limited only to payment accounts, the limitations to innovation, as well as inadequate, uneven customer experiences, have driven both jurisdictions towards considering an *ex post facto* expansion of their regimes to include all types of financial accounts. We respectfully offer that Canada can best take advantage of its position as a fast follower by setting out, from the inception of its CDF system, the most expansive scope of covered accounts possible, with the understanding that the timeline of onboarding all of the account types may be tiered over time.

In addition to setting forth a comprehensive scope of covered account types within Canada's CDF framework, FDATA North America encourages the Department to make clear through legislation or ministerial decree a legally binding customer data right that would require all non-proprietary data made available to the customer through their native online banking portal today and provided in any paper statements be considered within the scope of the CDF environment. The objective of this data scope would be to ensure that all relevant information to a consumer or SME is available to that consumer or SME to utilize with the third party of their choosing. Importantly, since financial products and services are constantly in development, so too are new forms of financial data that ultimately belong to consumers. The scope should therefore be expansive not only with regards to current data types, but also sufficiently flexible to incorporate new data elements as they arise. This approach would: provide as much opportunity as possible to consumers and SMEs to benefit from innovative financial applications; set forth clear requirements that eliminate ambiguity to market stakeholders; and, as opposed to arbitrarily limiting the data required to be made available to customers to only those data fields that are utilized today for financial technology applications, prevent any stymying in the development of new technology-driven use cases that could be introduced in the years ahead.

It is important to recognize that competitive incentives currently exist for data holders to restrict access to data, as they see new entrants offering competing services generated using consumer-permissioned data. As the Financial Consumer Agency of Canada noted in its response to the consultations, "entities may limit what data consumers can see in their online banking portals if certain types of data were to be placed in scope. Since the goal of an open banking system is to



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empower consumers, they should not end up with access to less information than they have access to today.” A broad scope of data can also serve to constrain competitive incentives that otherwise might harm consumers by restricting their access to superior products.

To be clear: the applicability of the financial data right we propose herein should not be limited only to financial institutions. Because the concept of customer centricity is critical in an effective open finance framework, reciprocity should also be built into the CDF framework. A third-party provider in the CDF ecosystem therefore should also be required to make the same non-proprietary data available to its customers to share with financial institutions and other third-party providers so long as the appropriate, sanctioned customer consents and authorizations have been received. Under this reciprocal design, the same standards should apply to any recipient of financial data under the CDF framework based not on whether or not they are a financial institution but instead what role they are playing in the exchange of data in a particular data exchange: a data holder or a data recipient. The appointment of a full-time senior staffer responsible for CDF engagement within the Department as well as formation of the CDF Implementation Entity as soon as possible would provide the medium through which to begin delivery of these outcomes.

C. Technology Standards

One of the key questions pertaining to delivery of a CDF framework is how to standardize the technology upon which the customer-permissioned data connectivity upon which the system depends is built. Today, Canadian consumers and SMEs who utilize financial technology tools to manage or improve their financial wellbeing do so almost universally through credential-based screen scraping, as there exists no technological alternative; holders of financial data have historically resisted allowing their customers to make that data available to third parties that offer competing products or services. FDATA North America has long advocated for a transition as part of Canada’s CDF framework to a regime built atop application programming interfaces (“APIs”), which are generally more reliable than legacy technologies and do not require consumers or SMEs to share their bank usernames or passwords with third parties. It is critically important, however, to recognize that transitioning smoothly to the newer technology will require screen scraping will have to persist in Canada even after a CDF framework is put in place, for several reasons.

First, this technology will continue to be the only manner in which customers will maintain the ability to make portable their financial data for any account for which an API has not yet been built, either because the account type is not considered within the scope of the CDF framework or because a customer’s financial institution has not yet made available its API for an in-scope account. Second, based on the experience of FDATA member companies in Europe operating



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under the regime set forth by PSD2, retaining screen scraping as a fallback option in the event that a financial institution's API is down, unreliable, or does not include the data fields required is essential to ensure that customers maintain access to the third-party financial products and services on which they depend. Preserving screen scraping as a fallback option also provides a market incentive to financial institutions, some of which may view deployment of a CDF regime as a competitive threat, to build their APIs to be as robust and resilient as possible.

Another consideration that the Department will have to consider, and which attracted significant discussion during the advisory committee's most recent consultations, is whether the government should, in implementing a CDF framework, select an existing technology standard and mandate that only that standard may be utilized in the CDF ecosystem. Several large banks have, for example, voiced their preference that the Department sanction the API standard built by the Financial Data Exchange ("FDX") as the only technology permitted to be deployed under Canada's CDF regime.

As a philosophical matter, FDATA North America believes that technology standardization has merit in the design of open finance frameworks, which is why many of our members actively participate in technology standards groups, including FDX. As we have seen in the United Kingdom's Open Banking framework, for example, where only the Open Banking API may be utilized, a technology standard can reduce obstacles posed to third-party providers that would be otherwise faced in building permissioned data connectivity to multiple financial institutions. For those financial institutions, standards provide for lower implementation costs to deploy APIs in place of legacy technology. Technological standardization is therefore in our view an important ultimate outcome in a mature CDF regime. The fundamental question for Canada is: how and when should that standard be chosen? We respectfully submit that it is premature to select a technology standard to deliver CDF before the fundamental policy framework establishing CDF has been established. This, too, is another reason to meaningfully drive forward CDF in Canada by creating an Implementation Entity as soon as possible.