

**Written Submission for the
Pre-Budget Consultations in
Advance of the Upcoming
2024 Federal Budget**

By: FDATA North America

Summary of Recommendations

Recommendation 1: That the government include language in Budget 2024 to rapidly implement Canada's open banking system, including funding for the development of a neutral, transparent, and nimble governance function.

Recommendation 2: That the government include language in Budget 2024 outlining its approach to open finance, the next logical step after open banking, and the framework needed to truly unlock market innovation and competition to benefit Canadian consumers and businesses.

Recommendation 3: That the government amend the Canadian Payments Act to enable Payments Canada to expand its membership to include federally regulated payment service providers, providing access to its forthcoming real-time payment system.

Modernizing Canada's financial sector

Despite significant strengthening over the past several years, Canada's economy is still grappling with challenges. The impacts of global inflation and the subsequent cost of living challenges are making life more expensive for Canadians, at a time they can least afford it. The government began addressing these challenges in previous budgets, but further action is required.

Canada needs to remain diligent in its pursuit of an open banking ("OB") framework which will provide Canadians much needed relief in banking fees and other expenses. Canada must recognize that other countries are rapidly implementing their own OB regimes, and remain keenly aware that every day that passes without OB development risks leaving Canadians further behind their international counterparts and competitors.

While Canada has taken steps towards a more open, consumer-directed finance (CDF) regime, no meaningful milestones toward implementation have yet been achieved. Abraham Tachjian was appointed as Canada's Open Banking lead in March 2022, and FDATA North America commends him for establishing Working Groups (Privacy, Security, Accreditation, Liability) for some of the most crucial issues associated with the introduction of OB in Canada.

Unfortunately, the efforts of these working groups have yet to come to fruition, as concrete progress towards implementation of open banking has stalled. Despite significant engagement from market participants, the government is no further ahead more than a year later, leaving stakeholders puzzled and frustrated. The 18-month timeline the government had established is now out of reach, which should be a concern for Canadian policymakers.

The House of Commons' Standing Committee on Finance (FINA) has an important role to play to ensure the government is accountable to the mandate commitments made to Canadians. To this end, we took note of the notice of motion at FINA that would see the Committee undertake a study on the progress towards OB and payment modernization. The hearings proposed by this motion would follow an expected final report from Mr. Tachjian to Finance Canada in September, and it is our hope that these developments will help break through the remaining logjams.

Recommendation 1:

FDATA North America recommends the inclusion of language in Budget 2024 that would implement the recommendations that Mr. Tachjian provides in his forthcoming final report. To create a durable Canadian open banking system, Budget 2024 must also include language creating a neutral and robust governance entity tasked with oversight of the framework.

Canada has the opportunity to learn from the advancements made in other jurisdictions. FDATA North America members' experience in other markets that have advanced open banking

demonstrates that failing to contemplate a governance structure significantly increases the risk that the open banking system will not meet its full potential. Indeed, relying on back-end integration of governance is a surefire way to jeopardize the good work put in at the front end.

FDATA North America asserts that any open banking governance entity in Canada must be **neutral** (i.e. not controlled by any particular stakeholder(s) with commercial interests in the ecosystem), **transparent** (i.e. it invites and considers stakeholder input and subjects its decisions to an open, publicly visible process), and **nimble** (i.e. capable of making binding decisions relatively quickly and without undue bureaucracy). All stakeholders in the open banking system must agree to comply with the decisions and determinations made by the governance entity as a condition of being active in the market.

The main functions of an open banking governance entity should include:

- **Dispute resolution:** Responsibility for issuing a binding decision in instances in which two or more open banking participants cannot themselves mediate a dispute (e.g. an accredited entity finding itself unable to access a data provider's data).
- **Auditing of data provider APIs:** Responsibility for auditing APIs to ensure that they meet the Service-Level Agreements (SLAs) established in the design of the open banking system, and that all of the data required to be included in the APIs is accessible.
- **Oversight of accreditor(s):** Presuming an accreditation regime in which third-party consulting firms will be tasked with performing accreditation audits, and responsibility for oversight of the consulting firms' audits.
- **Ongoing reviews of accreditation standards:** Responsibility for continually monitoring and revising accreditation standards for third parties in Canada's open banking regime as appropriate.
- **Oversight of technical standard(s):** Responsibility for ensuring that any technical standard(s) deployed in Canada's open banking regime is fit-for-purpose and meets the criteria required to deliver an open banking solution.
- **Liability apportionment:** In instances in which a data breach has resulted in end user damages, responsibility for determining which party or parties is responsible for making affected end users whole.
- **Managing administration and evolution:** Responsibility for ensuring the system is operating as intended, includes all the data in scope for the various phases of the regime, and oversight of the addition of new account and data types into an open finance framework over time.

There does not exist today a singular entity in Canada, either in government or in the private sector, that possesses the expertise and resources required to undertake these functions and whose leadership structure is truly neutral. FDATA North America, therefore, proposes the creation of a new **Canadian Open Banking Governance Entity (COBGE)**, which would be tasked with the governance responsibilities enumerated above. To be fit for purpose, COBGE should:

- **Be led by a single executive director** who is accountable to a nine-person board. The director should be an executive-level individual with an understanding of the financial services marketplace, existing law, and technology, but should not have outweighed professional experience in only one of the sectors participating in open banking in Canada (e.g. banking or fintech). The board should always be comprised of three financial institution executives, three fintech executives, two consumer representatives and one SME representative appointed to staggered three-year terms. The Executive Director, a representative from the Department of Finance, and a representative from the Financial Consumer Agency of Canada should serve as board observers/advisors.
- **Hold regular open meetings and solicit public input.** As it considers improvements to Canada's open banking regime the COBGE should endeavor to ensure that any stakeholder input it receives is balanced and representative of the full universe of open banking participants.
- **Issue binding decisions.** All data providers and accredited data recipients should, as a precursor to gaining access to Canada's open banking system, agree to abide by the determinations and decisions made by COBGE.
- **Be curious.** COBGE should regularly test adoption and public attitudes towards Canada's open banking regime to inform its thought process as it evolves and improves the system.
- **Be accountable.** COBGE should issue reports every six months detailing its work, its rationale for any determinations made, open issues it is considering, and its roadmap of issues for future consideration.

Budget 2024 should include an initial five-year investment, with ongoing funding, for the COBGE in the implementation path it chooses to pursue. Allocating funding for the HR, administrative, and operating budget of the COBGE should be done well in advance of when it is deemed operational. The budget allocation can also be scaled up over a five-year period, in line with the increased activity expected from the COBGE.

Strengthening the governance framework and allocating appropriate resources for it to be effective are significant commitments the government can adopt to ensure open banking is a

success in Canada. However, for Canada to fully unlock the future benefits of these reforms, it must also begin considering the subsequent generation of open banking: open finance.

Recommendation 2:

There are several definitions of open finance, also known as Consumer Directed Finance, but essentially open finance allows for the ability to access and act on financial data to create personalized customer experiences, drive the pace and scope of innovation, and create deeper industry collaboration. The result is a potentially transformative impact on a wide range of financial products and services for the benefit of consumers and businesses. It would enable more consumers to gain access to a wider range of financial products and services, to have greater control of their data, including information from credit bureaus and utilities, and to develop a stronger relationship with their finances, empowering them to make better financial decisions.

As we have seen with Canada's open banking experience, changes in financial sector policy take time. The number of interested stakeholders is significant, entrenched interests remain as barriers to change, and outside factors can lead to significant time delays. At this stage, Canada should begin thinking about what its open finance regime will look like, the sequencing of the files it aims to tackle, the pace it seeks to bring in such changes, the budget and people it needs to deliver it, and the overarching vision it seeks to achieve. These are complex, dynamic, and impactful policy decisions, which directly touch almost all Canadians in one way or another. For Canada to get it right, the government must begin outlining its open finance vision as soon as possible.

Recommendation 3:

Fintechs are currently unable to fully meet the needs of consumers and businesses since they are not permitted to use Canada's payments system. The Canadian Payments Act, which legislates the institutions Payments Canada can allow to access the payments system that powers our economy, is currently being reviewed by the Canadian government, but little progress has been achieved. Access to the payment system is critical for fintechs' success and ability to empower Canadian consumers. The federal government should grant access to the Canadian payments system to fintechs, credit unions and smaller banks, which is the case in other advanced economies, and follows the recommendation made by Canada's Competition Bureau.

Conclusion

Canada is currently navigating significant challenges and economic headwinds that threaten a sustained economic rebound. The successful implementation of an open banking framework should be viewed as an important step towards fostering a more resilient economy and a more inclusive, secure, and affordable financial system.

FDATA North America proposes the creation of the Canadian Open Banking Governance Entity (COBGE), a neutral and transparent governing body responsible for overseeing open banking operations. To ensure its effectiveness, COBGE should be led by a diverse board, solicit public input, issue binding decisions, and remain accountable through regular reporting.

Furthermore, to fully unlock the potential benefits of these reforms, Canada must look beyond open banking and consider embracing open finance. And by granting fintechs access to Canada's payment systems and carefully planning the introduction of open finance, Canada can create personalized financial experiences, drive innovation, and foster greater collaboration within the industry.

About FDATA North America

FDATA North America's members collectively serve six million Canadian consumers and small and medium-sized enterprises (SMEs) by providing financial management and accounting tools, digital banking services, access to investment and savings platforms, affordable credit products, and other financial services.

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 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.