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January 16, 2025

Ms. Kirsten Fraser
Director, Financial Services Innovation
Department of Finance
90 Elgin Street
Ottawa, ON K1A 0G5

Dear Kirsten:

FDATA North America appreciates the opportunity to provide recommendations to the Department of Finance (“Finance Canada”) to facilitate a tiered accreditation framework for third parties under Canada’s forthcoming Consumer-Driven Finance (“CDF”) ecosystem. Before providing our recommendations, we would reiterate our long-held view that the Financial Consumer Agency of Canada (“FCAC”), which historically has focused exclusively on consumer protection rather than consumer empowerment or innovation, is not the appropriate body to oversee or govern CDF generally or to accredit third parties under a CDF framework specifically. Our recommendations herein that reference the FCAC’s role in the CDF ecosystem reflect the Government’s decision last year to empower the FCAC with the responsibility for governing Canada’s open finance system rather than an endorsement of the agency retaining that role.

Our member companies believe that the accreditation framework ultimately implemented for CDF in Canada should adhere to three critical principles:

1. Facilitating marketplace innovation and growth that will improve Canadians’ financial wellbeing;
2. Promoting consumer and SME confidence in the CDF marketplace; and
3. Providing for appropriate consumer protection commensurate with risk.

While consumer protection is an important element of third-party accreditation requirements in a CDF framework, it is not the only principle that must be reflected. A set of accreditation requirements that establishes too high a bar for entry into the market will prevent or disincentivize firms from entering the Canadian CDF market. For consumers and SMEs to receive the benefits of open finance, they must have access to - and confidence in - a vibrant, competitive marketplace of third-party financial providers that offer a robust suite of products, tools, and services that can



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improve their financial wellbeing. The most appropriate means through which Canada can provide for consumer protection while also ensuring that third parties offer their products or services is to promulgate a tiered accreditation framework that considers a third party's size, use case, and risk profile when determining what obligations it must meet to be accredited.

To achieve this outcome, we provide the following specific recommendations for a tiered CDF accreditation framework in Canada:

- Any CDF accreditation framework must include clear provisions for due process in the event of an adverse accreditation decision.

In the consumer and SME financial services marketplace, reputation and trust are paramount. An accreditation governance process that does not afford third parties with a robust opportunity to fairly appeal adverse decisions or penalties, or that emphasizes public criticism of a third party will dissuade third parties from entering the Canadian CDF marketplace altogether. Such an approach would undermine the competition imperative of open finance. Clear provisions for due process must be integrated into any accreditation framework, and a process must be established and adhered to in order to prevent public “naming and shaming” of any third party in the absence of a verifiable, material deficiency and only after the appeals process has been exhausted.

- Insurance requirements should be scaled and reflect the reality of the cyber liability insurance market.

When considering insurance requirements for accredited third parties, the accreditation standards should account for the relatively limited coverage that is generally available today in the cyber liability insurance market. The Department of Finance should begin to work collaboratively with Canada's insurers to explore how to make cyber liability insurance policies more affordable and available, similar to the work undertaken several years ago by HM Treasury in the United Kingdom.

Any insurance requirements implemented as part of a CDF accreditation framework should also be scaled for third parties based on their size, business model, and the number of end users they serve in Canada.



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- Recognition that third parties may already be overseen by the Bank of Canada.

The delay in standing up CDF in Canada has enabled one regulatory benefit: registration with and oversight by the Bank of Canada under the Retail Payment Activities Act was implemented late last year. Canada's CDF accreditation process should recognize any third parties that have already registered with the Bank of Canada as Payment Service Providers ("PSPs") and subjected themselves to regulatory oversight, and the FCAC should seek access to any data or information the Bank retains as part of that third party's oversight to avoid regulatory duplication. CDF accreditation requirements should also be carefully constructed to avoid contradiction with RPAA PSP requirements, and safe harbors should be provided as appropriate to PSPs for CDF accreditation requirements that are duplicative of RPAA requirements.

- Recognition of accreditation in other jurisdictions for globally active third parties.

A growing number of other jurisdictions have enabled open finance ecosystems since Canada first began its journey in 2018. To the extent that a third party seeking accreditation under Canada's CDF framework already has been accredited under an open finance framework in another jurisdiction, the FCAC should be required to rely on that third party's existing accreditation in another jurisdiction to satisfy relevant elements of its application for accreditation under Canada's framework.

- Provision of a range of security standards.

While data security is paramount in any open finance ecosystem, the specific security standard(s) to which any third party is held under CDF in Canada should consider the size, use case, and number of end users that third party serves. Enabling innovative, smaller third parties to offer their services in Canada's CDF market will require avoiding a prescriptive, one-size-fits-all approach to data security that disproportionately advantages the largest third parties, which have significantly more resources at their disposal.



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- Coordination with OSFI and third-party risk management.

The Department of Finance and the FCAC must coordinate closely with OSFI to clearly distinguish between user-selected, accredited open finance providers and third-party vendors to financial institutions. The former should not be captured by OSFI's B-13 or B-10 guidance. Subjecting accredited third parties to bank third party risk management obligations in addition to the any CDF accreditation requirements will make it impossible for smaller companies to operate in Canada's open finance ecosystem.

- Provision of a fair consumer complaints process.

It is important that the end users of Canada's CDF marketplace have a mechanism through which they may submit a complaint in the event they believe a third party has not complied with a consumer or data protection element of Canada's open finance framework. But it is also important that third parties - especially new market entrants - are protected from the reputational harm of a small number of consumers submitting unfounded complaints that could be made public by an independent complaints body. To protect against this outcome, any independent complaints body created under Canada's CDF framework should be required to ask consumers to attest, subject to penalty, that they are accurately representing their own personal experience with a third-party provider as a condition of submitting a complaint.

- Provision of sufficient time to prepare for accreditation.

While delivery of open finance in Canada has been promised for several years, the specific requirements for accreditation of third parties have still yet to be made public. To ensure that third parties have sufficient time to understand the requirements to receive CDF accreditation, and to implement any changes required to receive accreditation, the FCAC should provide sufficient time for potential applicants to prepare for the accreditation process. Accreditation standards should be finalized at least nine months before applications will be considered.

We believe that these approaches towards a tiered set of accreditation standards would meaningfully increase the number of third parties that will ultimately apply to participate in Canada's CDF marketplace and build trust and confidence in the open finance ecosystem with no



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corresponding risk to appropriate consumer protections. We appreciate your consideration of these recommendations and continue to stand ready to offer any information or perspective that might be of value.

Sincerely,

A handwritten signature in blue ink, appearing to read "SJB", written over a thin horizontal line.

Steve Boms
Executive Director