



POWER FINANCIAL CORPORATION

Montreal, February 11, 2019

The Advisory Committee to the Open Banking Review / Financial Institutions Division
The Financial Sector Policy Branch
Department of Finance Canada,
90 Elgin Street, Ottawa, ON K1A 0G5
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Re: Submission in response to the Department of Finance Canada's Consultation Document entitled "A Review into the Merits of Open Banking"

We welcome this opportunity to offer our comments in response to the Department of Finance Canada consultation document on the merits of Open Banking released on January 11th, 2019.

Executive Summary

Power Financial Corporation ("Power Financial") is of the view that Open Banking would provide meaningful benefits to Canadians and have positive impacts on the Canadian financial sector and its stakeholders with respect to the core financial sector policy objectives of Efficiency, Utility and Stability. In addition, Open Banking would have the merit of increasing individual control over personal financial information, which should be an important policy objective given Canadians' concerns about loss of privacy. Legislative enhancements to Canada's data privacy framework, together with a sustained Government-led communications campaign, would help fulfill a critical condition for the success of Open Banking by enhancing Canadians' trust in data sharing and use. In our view, the Federal Government has vital roles to play as enabler, leader and facilitator for Open Banking to become a reality in Canada. We support plans by the Department of Finance to move forward with implementation considerations for an Open Banking framework in Canada.

Power Financial Group

Power Financial (TSX: PWF) is a diversified management and holding company with interests in companies in the financial services sector in Canada, the United States and Europe. We are major long-term shareholders of companies, including Canadian public company subsidiaries, such as Great-West Lifeco Inc. (TSX: GWO) and IGM Financial Inc. (TSX: IGM). In addition, Power Financial is the principal asset of Power Corporation of Canada (TSX: POW), which holds an approximately 65.5% voting interest in Power Financial. In turn, Power Corporation of Canada has a controlling shareholder, the Desmarais Family Residuary Trust.

Power Financial, Great-West Lifeco and IGM Financial are major investors in Portag3, a fund that makes early-stage investments in financial technology companies with potential for global impact.

Through our long-standing shareholdings in established players in the financial sector and our investments in younger challengers, we think we can offer a unique vantage point on the questions posed in the consultation document.

I. Would open banking provide meaningful benefits to and improve outcomes for Canadians? In what ways?

Efficiency, Utility, Stability

We are of the view that, if implemented appropriately, Open Banking (“OB”) would provide meaningful benefits to Canadians and have positive impacts on the Canadian financial sector and its stakeholders with respect to the Department’s core financial sector policy objectives, in particular **Efficiency** and **Utility**. With respect to the third core financial sector policy objective (**Stability**), we are confident that detailed analysis of the specific OB framework considered for implementation would reveal, if not positive impacts, then minimal negative impacts that can be effectively mitigated.

Specifically, we believe OB would deliver meaningful benefits in terms of **innovation**. In our experience with both incumbent companies and new, technology-focused providers of financial services, we are witnessing the central role of access to consumer data in the development and offering of new products and services. The central tenet of OB is the right for consumers to direct their financial service providers to make available the consumers’ data to third parties in a secure, machine-readable manner. If implemented correctly, the infrastructure facilitating data transmission and delivery would make more data available to properly vetted parties. More data, increasingly available, with a higher degree of variety and from sources that are more diverse, will stimulate innovation. Incremental innovation will come not only from new, but also from existing players in the Canadian financial landscape¹.

¹ Increased availability of rich and high-quality data will also support innovation and applications in machine learning and data analytics, fields in which Canada has a fledgling leadership.

We also believe that OB has the potential to increase **competition** in the Canadian financial marketplace. Increasing availability of data will make it possible for more entrants to offer products and services that fit the needs of Canadian consumers. We see already, for instance, that challenger companies with original approaches to customer segmentation and technology allow new groups of Canadians to have access to specific financial products and services. What's more, since they are unencumbered with legacy systems or inefficient business processes, they are positioned to offer these products and services at lower price points. Our affiliate Wealthsimple provides evidence of this. Essential for quick and more accurate customer segmentation is the increased availability of data afforded by OB.

In addition, enhanced data availability will make it easier for consumers to switch between providers, which will lead, through increased competition, to downward pressure on prices². Therefore, OB is likely to result, over time, and through the workings of innovation and competition, in increasing gains, i.e., lower costs for higher quality products and services, to consumers³.

The increased business investment in innovative financial products and services, as well as the efficiency gains passed on to consumers, will contribute to **growth** in the Canadian financial sector and in the economy overall.

More innovation, more competition, consumer gains and more economic growth: summarizing, we are of the view that OB fulfills the Department's core policy objective of **Efficiency**.

We also add that we see risks in not introducing a framework such as Open Banking in Canada: through investments by Portag³, we are witness to innovation in financial technology in other jurisdictions. Compared with Canada, some of these jurisdictions benefit from advantages in scale, access to data and sometimes talent, as well as from policies and regulations that strongly support innovation in fintech. We are concerned that our Canadian-based homegrown innovators, without OB, will not be able to compete with some of the emerging players in those jurisdictions. It is quite telling, for example, that Canada does not yet have a single unicorn (defined as a start-up with more than US\$1 bn in market capitalization) in this field.

We believe that introducing an OB framework is also necessary for incumbents in banking as well as in other parts of the Canadian financial sector. OB will to increase their flexibility, resiliency and nimbleness. It would seem imprudent to assume that Canada can remain an island of financial stability by cutting itself off from trends in innovation and competition emerging elsewhere in the world. Canada has an opportunity to open a window to a degree that suits the needs and preferences of its consumers, service providers, and other stakeholders, and that respects the foundations of its financial sector framework⁴.

² Increased transparency already has this impact in certain sub-sectors of finance such as asset management.

³ According to a McKinsey study, open data can help create US\$ 3 trillion a year of value in seven areas of the global economy, of which approximately US\$ 200 bn in consumer finance (banking, insurance and real estate). See <https://www.mckinsey.com/business-functions/digital-mckinsey/our-insights/open-data-unlocking-innovation-and-performance-with-liquid-information>

⁴ The recently completed Review of the Financial Sector Legislation has reaffirmed the foundational elements of Canada's framework, which include strong and clear mandates for federal financial sector regulatory agencies with

An OB framework also offers an opportunity to stimulate the provision of services and products to underserved segments of the Canadian population. As mentioned earlier, increased data availability improves customer segmentation; better segmentation can in turn lead to an expansion of the addressable market. Better product design, more targeted marketing and delivery, and potentially re-inclusion of certain consumer groups can follow.

OB therefore also provides a chance to fulfill the Department's core policy objective of **Utility**.

Finally, with respect to **Stability**, we expect that OB will have positive impacts in Canada. Most obviously, the nimbleness and agility which institutions will acquire as a result of being exposed to more innovation and competition will contribute to the stability of the sector. In addition, by formalizing secure communications protocols for data exchange between financial data holders and third parties, and ending the practice of screen-scraping, OB will reduce both cyber risks and, as a consequence, the risk of a catastrophic attack which might endanger the financial stability of banks, as well as of other financial institutions.

Given Canada's past success ensuring financial stability with its financial sector framework, we understand policymakers' focus on this important core policy objective. This is why we recommend, in our answer to the document's third question (below), that the Office of the Superintendent of Financial Institutions ("OSFI") undertake, jointly with the Bank of Canada ("BoC"), an impact study of the specific OB framework contemplated in Canada. This could be initiated at the request of the Minister upon release of the Advisory Committee's report on implementation considerations for Open Banking in Canada, at the end of the second phase of their work.

When they complete this impact study, it is entirely possible, in our view, that OSFI and the BoC will conclude that the proposed OB framework will have an overall positive impact on the financial stability of Canadian banks and other institutions; or that any negative impact, on balance, would not be meaningful, and at any rate be capable of effective mitigation.

Increased individual control over personal financial information

In addition to the consideration given to the three core financial sector policy objectives, we are of the opinion that OB can help achieve other important policy objectives in Canada. In particular, we fully concur with the Department's view, expressed in the Consultation Document, that a compelling merit of Open Banking in Canada "*is its potential to increase individual control over personal financial information*". We develop our thoughts on this topic in the next section of this submission.

In summary, we support plans by the Department and its Advisory Committee to consider, as the next steps in this process, implementation opportunities and challenges of an Open Banking framework in the Canadian context.

a principles-based approach to regulation, a size-based ownership regime for financial institutions and a separation between banking and insurance activities.

II. 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?

Promoting greater trust by Canadians in data sharing and use

We strongly believe that, prior to implementing an OB framework in Canada, the Government should strive to implement policies that promote greater trust by Canadians in data sharing and use, in recognition of the overall benefits of increased data availability.

We are taking note of the National Digital and Data consultations that the Department of Innovation, Science and Economic Development has undertaken in 2018. We understand that these consultations will help develop Government policies on Canada's positioning in the digital economy. We expect that policies will be tabled with respect to skills development and business innovation. But in our view, the third pillar of these consultations, namely questions of trust and privacy, is perhaps the one closest to Canadian consumers' day-to-day concerns.

The Office of the Privacy Commissioner of Canada ("OPC") found, through its *2016 Survey of Canadians on Privacy*⁵, that "*the vast majority of Canadians are worried that they are losing control of their personal information, with 92% of Canadians expressing concern, and 57% being very concerned, about a loss of privacy*"⁶. These statistics echo our own anecdotal observations about the concerns that Canadians have about the protection of the data they share or generate, the use of such data, and their personal privacy and reputation.

We think the Government needs to address, as a matter of priority, this widespread public anxiety if Open Banking is to be a success. We are convinced that there need not be a policy trade-off between privacy and innovation. Indeed, a clear, well-communicated privacy framework may be conducive to consumers freely exercising their consent to share data, and thus, supporting innovation through enhanced data availability.

A first step would be to table, discuss and implement legislative enhancements to the *Personal Information Protection and Electronic Documents Act* ("PIPEDA") and other laws⁷, as appropriate. We value, and encourage the Government to continue to embrace, the technology-neutral, principles-based nature of PIPEDA. Still, we note that it is necessary to align PIPEDA with global best practices and the privacy legislation of Canada's key trading partners, notably the *General Data Protection Regulation* in Europe. Substantial work has already been completed by the OPC and Parliament⁸ in this regard. In addition, we note that according to the

⁵ Available at https://www.priv.gc.ca/en/opc-actions-and-decisions/research/explore-privacy-research/2016/por_2016_12/

⁶ OPC. 2016-2017 Annual Report to Parliament, p. 18.

⁷ The *Privacy Act* and provincial statutes equivalent to PIPEDA and the *Privacy Act* come to mind.

⁸ House of Commons, Report of the Standing Committee on Access to Information, Privacy and Ethics: *Towards Privacy by Design: Review of the PIPEDA*. February 2018.

*Commission d'accès à l'information*⁹, Quebec's equivalent law, the *Act respecting the protection of personal information in the private sector*, is also in need of a significant update.

We realize that legislative enhancements, at the Federal level, may have to wait for the next Parliament, in late 2019 or early 2020. We hope to see legislation prepared this year in order for the next Government to be in a position to table amendments to PIPEDA very early in the life of the new Parliament.

Since Open Banking is based on the premise that individuals have the ability to direct their financial service provider to transfer data to accredited third parties, it will also be necessary to legislate on consumers' **right to port data**. The Government would do well, in our opinion, to consider Australia's *Consumer Data Right*¹⁰ as an example of an economy-wide legislative basis for data portability. If a similar path is chosen in Canada, a consumer's general right to port data would need to be introduced in PIPEDA, while its specific scope for applicable sectors would be shaped in sectoral laws and regulations¹¹. On the other hand, if the Government prefers to restrict data portability to the financial sector, or even to a sub-sector, such as federally regulated banks, then the introduction of data portability in, for instance, the *Bank Act* would seem in order. In all cases, we assume that legislative changes to PIPEDA and other laws, including the introduction of data portability, will need to be coordinated. We also expect that the Government will coordinate with the Provinces with respect to amending equivalent provincial acts, where applicable.

We note that legislative enhancements pertaining to the rights of individuals with respect to their data, while necessary, may not be sufficient to promote greater trust by Canadians. The Government should ensure that adequate and efficient enforcement mechanisms are in place and explore, if necessary, additional mechanisms. It is important for consumers to be reassured that Canada's solid privacy framework is not resting solely on their meaningful consent and businesses' accountability practices, but also on clear guidance and enforcement by competent regulators and agencies.

As a second step for promoting greater trust by Canadians in data sharing and use, we strongly recommend that the enhanced privacy framework be promoted in a Government-led communications effort involving varied stakeholders, including consumer advocates, the business community, and others. In our view, it is critically important to evolve the current public narrative and reassure Canadians with respect to the protection, privacy and security of their

⁹ Commission d'accès à l'information. *Rapport quinquennal 2016 : « Rétablir l'équilibre »* (available only in French)

¹⁰ See <https://treasury.gov.au/consumer-data-right/>

¹¹ We are aware that market framework acts such as PIPEDA and the *Privacy Act* are based on the notion of personal information, which doesn't perfectly overlap with the concept of consumer-related data. We envisage the right to port data that is necessary for Open Banking to not include all personal information as defined under PIPEDA and through jurisprudence. Rather, we think consumers should have the right to port those data that they have provided to the financial institution, or that have been generated by virtue of transactions made through accounts held with the institution. Data that result from an effort by an institution to gain insights about a consumer using data provided or generated by the consumer, in our view, may not be subject to the right to port data, even if they are defined as "personal information" under PIPEDA. Therefore, locating the right to port data – in effect, the right to port personal information – in PIPEDA would entail subjecting the scope of portable personal information to sectoral laws and regulations.

data, financial or otherwise. This is necessary for the success of Open Banking, as measured by its take-up and its impacts on innovation and competition in the financial sector. It is also necessary if Canada is to harness the potential of data in other sectors and for the development of tools such as Artificial Intelligence and data analytics. Much is at stake for Canada's place in the 21st century digital global economy.

Finally, another key condition for Canadians to feel confident in an Open Banking system will be positive consumer experiences. For this, businesses will be responsible in the first instance, although the implementation path and the regulatory framework will also have a role to play¹². We return to this topic in our answer to the document's third question.

In summary, reassuring Canadians with respect to their control over their data and the strength of Canada's privacy framework and its enforcement will lay the foundations for success with an OB framework.

Cyber security / financial stability

Cyber security and financial stability are cornerstones for the trust of consumers in our financial system and the attendant performance of our economy.

With respect to cyber security, we note the Government's release of a National Cyber Security Strategy. Cyber security is indeed the essential companion to innovation. When new players are provided with the personal financial data of consumers, cutting corners is unacceptable. In our view, oversight of the preparedness of any new player to handle such responsibility is linked to the question of an appropriate regulatory framework. We tackle this question, as well as our suggestions with respect to financial stability risks, in our answer to the document's third question.

¹² The experience in some jurisdictions is that minimum consumer experience standards, not only technical standards or compliance obligations, should have been set in order to ensure better consumer acceptance.

III. 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?

Federal government should play enabler, leader and facilitator roles in the implementation of OB in Canada

The Federal government has various critical roles to play if OB is to become a reality in Canada.

As mentioned in our answer to the document's second question, an essential pre-requisite for OB are legislative enhancements to the data privacy framework, including data portability rights. Preparations for this can to a large extent proceed in 2019, with legislation potentially tabled and debated in 2020. Government therefore should play an **enabler** role for OB.

A second role for the Government is to play is that of a **leader** – by determining initial assumptions for an “Open Banking blueprint” (OB Blueprint) in Canada and tabling proposals for an appropriate regulatory framework for all service providers.

The Government will receive, in 2019, the report of the Advisory Committee with respect to implementation considerations and challenges for Open Banking. We assume that the report will provide helpful guidance on potential trade-offs. We suggest the Government should, in response, outline its vision for Open Banking in Canada (the OB Blueprint), with initial assumptions or proposals about

- the scope of data subject to portability;
- the scope of financial products included;
- conditions for institutions to take part in the system¹³;
- a risk management framework and a liability model¹⁴;
- minimum standards for the quality of consumer experience;
- an implementation timeline; and
- a regulatory framework¹⁵.

¹³ i.e., accreditation. Presumably, the instance in charge of accrediting participating institutions will also be the one regulating them.

¹⁴ Experience in international jurisdictions which have implemented OB shows that the risk management framework and the liability model are prominent concerns, though eminently solvable. This question is linked with that of the regulatory framework.

¹⁵ In 2017, the Department of Finance conducted consultations on a retail payment oversight framework (<https://www.fin.gc.ca/activty/consult/rpof-cspd-eng.asp>). It could take into account and integrate the insights gained on that occasion into a regulatory framework for Open Banking. Needless to say, the proposed framework should take into account provincial jurisdiction, where applicable. Provincial legislation should be harmonized with new Federal legislation. If more than one jurisdiction is involved, the merits of a passporting system for accreditation and regulation should be explored.

Equipped with this vision, the Government could commission two studies that would serve to validate the initial assumptions and prepare the implementation of the OB Blueprint:

- [A detailed impact assessment study of the costs and benefits of the OB Blueprint in Canada](#)

Many participants to the discussion on OB have a good understanding of the potential benefits and risks of OB in general, but an economy-wide evaluation of the specific OB model contemplated in Canada should be conducted. The study would also identify the stakeholders to whom such benefits accrue, or who have to incur implementation or recurrent costs.

This economic impact study would attempt to estimate the monetary value of the benefits due to, among other things, lower prices for products and services, increased transparency, financial inclusion of underserved populations, increased competitiveness and agility of Canadian service providers, as well as intangible benefits such as enhancements to the sector's innovative culture. It would seek to contrast those benefits with the costs that stakeholders (Government, business and other groups) will have to incur in preparing for and setting up the OB Blueprint (technological upgrades, new compliance requirements, setting up new regulations and regulatory bodies, and others).

The conclusions of this economic impact assessment would help the Government facilitate the chosen implementation path of the OB Blueprint by apportioning responsibilities and identifying, if necessary, compensation requirements.

- [An impact assessment of the OB Blueprint on the financial stability of Canadian institutions](#)

In parallel with the economic impact study, OSFI and the BoC should be mandated to assess the impact that the OB Blueprint, if implemented, would have on the stability of Canadian financial institutions. OSFI and BoC would also propose mitigation measures, if required.

Finally, the third role that the Government should play, in our view, is that of **facilitator**.

After review of the OB Blueprint through the economic impact study and the OSFI/BoC financial stability impact assessment, the Government should be in a position to launch implementation of Open Banking in Canada in cooperation with the stakeholders.

A collaborative effort will be required, involving Government, industry, consumer associations and other stakeholders. Given the near oligopolistic structure of the banking industry in Canada, we think participation in the Open Banking framework should be mandatory for all the major players¹⁶. The Government should set a clear timeline for implementation and hold the industry accountable for respecting it, while facilitating¹⁷, where needed, collaboration between institutions and organizations such as Payments Canada.

¹⁶ It is quite obvious that mere voluntary participation by major players would risk putting out of reach a substantial portion of the addressable market, which would threaten the viability of OB. The fact that Canada's banking market structure is almost identical to the U.K.'s and Australia's inevitably leads to the same policy necessity, i.e., mandatory participation by those major financial institutions.

¹⁷ This might require setting up an implementation entity as in the United Kingdom.

A few thoughts for the OB Blueprint

For the consideration of the Advisory Committee, we take this opportunity to respectfully submit our thoughts with respect to some considerations for the implementation of OB in Canada.

- **Step-wise approach bears more chances of success**

We are strongly convinced, not least from the experience of other jurisdictions, that the path of implementation is crucial: it is preferable to implement a narrowly scoped OB framework quickly, reap early gains in terms of consumer acceptance and system performance, and then expand on that successful basis, rather than attempt to go “deep and wide” at the outset.

Hence, while a number of products and services can be identified as potentially included in an OB framework, we would initially start with a few crucial ones, such as personal and business current (chequing) accounts, payment instruments and simple savings products. Phases for the inclusion of further products and services, and the conditions triggering these phases, could however be determined at the outset.

Likewise, we would recommend starting initial implementation with few players, as has been seen in other jurisdictions, thus allowing all stakeholders to gain experience with the new framework before broadening the scope of participants.

- **Payment initiation should be part of the framework**

We think that not only read-, but also write-access¹⁸ should be included in the framework as soon as possible.

We are aware of the implications of write-access for provider liability. These implications should be addressed in Government proposals with respect to a risk management framework and a liability model. Since, however, most of the promise of OB for innovation lies in write-access, this function has to feature as a candidate for early inclusion in the OB framework.

Obviously, the Payments Canada Modernization timeline needs to be taken into consideration. Payments Canada plans to light up a real-time payments system, or RTR (release 1), in 2020. This system is essential for real-time or quasi real-time write-access and thus, for payment initiation. Unfortunately, it does not seem, according to the current RTR implementation timeline, that the system will be able, before at least release 2 (or later), to accommodate new participants apart from the incumbents. This is seriously problematic, because it is imperative that newly accredited providers be in a position to offer payment initiation at the same time as incumbents. We therefore recommend that the Government ensure that the start of payment initiation within OB coincide with access by all accredited providers to the RTR. It would be important to explore ways in which to accelerate the implementation of the RTR release that would enable such access. In our view, the Government should make sure that all stakeholders determine an ambitious date certain for the delivery of this release, which should take place in 2021 at the latest, as well as an aggressive timeline to achieve this date. The Government will

¹⁸ This refers to third party providers “reading” data (i.e., receiving data from data holders such as banks) and to third party providers “writing” data (i.e., able to initiate payments, which consists in debiting consumer accounts with third parties, or “write” a transaction into their accounts).

contribute to this process by implementing, as soon as possible, a regulatory framework for all participants to the real-time payments system.

- It would probably help to set uniform technical standards, and to consider importing the UK OB standards

Uniform, perhaps even open-sourced standards and specifications for secure data transmission would help proceed more quickly to implementation. We recommend basing the overall architecture on the ISO 20022 standard. Consideration should be given to re-using as much as possible of the standards developed in the UK and Australia. In addition to development time gains, this could help achieve some degree of inter-operability between, at least, these three markets. We are aware that this also creates the risk that operators already fluent with those standards in other jurisdictions could gain market share in Canada at the expense of homegrown start-ups and incumbents; however, it is also true that our companies would, conversely, have an opportunity to compete on these foreign markets.

Conclusion

In conclusion, we support plans by the Department to consider the implementation of an Open Banking framework in Canada. We find that a critical condition for the success of Open Banking is trust by Canadians in data sharing and use. This can be advanced by legislative enhancements to Canada's data privacy framework, together with a sustained Government-led communications campaign. We think the Federal Government has vital roles to play as enabler, leader and facilitator for Open Banking to become a reality in Canada. In particular, the Government should set the initial assumptions for an OB Blueprint, commission an economic impact assessment study and an impact assessment on financial stability, and table proposals for a risk management framework and a liability model as well as a regulatory framework.

We wish to thank again the Department for the opportunity to provide our thoughts on this important subject. We would be pleased to continue contributing and engaging with the Department in this discussion.



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