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**BC Centre for Elder Advocacy and Support Comments
Canada's Financial Consumer Protection Framework Consultation**

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We applaud the federal government for investigating how to strengthen Canada's financial consumer protection framework and seeking input on key policy issues in this area. As an organization assisting seniors, our focus will be on seniors as consumers of financial products and services. We will respond to each of the three key areas as set out in the consultation paper. Our comments are in *italics*.

1. Establishing a Comprehensive Set of Principles for Consumer Protection

To achieve a framework that is more adaptable to changes in the financial marketplace, products and technology, the government is considering the merits of adopting standards or principles to anchor the financial consumer code.

- **Should the government adopt a set of principles to govern financial consumer protection that would be applicable even where specific regulations have not been enacted?**

Yes – we believe a set of principles should be promulgated that will inform consumers and service providers in the marketplace, and decision makers in any forum for redress of consumer complaints, including internal complaint procedures of service providers, and external decision making or mediation bodies.

- **If so, how should a set of principles be administered?**

The principles should be equally applicable to banks and any other federally regulated financial institutions offering products to consumers, especially seniors. We believe more should be done than voluntary codes and sector commitments. For vulnerable adults and seniors there should be binding codes and mandatory complaint resolution procedures and bodies, with robust penalties up to and including revoking of a license or charter.

- **What should be included in a set of principles that would form the basis for financial consumer protection?**

We believe the principles should include the notion of an 'age friendly' marketplace, where older vulnerable adults are provided with more support in the types of services or amount of service charges, shopping and purchasing more generally, and in any consumer remedies. The needs of and impact on seniors regarding the developing, marketing and delivering a financial product or service must be taken into account.

- **What elements should be set out under each principle to ensure that the principles are meaningful, measurable and fair to consumers and financial institutions?**

Each principle should include measurable objectives/examples or key performance indicators (KPIs).

2. Possible Enhancements to Existing Regime

In the context of developing a comprehensive consumer code, the government is interested in hearing from Canadians with respect to enhancing protection for consumers, including:

a) Addressing the Needs of Seniors and Vulnerable Canadians

Some Canadians may face particular challenges in accessing financial services and in assessing the most appropriate financial products for their needs. Geography, cultural and financial literacy or capacity to process information may pose obstacles to some groups.

- **What are the unique challenges faced by vulnerable populations?**

The unique challenges include financial literacy and the capacity to process information, and the challenges of dealing with the online marketplace.

As is noted in the consultation paper, seniors and other vulnerable populations can be susceptible to financial fraud, mis-selling and poor financial outcomes due to limited capacity, knowledge or education when making financial decisions. In some older households, when the main 'bread-winner' who has looked after finances passes away, the surviving spouse may face unique challenges for which they are unprepared. Transitioning to retirement, and to more physical and mental incapacity, are also challenges.

A greater challenge is dealing with various predatory lenders and lending practices.

- **How should the consumer code address these challenges?**

We believe that, for the vulnerable, any type of 'negative option billing,' unsolicited credit cards or credit card cheques should be prohibited. The risks are too great for this population.

Banks and other financial institutions should have an 'enhanced duty of care' to ensure any lending or credit card is affordable, including any debt load based on the credit limit, taking into account the likely fixed income of the vulnerable older adult.

Staff of banks and other federally regulated financial institutions need to be sufficiently trained and have access to adequate resources to address the special needs of vulnerable older adults. They should be required to explain when products or services may be inappropriate, given the risks and benefits to the older adult. An example is the possible pitfalls and recommended safeguards for the opening of a joint bank account with an adult child, or when signing a 'bank power of attorney.'

Banks and other financial institutions should be required to have a robust and enhanced deposit insurance system for the deposits of vulnerable and older adults. Many older adults have their life savings, the entire retirement funds, on deposit with financial institutions. There should be increased insurance coverage for these larger deposits.

b) Responsibility of Financial Institutions to Consumers

The existing consumer protection regime is detailed and prescriptive in nature and does not contain a general expectation for the degree of responsibility financial institutions should have to consumers. This can lead to uncertainty regarding financial institutions' obligations to consumers when new products or services are developed, including an assessment of the risks these products or services may pose to consumers.

- **Would it be useful to have in legislation a broad standard of responsibility for financial institutions to consumers and, if so, what level of care should consumers expect from financial institutions?**

Yes, a broad standard of care applicable to all financial institutions is appropriate. For vulnerable older adults the institutions should be in effect in a 'fiduciary relationship' with that adult.

- **How should this standard be administered or enforced?**

The Superintendent of Banking is in the best position to administer and enforce these standards, up to and including revoking a license or charter.

- **How should financial institutions' business practices be evaluated to ensure that they are meeting their responsibilities to consumers?**

An across-the-board set of best practices and key performance indicators (KPIs) should be developed and adhered to. Consumer groups, and seniors' groups should be consulted in any evaluation process.

c) Supervisory Powers for Accountability and Enforcement

The FCAC was established to strengthen oversight of consumer issues and expand consumer education in the financial sector. The supervisory agency plays an important role in consumer protection using its administration and enforcement powers. The government is considering whether changes are needed to the legislative framework in order to allow the FCAC to better supervise and enforce consumer protection provisions.

- **What tools and authorities will the FCAC need in order to effectively supervise and enforce the implementation of a principles-based financial consumer protection framework?**

The FCAC should have mandatory complaint resolution procedures, as well as robust investigative and enforcement powers. The Superintendent of Banking is in the best position to administer and enforce these standards, up to and including revoking a license or charter.

- **Should consumers have greater access to recourse, beyond the FCAC, in the federal consumer protection framework?**

A right of appeal should lay to the Superintendent of Banking office or another appellate body.

d) Innovation

Banking products and services have evolved significantly over the last few decades as financial systems have grown and the number and variety of financial products in the marketplace has expanded. Digital innovation has also led to an increase in consumer choice for accessing financial products and services.

- **How should the consumer protection framework accommodate emerging technologies and financial products?**

The impact on vulnerable populations such as seniors should be considered in accommodating emerging technologies and financial products in the framework.

e) Disclosure About Financial Products and Services

The government has used disclosure requirements as a key tool to provide Canadians with information to make responsible financial decisions. In an effort to be comprehensive and enable consumers to make responsible financial decisions, the government is seeking views on what key information elements are needed and what are the most effective forms of disclosure to help consumers to understand and compare products.

- **What key information do consumers need and how should it most effectively be presented to allow consumers to make informed financial decisions?**

Consumers should be provided information on the benefits, risks and features associated with the product or service being offered by financial institutions. The information provided should give the consumer the ability to make an assessment as to the suitability of the product or service.

Information should be presented in a manner that is clear, simple, not misleading and appropriate for the specific delivery channel, and should be available at appropriate times in the life cycle of the product or service. This includes a responsibility to provide clarity of costs and impacts for the consumer over the lifetime of the products and services. The most salient risks and benefits of the product or service should be summarized and provided in a standardized format with a view to facilitating comparisons across financial institutions. These requirements should be scrupulously followed when the information is provided to vulnerable populations such as seniors.

- **Are there particular products or circumstances in which disclosure is not sufficient to provide consumers with the information needed to make responsible financial decisions? What enhancements to disclosure would provide Canadians with information to make responsible financial decisions?**

Various credit items such as credit cards, line of credit, etc. need to more clearly set out the real cost of the credit, including the carrying cost of the maximum amount of credit extended, and for vulnerable adults, whether that cost is affordable given their fixed income and other expenses.

f) Access to Financial Services

The government continues to be committed to facilitating affordable access to basic banking services for all Canadians.

- **How could the code ensure reasonable access to basic banking services for all Canadians?**

The major banks and financial institutions should be required to maintain a level of ‘age-friendly’ service in any community with a sizeable population of seniors. Each branch should ensure at least one staff member has been trained in the needs of vulnerable customers. ATMs are not sufficient – many older adults avoid ATMs and are likely to have a friend or relative do their ATM banking for them – putting their PIN # and their account funds at risk.

- **Are there examples where access to financial services is difficult or constrained? How could these situations be addressed in the consumer code?**

Closing of branches should not just be a business decision. There are too many branches closing in downtown cores, requiring seniors to travel great distances in possibly dangerous neighbourhoods carrying large amounts of cash. Or attempting to negotiate online banking, with the pitfalls of phishing, fake banking sites without https// security, etc. Banks and other institutions should be

required to justify the closing of a branch, and what other services are available for vulnerable consumers in their catchment area.

g) Comprehensiveness

The financial consumer code should comprehensively protect consumers of financial products and services. In addition to addressing the elements described above, the government seeks views on any other elements that could be considered in order to achieve the objective of a comprehensive consumer code.

- **What needs to be included in order to achieve the objective of a comprehensive financial consumer code?**

We do not have anything to add

3) Continuing the Conversation: Engagement

By working together we can continue to position Canada as a leader in financial services regulation, including financial literacy, financial inclusion and financial consumer protection policy. To do so will require the active engagement of all stakeholders, including individual Canadians, financial institutions and consumer groups.

- **Should the government consider mechanisms for enhancing engagement among stakeholders in regulatory, supervisory and compliance processes related to consumer protection?**

The government should set up a Financial Consumer Protection Advisory Group, that represents the interests of consumers, including seniors, to facilitate ongoing collaboration between the public and private sectors, including consumer groups and seniors groups.

- **How could consumers and consumer groups best contribute to these processes, and what might their role be?**

Various consumer and seniors groups should be standing members of this Financial Consumer Protection Advisory Group.