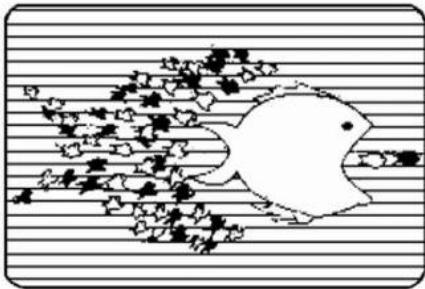


The British Columbia Public Interest Advocacy Centre

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February 28, 2014

Jane Pearse
Director, Financial Institutions Division
Financial Sector Policy Branch
Department of Finance Canada
L'Esplanade Laurier
15th Floor, East Tower
140 O'Connor Street
Ottawa ON K1A 0G5

Re: Financial Consumer Protection Framework – Consultation Paper

Dear Ms. Pearse:

BC Public Interest Advocacy Centre (BCPIAC) is a non-profit, public interest law office that provides representation to groups that would not otherwise have the resources to effectively assert their interests. We are writing with regard to the Department of Finance's invitation for input on development of a federal financial consumer code.

As we represent the interests of marginalized people in British Columbia, we have a strong interest in ensuring that enhancements to the existing federal consumer protection regime adequately address the needs of the country's most vulnerable consumers, such as seniors, those with low or fixed income, with cognitive disabilities, or with low literacy and numeracy (whether that is financial literacy, or literacy more broadly).

Although we do not provide information and representation on financial consumer issues as a matter of course, we regularly hear from our clients and the legal advocates with whom we work about the ways in which vulnerable communities and individuals are harmed by financial institutions' practices. In our view, the need for better protection in this area is clear. For example, we recently had a client, who several years ago had had two credit card debts she was unable to pay, despite unsuccessfully trying to settle the debts with the assistance of a credit counselling society. Interest continued to accumulate on these debts at 19% for a number of

years without any communications from the financial institution. When we met with her, she was being sued by the credit card company for an amount that had accumulated to more than four times the principal amount.

More generally, we frequently encounter individuals that have been living in dire poverty for a long time, yet remain hopeful for new ways to improve their situation. A seemingly promising investment opportunity or service can be particularly perilous for such consumers—for example, where financial institutions do not provide information on the risks and potential liabilities associated with financial products from the outset in an easily understandable and accessible way.

Strengthening Canada's Financial Consumer Protection Framework

In terms of concrete recommendations for enhancements to the existing consumer protection regime, BCPIAC strongly supports the submissions by the Public Interest Advocacy Centre (PIAC) in Ottawa.

Specifically, we agree that it would be useful to have in legislation a broad standard of responsibility for financial institutions to consumers—namely, that financial institutions will act in the customer's best interest. This standard would provide important framing for more specific rights and responsibilities.

We support the development of a comprehensive code that is principles-based, but prescriptive enough for consumers to identify their rights, and understand how these rights can be enforced if financial institutions violate them. Following overarching principles, the code should set out specific rules for financial institutions that expand on these principles; that is, detailed requirements so that institutions are clear on their obligations, and those accessing their products and services can easily understand and access their rights. For example, consumers with limited financial literacy must be able to point to a section of the code and accurately identify whether it targets their circumstances.

The consumer code's protections should be binding on financial institutions—that is, not simply a set of voluntary standards that government encourages institutions to adopt. In our view, the code should have the same status as statute, or at least regulation.

Finally, in order for a standard of responsibility and specific protections to be meaningful, the code must set out a strong and accessible enforcement regime. Again, BCPIAC fully endorses the recommendations put forward by PIAC in this regard.

We share the view that it would be unnecessary, and in fact undesirable, to start from scratch in developing a comprehensive code. The Department of Finance should look to similar consumer codes that have been successfully implemented in other jurisdictions. PIAC's submission points to rules for financial institutions established in other countries with respect to business practices and responsibilities to customers. We agree that the codes and regulations established in Ireland, Australia, and Hong Kong would provide a good starting point for development of Canada's own code.

Ongoing Engagement

The Consultation Paper raises the possibility of an advisory group to facilitate ongoing collaboration between the public and private sectors, including consumer groups. Given the obvious disparity in resources, we expect that the financial industry's perspective will be much more heavily represented in this consultation process than the consumer perspective. As such, BCPIAC would welcome the opportunity to take part in further stakeholder consultations on this issue to ensure that voices of vulnerable financial consumers are heard.

Sincerely,

BC Public Interest Advocacy Centre

Original signed on file by

Tannis Braithwaite
Executive Director/Barrister & Solicitor