

OPEN FOR BUSINESS? AN OVERVIEW OF OPEN BANKING IN CANADA

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Overview

The concept of open banking is emerging internationally as the potential future of the banking industry, and this trend is beginning to gain traction in Canada as well. The idea behind open banking is to allow the free exchange of consumer data, processes and other information between providers of financial services. This would include not only large financial institutions, but also smaller players and new entrants into the market. Consumers would have the ability to opt-in to open banking initiatives by authorizing their financial service providers to share their consumer data with third parties through digital channels.

In practice, open banking not only allows financial service providers to read and use the consumer data, but may extend to other applications such as the ability to initiate certain actions, on a customer's behalf (i.e. making payments), or to allow for portability between providers.^[1]

Other jurisdictions internationally have already introduced open banking, through a variety of approaches. The developments in these countries will likely serve as a framework for shaping the introduction of open banking in Canada. Among others, the United Kingdom has introduced a data sharing and payment initiation initiative that began in January 2018.^[2] Australia will also begin to implement a data sharing initiative in 2019.^[3] The European Union, in 2016, introduced the Second Payment Services Directive, which is a data sharing and payment initiation directive that all member states will need to implement.^[4]

The State of Open Banking in Canada

The Government of Canada recently began the process of reviewing the merits of open banking. In August 2017, the Department of Finance (Canada) announced its intention to examine open banking, and consider how it has been implemented internationally, in its consultation paper entitled *Potential Policy Measures to Support a Strong and Growing Economy: Positioning Canada's Financial Sector for the Future*^[5]. The Competition Bureau of Canada also expressed some support for the review of open banking, however, at the same time it acknowledged that Canada's complex federal system might introduce unique challenges not faced by other jurisdictions.^[6]

In its 2018 federal budget, the Government of Canada reiterated its intention and proposed to undertake a formal review of open banking.^[7] Further to this initiative, on September 26, 2018, the Minister of Finance, Bill Morneau, announced the creation of the Advisory Committee on open banking, and appointed its first four members: Colleen Johnston, François Lafortune, Kirsten Thompson and Ilse Treurnicht.^[8] The establishment of the Advisory Committee marked the first action taken by the Government of Canada in its formal review of the merits of open banking.

In January 2019, the Department of Finance Canada released a consultation paper (the “**Consultation Paper**”) on the merits of open banking, following the appointment of the Advisory Committee.^[9] The Consultation Paper provides a high-level overview of the concept of open banking, and seeks the views of various stakeholders on the following key questions:

1. Would open banking provide meaningful benefits to and improve outcomes for Canadians? In what ways?
2. 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?
3. 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?^[10]

The Canadian Bankers Association (the “**CBA**”), which represents both domestic and foreign banks operating in Canada, is one such key stakeholder that provided a submission in response to the Consultation Paper.^[11] In its submission, the CBA acknowledged that it strongly supports innovation and increased competition through technology, and agreed that open banking offered benefits to consumers, financial institutions, small businesses, and other financial services providers. In saying this, the CBA also stressed the importance of mitigating the risks associated with open banking that it perceives to be the most significant. The risks highlighted by the CBA were associated with consumer protection, data privacy and confidentiality, financial crime, and the stability of the financial system. Going forward, the CBA advises that Finance Canada should simultaneously consider the broader context of policy initiatives in the financial services industry and ensure collaboration between the various policy-makers and regulators involved. The CBA also expressed its willingness to engage on the issue of open banking as the review of open banking progresses.

Once the consultations are complete, the Advisory Committee expects to deliver a report on the findings of the consultations, and begin, assuming the outcome of phase one is positive, the process of examining how open banking might be implemented in Canada. This is expected to take place later in 2019.

Although there is momentum, Canada lags behind other jurisdictions that have also begun similar open

banking initiatives. A recent study conducted by Ernst & Young, *The EY Open Banking Opportunity Index*,^[12] found that Canada ranked 8th, behind the United Kingdom, China and the United States, in terms of its readiness to thrive in an open banking environment.^[13] Canada ranked well on innovation environment, private investment, and government support for startups, however, Canada struggled in factors such as consumer sentiment, adoption potential, and regulatory environment, ultimately highlighting some potential areas for improvement.^[14]

Merits of Open Banking

Open banking is considered to be potentially beneficial for both the Canadian financial services industry and for Canadian consumers. Firstly, open banking could provide established financial institutions with the ability to further leverage their brand and customer base to enhance their product and service offerings, and perhaps become more competitive domestically and internationally. For new entrants into the market, the increased access to data could improve their ability to grow and scale their businesses, while also providing the resources for more innovative businesses to emerge. Finally, an open banking system could provide consumers with more innovative and affordable financial services products, and allow consumers to have more control over their personal financial data.^[15]

Potential Risks

While open banking presents a number of potential benefits, many have expressed concerns about an open banking environment that will need to be addressed prior to its implementation. As the CBA noted as well, one of the primary concerns is with respect to data privacy and cybersecurity issues. In its review of open banking, the Government of Canada will look to ensure that consumers are properly informed and protected, especially with respect to the privacy of their personal information, and that security and cybersecurity risks are managed, all while ensuring the continued stability of Canada's financial sector.^[16]

Conclusion

Overall, it may be too early in the process to be certain of the prospects of open banking in Canada. However, it is clear that the Canadian government is committed to its review of open banking, and is focused on improving innovation in Canada more broadly. The outcome of the current consultation process will mark a key milestone in the government's review, and may determine whether or not an open banking system will be possible in Canada at all (or at least anytime soon).

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- [4] Department of Finance (Canada), [A review into the Merits of Open Banking](#). [ps2id id='4' target='']
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- [9] Department of Finance Canada, [Department of Finance Canada Launches Consultations on Open Banking \(2019\)](#). [ps2id id='9' target='']
- [10] Ibid. [ps2id id='10' target='']
- [11] Canadian Bankers Association, [Open Banking: Submission to Finance Canada](#). [ps2id id='11' target='']
- [12] Ernst & Young, [Canada lags global peers in open banking readiness](#). [ps2id id='12' target='']
- [13] Ibid. [ps2id id='13' target='']
- [14] Ibid. [ps2id id='14' target='']
- [15] Supra note 4. [ps2id id='15' target='']
- [16] Ibid. [ps2id id='16' target='']

A Cautionary Note

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