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**Submission by the
Financial Data and Technology Association of North America
to the
Standing Committee on Banking, Commerce, and the Economy
Regarding
The subject matter of Bill C-69, An Act to implement certain provisions of the budget
tabled in Parliament on April 16, 2024**

May 30, 2023

The Financial Data and Technology Association of North America (“FDATA North America”) is the leading trade association advocating for consumer-permissioned access to financial data in both Canada and the United States. Our members include firms with a variety of different business models that collectively provide millions of Canadian consumers and small- and medium-enterprises (“SMEs”) with access to vital financial services and products. Utilizing the products, services, and tools, that FDATA North America’s members provide, Canadian consumers can, for example, access more competitive banking services, including more affordable credit, utilize more efficient payment options, and benefit from technology to better manage their finances and grow their wealth. Canadian small businesses across the country depend on FDATA North America member companies to manage their accounting and credit needs and more easily send and receive payments.

FDATA North America was founded in early 2018 by several financial technology firms whose technology-based products and services allow consumers and SMEs to improve their financial wellbeing. Regardless of their business model, each FDATA North America member’s product or service shares one fundamental and foundational requisite: the ability of a consumer or SME to actively permission access to some component of their own financial data that is held by financial services providers.

We are strong advocates of Canada’s implementation of an open finance regime, which was first outlined as a government priority in Budget 2018. I was pleased to appear before this committee in March 2019 as part of the panel’s study on open banking, and congratulate the committee on many of its recommendations being reflected in Division 16 of Bill C-69.

The core idea of open finance is that a Canadian consumer or SME should be able to safely and securely share access to their data held at one provider with another provider that offers a better financial product, service, or tool. Whether it’s a chequing, savings, business, brokerage, pension,



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mortgage, or auto loan account, or data held by a payroll or benefits provider, open finance is the straightforward notion that the customer should have the right to use that data for their own benefit. Once built, open finance in Canada will put consumers and SMEs in full control of their financial data, facilitating a more transparent and competitive Canadian financial services marketplace that provides safe and secure data portability. FDATA North America and its members strongly support the framework for open finance set forth in Bill C-69, which reflects years of thoughtful consultation with industry.

A survey of Canadians commissioned by FDATA North America and Fintechs Canada in 2022 found that Canada’s existing financial services system has room for improvement. That data showed that half of Canadians feel stress with interacting with Canada’s existing financial services sector and that more than two-third of Canadians believe more competition in the financial services marketplace would lead to a greater choice in products and lower financial services fees. Ninety percent of Canadians indicated they found fintech products easy to use, with more than eighty percent reporting they paid lower fees to fintechs than to their banks for similar services or products.¹

Open finance results in more choices and better experiences for consumers and SMEs, as banks and nonbanks compete aggressively to win over customers. Canadians deserve access to these alternatives, just like their neighbors in the U.S., which will finalize its open finance regulations later this year, and the U.K., which launched its open banking regime in 2018.

In fact, Canada lags significantly behind virtually every other G-20 country with regard to open finance, data portability, and data privacy. The United Kingdom, Australia, New Zealand, Singapore, Japan, Brazil, the European Union and other jurisdictions have all enacted some version of government-led open finance under which consumers and SMEs have legally binding data access rights and data privacy protections afforded to them to access a more competitive and vibrant financial services marketplace.

The framework included in Division 16 of Bill C-69 will begin the process of affording Canadians these rights and facilitating a more innovative and competitive financial services sector. FDATA North America and its members commend the Department of Finance for advancing the first elements of Canada’s open finance regime through this bill, with the remaining elements of this phase of open finance expected to be included in the second Budget Implementation Act later this year. Division 16 of Bill C-69 will provide consumers with a legal right to access and share access to their financial data held by federally regulated financial institutions in chequing and savings accounts, investment products available through their online portals, and lending products, such as credit cards, lines of credit, and mortgages. It will provide the Financial Consumer Agency of Canada (“FCAC”) with the authority to govern the system, and will establish an interoperable

¹ <https://fdata.global/wp-content/uploads/2022/04/FDATA-Paytechs-Joint-Survey-Results-2022.pdf>.



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technological framework for the system with the United States. Additional critical components of the framework, including third-party accreditation and security, will come later this year.

While the inclusion of these elements of open finance in Bill C-69 represents a significant step forward for a more inclusive, customer-centric financial system in Canada, FDATA North America would recommend several important amendments to Division 16 to ensure that the legislation aligns with both our understanding of the Department of Finance’s intent and best practices from other jurisdictions.

First, we suggest that the bill clearly and unambiguously should include SME accounts as covered in the scope of the first phase of open finance. The Department of Finance correctly referenced in the Fall Economic Statement² the significant benefits afforded to SMEs when they are afforded control over their financial data and empowered to utilize third-party tools to manage their finances. Bill C-69 should make explicitly clear that SME accounts will be included in the regime.

Division 16 should also be amended to afford the FCAC the statutory authority to oversee not only businesses’ interactions with end users in Canada’s open finance system, but also their compliance with the laws and regulations in regard to their interactions with one another. Absent this important addition, it is not clear to FDATA North America or our members that the FCAC would be permitted to enforce any requirement that, for example, a federally regulated financial institution’s secure data gateway must reliably be accessible by an accredited third party. This is an obvious and foundational underpinning of any well-designed open finance framework, and one that Canada’s implementing legislation must include.

Finally, we suggest several amendments to ensure due process and good governance as the FCAC takes on this critical, expanded role. These amendments include: requiring that the FCAC have “evidentiary support” before bringing an enforcement action for non-compliance forward; stipulating that the FCAC must issue regulations establishing the penalties and process for enforcement, and providing stakeholders with an opportunity to more accessibly appeal FCAC penalties in the event they believe them to be unwarranted. In sum, these amendments would create more transparency in the governance process and mitigate the risk of smaller entities deciding not to participate in Canada’s open finance system.

Each of these amendments would more closely align Canada’s open finance framework with the best practices established by the United States, the U.K., Australia, and the many other jurisdictions that have more quickly designed and deployed their systems. We respectfully ask the for the committee’s consideration of these changes and appreciate the opportunity to share our perspective on Canada’s open finance framework.

² <https://www.canada.ca/en/department-finance/programs/financial-sector-policy/open-banking-implementation/2023-fes-policy-statement-consumer-driven-banking.html>.