



December 8, 2023

VIA E-MAIL

Department of Finance Canada
legreview-examenleg@fin.gc.ca

Dear Madam or Sir:

RE: Financial Institutions Statutes Review

We write today in response to Finance Canada's [Consultation on Upholding the Integrity of Canada's Financial Sector](#).

The First Nations Financial Management Board (the "FMB") is a First Nations-led organization established under the *First Nations Fiscal Management Act*.¹ We have responded only to questions that are relevant to our clients and our mandate.

PART I: Factual Background

At the outset, it is essential that Canada consider the unique and often unequitable position Indigenous communities are in regarding financial institutions. We set out certain of those points now:

Canada's Indigenous Peoples do not have the same access to financial institutions and services as other Canadians

There are over 630 First Nations communities across Canada. Almost 30% of First Nations people live on reserves. There are more than:

- 1.05 million First Nations people in Canada, with over 300,000 living on reserves;
- 624,000 Metis; and
- 70,000 Inuit. Approximately 69% of Inuit live in Inuit Nunangat, which comprises four regions (Nunavut; the Inuvialuit Settlement Region; Nunavik; and Nunatsiavut) in northern Canada.²

Access to basic financial services in remote and northern Indigenous communities is limited. In a 2021 paper,³ the Bank of Canada examined the distance between First Nations band offices and the nearest cash source. Here are some of the paper's main conclusions:

- Average travel distance from a band office to any cash source is 3.7km;
- Average distance from a band office to a financial institution branch and financial institution AM is about 25 km;

¹ S.C. 2005, c. 9. The FMB works with clients to develop fiscal capacity and responsible fiscal governance, and further serves Indigenous people by advocating for the necessary inclusion of Indigenous interests in financial and economic policy matters throughout Canada and internationally.

² [An Overview of the Indigenous Economy in Canada \(bankofcanada.ca\)](#)

³ [An Exploration of First Nations Reserves and Access to Cash \(bankofcanada.ca\)](#).



- Average distance from a band office to a white label ABM⁴ is 4.5 km;
- White label ABMs are the most common cash source;
- Almost a third of band offices are within 1 km of a cash source, over half are within 5 km, over three quarters are within 20 km and almost 90 percent of band offices are within 50 km of a cash source.

The authors noted that

The median travel distance to the closest FI branch, about 25 km, also informs understanding of the proximity of First Nations reserves to financial services more generally, including access to cash along with other services such as savings and credit products.

Indigenous Peoples do not have equitable access to insurance and bonding

Indigenous communities are “underserved, siloed, and excluded...by the insurance industry resulting in tremendous uncertainty and inequity”.⁵ Indigenous companies cannot use their land or houses as collateral. Indigenous companies are often unable to compete for contracts on large jobs because:

- they are undercapitalized;
- they often cannot meet typical surety bonding requirements (e.g. inadequate assets in the company; *Indian Act* s. 89(1) prohibits First Nations principles from using their own assets in lieu of company assets); and/or
- they cannot obtain lines of credit from financing institutions for 10% of the value of the job in question.

We understand that it may cost Indigenous individuals, communities or companies up to twice as much to secure insurance.

Indigenous Peoples do not have equivalent Internet access as compared to other Canadians

In 2021, 13% of First Nations did not have adequate Internet access to use basic online banking services. Internet access in Inuit Nunangat is “slow, unreliable and prohibitively expensive”.⁶

⁴ A white label ABM is not affiliated with any financial institution. Customers pay additional fees, typically paid to the private ABM provider and the owner of the property hosting the ABM. Cardholders’ financial institutions may also charge fees for using ABMs not associated with the financial institution.

⁵ “Exploring an Indigenous Owned Insurance Model”, First Nations Finance Authority and BFL Canada, February 2022, available [online](#).

⁶ The Digital Divide: Broadband Connectivity in Inuit Nunangat, Inuit Tapiriit Kannatami, August 2021, available [online](#). See also: [Internet access in Nunavut: slow, costly connections | CTV News](#): “An auditor general’s report published earlier this year found that since Canada’s connectivity plan was released in 2019, a digital divide still exists between urban, rural and remote areas. As of 2021, it found while nearly 91 per cent of households across Canada had access to minimum connection speeds, that was the case for less than 60 per cent of households in rural and remote areas -- and zero in Nunavut.”

PART II: FMB Responses to Consultation Questions

Question 3: What would be the risks and benefits of potential consolidation in the federal financial sector?

Canada must consider remote and Northern communities when determining the risks and benefits of consolidation. Notably, consolidation will decrease competition, and the positive outcomes competition brings (e.g. unique and innovative products; servicing underserved markets). This competition is important in Indigenous communities which, as set out above, often have less access to financial institutions than other Canadians. While Indigenous communities generally have local access to white label ABMs, these ABMs charge high user fees. Thus, consolidation poses risks to already-vulnerable and already-underserved Indigenous communities.

Consolidation may be contrary to the clear focus that Canada must put on innovation and how it can increase Indigenous Peoples':

- access to cash, without high fees, and
- access to financial services and products.

Competition, on the other hand, will drive financial institutions' innovation and creation of new financial services and product, including solutions for people who rely on online banking.

Question 4: How should the federal legislative and policy framework adapt to protect Canadian consumers' interests and uphold the financial sector's integrity?

We recommend Canada consider the following make appropriate adaptations to the legislative and policy framework:

- **Insurance:**
 - Canada must determine how to make insurance accessible and affordable on reserves and in remote Indigenous communities. If insurance products are available to be purchased by individuals, companies or councils on reserves, they are often expensive and may be outright unaffordable.
 - This is an unacceptable state of things. Indigenous communities are at increased risk of climate related disasters that could destroy communities (e.g. wildfires; many communities are on floodplains). These communities need to have access to affordable insurance to guard against these risks, the same way other Canadians do.
- **Indigenous Representation:** The Financial Consumer Agency of Canada and the Office of the Superintendent of Financial Institutions need Indigenous representation amongst its senior managers and directing minds. Canada should require Indigenous representation at these institutions.
- **Consumer education and financial literacy:**
 - Canada should ensure that, as part of reconciliation, financial institutions educate Indigenous individuals in basic financial consumer education. Indigenous individuals and communities have long been excluded from the financial markets. The result of this is low levels of financial literacy, and vulnerability of Indigenous individuals and nations.

- This basic financial consumer education should be more basic than the information provided when a consumer is getting a financial product or service.
- Canada should partner with a credible financial education partner to research, plan and roll-out this education program (e.g. CPA Canada).
- **Indigenous Languages:** Financial institutions should be required to make basic materials (for basic education as well as for financial products or services) available in Indigenous languages, on a regional-specific level (e.g. in Inuit Nunangat, materials should be available in Inuktitut).
- **Portability of Financial Institution Accounts:** It should be simple to move your entire banking accounts to another bank. Canada should account for this in any adaptations.
- **Open Banking:** Open banking may provide secure, competitive, and user-friendly financial services. Open banking is used in parts of Europe, the UK, and Australia. We understand that Canada is considering open banking. We support the research into the regulation of, utility of and innovations possible through open banking.
- **Staff Training:** Canada should require financial institutions to educate staff, especially front-line staff (e.g. bank tellers) on the pattern of discrimination against Indigenous Peoples in the delivery of financial services. This should include education on the Truth and Reconciliation (TRC) report; the TRC Calls to Action (especially TRC 92); and, importantly, education about Indigenous identity and forms of identification, notably Status Cards.⁷

Question 5. What are the risks and benefits from the emergence of new financial services providers, and how should the federal legislative and policy framework adapt?

New financial service providers, including online retailers and financial technology providers (should open banking become regulated in Canada), will increase competition and incentivize innovation in the financial sector. Competition and innovation will result in better access to financial services and products for remote, rural and northern communities, including Indigenous communities. Competition will lead to lower costs, which will also be a benefit for Indigenous communities (and other remote, rural, northern and otherwise underserved communities).

Canada should consider policies for how it can encourage low-cost financial services providers (like credit unions, financial technology providers, and virtual banks) to enter the financial services market. Such providers will likely be smaller, and should not over-regulated. This is important to ensure that these providers, and their financial services and products, can become and stay accessible in remote communities.

Question 7. What additional protections could help ensure Canadians receive high-quality, low-cost banking services?

We recommend the following:

- Canada should mandate the posting, publication and socialization (i.e. advertising) of financial services and products (e.g. GICs). Consumers should not have to search out the types of services or products that would suit their needs. This advertising should include posting on social media, elsewhere on the Internet, and physically on bank windows.

⁷ See: [Indigenous man, 12-year-old granddaughter handcuffed after trying to open account at Vancouver bank | Globalnews.ca](https://www.globalnews.ca/story/indigenous/2016/06/16/indigenous-man-12-year-old-granddaughter-handcuffed-after-trying-to-open-account-at-vancouver-bank-1.321111)

- Staff, especially front-line staff, should be required to take trainings, as set out in detail in our response to question 4.
- Canada should mandate consumer education and financial literacy programming, as set out in detail in our response to question 4.
- The legislative and policy framework should foster a proactively competitive environment, including by placing a ban on tied-selling and bundling of products. This should go beyond coercive tied-selling, which is already a prohibited banking practice. The framework should be modernized to create more competition at the dealer or brokerage side, to ensure that consumers are provided with the financial services and products that are truly best for the consumer.
- Canada should amend the CPP framework to allow people to make contributions beyond the statutory required amount. This change would be beneficial to people who do not have access to defined benefit pensions, and would mitigate the high cost of buying mutual funds through an RRSP, RESP and other registered accounts.

Question 8. What barriers do Canadians face in accessing banking services, including cost barriers? How could these barriers be addressed?

An essential issue that Canada must respond to is Indigenous access to banking services. Many remote and northern communities do not have access to a brick and mortar bank. Thirteen per cent of First Nations communities do not have adequate internet speeds and bandwidth to do basic online banking services.⁸

Canada must assess the overall banking services accessibility enjoyed by Indigenous individuals and communities. Canada must close this accessibility gap. This gap could be closed by the establishment of a low-cost, “no frills” bank at, for example, Canada Post. Japan, the UK, Ireland, Germany, and France, among other countries, have all made use of their postal services to provide banking services. This would increase access to banking services because most communities in Canada have access to a Canada Post. These banks should make available low-cost savings and chequing accounts, and could provide limited financial products, such as GICs. Such banking would be of significant benefit to rural, remote and northern communities where there may not be any banking institutions.⁹

We have canvassed other barriers and solutions above. Notably, Canada should mandate financial literacy education and a requirement to make basic information available in region-specific Indigenous languages.

Question 10. How could artificial intelligence (A.I.) and other innovations be used in the financial sector, and how should the framework adapt to harness the benefits and manage any risks and ensure responsible innovation?

Artificial intelligence could be used to:

- help Nations reduce the risk of fraud, which can result from the small size of a Nation’s finance and administration teams and the resultant lack of segregation of duties; and

⁸ [An Exploration of First Nations Reserves and Access to Cash \(bankofcanada.ca\)](#) at pg. 17.

⁹ See e.g. [Banks are hard to find in Nunavut some residents say it's 'really frustrating' \(aptnnews.ca\)](#).



- provide Indigenous language translation services for financial services and products. If such translation is possible and feasible, banks should be required to make essential financial services available in Indigenous languages.

Question 12. What role can the federal government play to improve and formalize collaboration with provinces and territories and ensure that Canada is better able to address pressing financial sector policy issues, given shared responsibilities for the financial sector?

We recommend the following:

- **Involvement of Indigenous Groups:** collaboration to improve the financial services legislative, regulatory and policy frameworks must involve Indigenous governments and designated Indigenous organizations (e.g. First Nations Leadership Council; Assembly of First Nations; Nunavut's Designated Inuit Organizations; Métis National Council; Inuit Tapiriit Kanatami, etc.);
- **Adherence to UNDRIP:**
 - Canada must ensure all adaptations conform with requirements of UNDRIP. Financial regulators and standard setters must “consult and cooperate” with Indigenous Peoples regarding their proposals in accordance with the requirements of UNDRIP.¹⁰ Canada must obtain Indigenous Peoples free, prior and informed consent before adopting and implementing legislation.
 - The FMB has developed the framework for such a consultative forum: the Indigenous Council on Financial Regulation and Reporting Standards (**ICFRSS**). Through ICFRSS, Indigenous communities will be able to develop the capacity to respond to regulators' and standard setters' proposals. ICFRSS will serve as a forum to host, facilitate and discuss proposed new or amended standards and regulations. While ICFRSS will not necessarily meet the requirements of Article 19 (because Canada's obligation is to consult with **rights holders**), ICFRSS would nonetheless provide a “wise persons” forum to review legislation with a two-eyed seeing perspective (i.e. both Indigenous and non-Indigenous views).
 - We invite government to meet with us to discuss this necessary forum.
- **Harmonization:** Canada should prioritize increased harmonization between the insurance and securities industries;
- **Oversight:** Canada must ensure there is proper oversight over banking, insurance and investment products to prevent arbitrage, and to ensure that adequate level of protection for consumers across all products.
- **Increased regulation:** there needs to be increased regulation of mortgage investment corporations and private debt.
- **Space for Indigenous Financial Institutions:** Collectively, Canada and the provinces and territories control the financial sector. Government must make legislative changes and create jurisdictional spaces for Indigenous financial institutions and regulation.

¹⁰ UNDRIP Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.



PART III: Final Comments

Indigenous Peoples have been excluded from the financial market for many reasons. In addition to the foregoing comments, Indigenous financial institutions need to be established. These financial institutions may require subsidies:

- for operating in remote and northern Indigenous communities, and
- on banking products. As set out above, Internet access is not equitable in all parts of Canada. It is essential that innovative or digital products are no more favourable than those bank services that Indigenous community members have access to.

Banks must have comprehensive reconciliation reporting (see, for example, Australia's [Reconciliation Action Plans database](#)). Reconciliation reporting is an essential mechanism that enables financial institutions to demonstrate accountability in their journeys to reconciliation. This is in keeping with TRC 92, and with Canada's reconciliation obligations and its duties to its Indigenous Peoples.

Financial institutions hold a lot of personal information about consumers. Financial institutions should be required to disclose the type of personal data institutions hold, and to better advise customers of and ensure customers are fully informed about the type of personal information institutions will hold about customers. There should be clear customer opt-in requirements for financial institutions to use consumer data.

Finally, Canada must address barriers Indigenous companies face that stop them being able to secure insurance or bonding for projects. The problem creates a positive feedback loop, as increased access to bonding arises as a company completes projects. Indigenous companies remain unable to compete effectively against non-Indigenous companies, leaving the Indigenous companies behind, and exacerbating the economic and wealth disparity between Indigenous and non-Indigenous Canadians.

Thank you for this opportunity to provide comments on this initiative. As set out above, we invite government to meet with us about ICFRSS. Please contact the undersigned with further questions.

Sincerely,

Geordie Hungerford, CFA, CAIA, MBA, LLB

CEO , First Nations Financial Management Board