



September 11, 2024

## VIA E-MAIL

Department of Finance Canada  
[legreview-examenleg@fin.gc.ca](mailto:legreview-examenleg@fin.gc.ca)

Dear Madam or Sir:

### RE: Financial Institutions Statutes Review

We write further to our letter of December 8, 2023, in reply to Finance Canada's Phase One Consultation, [Consultation on Upholding the Integrity of Canada's Financial Sector](#) ("Phase One Letter"),<sup>1</sup> and our letter sent in March 2024, in response to Finance Canada's Phase Two Consultation, [Consultation on Strengthening Competition in the Financial Sector](#). Today's letter is in response to Finance Canada's Phase Three Consultation, [Consultation on Proposals to Strengthen 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*.<sup>2</sup> We have only made comments where the subject matter is relevant to our clients and/or our mandate.

As wealth managers and financial planners can now attest to, "any true effort to create true prosperity and financial security in Canada must include the Indigenous community in its vision".<sup>3</sup> We agree. With respect to this Phase Three Consultation, it is relevant that remote, rural and northern Indigenous communities have disproportionately poor access to basic financial services compared to urban areas. Further and in general, Indigenous Canadians have more concerns about being discriminated against by financial professionals and are less trusting of financial professionals than most of their Canadian counterparts.<sup>4</sup>

### Preventing Consolidation Among Large Banks

Mergers and acquisitions should be assessed according to criteria that examines whether the transaction will expand and/or improve financial services to marginalized or underserved communities, such as Indigenous communities.

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<sup>1</sup> Please refer to our Phase One Letter for the factual background for Indigenous Canadians vis-à-vis the banking and finance sector.

<sup>2</sup> 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.

<sup>3</sup> Almazora, Leo. [How advisors can build trust with Indigenous clients | Wealth Professional](#). June 21, 2022.

<sup>4</sup> In a report published by FP Canada in 2022, data suggests that Indigenous Peoples feel excluded by the financial sector in significant ways. Notably, Indigenous Canadians are more likely than most other Canadians to worry that they will be discriminated against by a financial profession. In an FP Canada report, 58% of Indigenous Canadians who participated in the study expressed worries that they'll experience discrimination from a financial professional. Indigenous Canadians were also among those who are most likely to distrust financial professionals. See: [IMAGINE 2030 Benchmark Report May 2022 \(fpcanada.ca\)](#) (the "FP Canada Report").



It is possible that consolidation may pose risks to already excluded or under-served populations and it is thus prudent for Finance Canada to consider this topic. While we do not recommend any particular exemptions to this topic, we do suggest that Finance Canada develop a metric to assess whether a proposed consolidation might benefit remote, rural or northern Indigenous communities or other Indigenous communities that are otherwise underserved. If an application for consolidation might create more access to banking services for these communities, then this may be a consolidation that is in the best interest of Canadians. Suitable and enforceable terms and conditions would be necessary to ensure that the consolidated bank must maintain these services.

### **Ministerial Approvals**

We generally support the proposal to require public consultations for certain applications regarding financial institutions or the financial sector. This should specifically include consulting with Indigenous communities where applications will have an affect on the community. Consultations with Indigenous communities should be planned in alignment with community projects and plans. Consultation materials should be available in languages and in a format accessible to communities.

### **Supporting Consumers When Banks Close Branches (a “Closing Bank”)**

In general response to these topics, we make a few comments.

Indigenous communities face known challenges and barriers in accessing banking and other financial services.<sup>5</sup> As the FP Canada Report<sup>6</sup> shows, Indigenous Canadians are amongst those who are least trusting of financial professionals. Trust is essential in financial well-being:

The more Canadians trust the [finance] industry, the more accessible they say it is. Trust is a key secondary index because we see how directly it impacts perceptions of access. With results that show every diverse community represented in the research has less trust than the average Canadian, the impact of this low trust is less ability to access professional help and a lower level of comfort while doing so.<sup>7</sup>

Accordingly, when a bank closes in or near an Indigenous community, it is not a matter of simply filling that spot with a different bank and different employees. Addressing such a closure in pure transactional terms is not suitable for Indigenous Peoples, who are often very relationship-oriented.

Knowing this, where a new bank seeks to replace a Closing Bank in or near an Indigenous community, there must be measures put in place for a culturally and community appropriate closure and/or transition. Measures must be put in place to weed out unscrupulous or bad actors from easily filling the gap. These bad actors are in a position to profit from vulnerable community members, which could cause general and specific harm to individuals and communities.

In specific response to this topic, we advise that we support those proposals set out in the Consultation Paper. We strongly support any legislative measures that will increase transparency about why a Closing Bank would choose to close completely or to reduce its teller-based services.

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<sup>5</sup> Please see our Phase One Letter where we canvas these.

<sup>6</sup> *Supra* note 3.

<sup>7</sup> *Ibid* at page 12.



We also strongly support an assessment of impacts that the Closing Bank will have on local communities. In particular, where a Closing Bank serves one or more Indigenous communities, we recommend that the Closing Bank be required to complete an Indigenous community-focused impact assessment. Impact assessment criteria should be co-developed with Indigenous community leaders and should be legislated or included in regulations, and not merely published as a best practice in a guideline.

Banks should waive all fees associated with transferring accounts. Individuals, businesses and local governments may all be significantly affected by a bank deciding to close in their community. It is essential that they not be further inconvenienced or affected by having to pay transfer fees. This should include fees of all kinds. Any fees associated with transfers should be borne by the Closing Bank as part of its business costs. This should be a required in legislation or regulation, and not merely published as a best practice in a guideline.

### **Enhancing Bank Reporting on Branch Networks and Closures**

We support Finance Canada's proposal to expand data-reporting requirements. We would additionally suggest disclosure of the number of customers that request that their accounts be transferred from the Closing Bank to another institution. This would provide additional insights into the importance customers place on having a brick and mortar bank.

### **Clarifying Rules for Opening Deposit Accounts Outside of Bank Branches**

We support applying the same rules for opening accounts to digital banking channels ("**Account Opening Rules**"). Opening a deposit account should be easy and accessible. Opening digital accounts will be especially important in many Indigenous communities which often do not have access to brick and mortar institutions.

It is essential that financial institution staff receive truth and reconciliation education and training. This must include training regarding Indigenous identity and forms of identification, notably Status Cards. We recommend that any legislative changes to Account Opening Rules ensure that Indigenous forms of identification are clarified as being adequate and satisfactory forms of identification.

### **Closing Remarks**

Finance Canada has done a good job of socializing its proposals to modernize and strengthen Canada's financial sector. We have been pleased to take part in the consultations.

As a general comment, we recommend that Finance Canada consider ways to require or recommend that regulated finance sector entities comply with Truth and Reconciliation Call to Action 92 (**TRC 92**):

*92. We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:*

*i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.*



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*ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.*

*iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.*

Finance Canada should encourage or recommend FRFIs to apply UNDRIP as if the UNDRIP was written for businesses: this is precisely what is called for in TRC 92. Federally regulated financial institutions should be able to show how they comply with UNDRIP, or how they don't comply and how they are planning to remedy their non-compliance. We are already seeing some banks with reconciliation action plans. This is a good start, but leadership is required from the federal government to encourage or require all FRFIs to apply UNDRIP.

Truth and reconciliation education is also essential, as called for by TRC 92. To begin to understand how the finance sector has harmed and continues to harm Indigenous Canadians, it is important to understand the historical context. Truth and reconciliation education will assist financial institutions in properly responding to Truth and Reconciliation Call to Action 92.

Please do not hesitate to contact the undersigned if you have any questions.

**FIRST NATIONS FINANCIAL MANAGEMENT BOARD**

Per:  \_\_\_\_\_

Scott Munro, FCPA, FCA, CAFM  
Chief Executive Officer