

# Intelligence MEMOS



From: Jeremy M. Kronick  
To: Department of Finance  
Date: August 25, 2021  
Re: **OPEN BANKING – A GOOD START BUT MORE TO DO**

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On August 4, the Minister of Finance released the Advisory Committee on Open Banking’s [Final Report](#), which included clear guidelines to the Department of Finance for implementing open banking by January 2023 – an approximately 18-month window. There is much to like in this document, including the collaborative role between government and industry, the importance of common rules such as those around liability, and clear next steps for the government to take to ensure timelines are met.

But the Department of Finance will have to go further to address regulatory hurdles that will limit the benefits consumers realize from open banking, and, as it turns to more complex open banking activities, more thought will be needed about maximizing innovation without either putting too high a cost burden on fintechs, or too high a risk burden on consumers.

Above all else, it was nice to see a clear timeline with achievable intermediate goals, and markers for success at each stage. The Committee set January 2023 as the date open banking goes live, with nine months for the “Design” stage, and another nine for the “Implementation” stage.

For its part, the committee also understood the importance of trust, confidence, and clarity for incumbents, new entrants, and consumers. Critical to creating trust in the public, and thus consumer uptake, was the provision of a set of common rules, which clearly lay out how liability will work (flows with the data), how consumers should go about filing complaints, and what recourse consumers have should things go wrong. Also critical for both the consumer to feel safe, but to also create certainty for financial institutions and third-party providers (i.e. the fintechs who will participate in open banking) was an accreditation framework. Lastly, it was imperative that all stakeholders have clarity on the technical specifications required to make sure any data transfers are done safely and in a way that incumbents feel secure in, and consumers get the most benefit.

However, the document was vague on the review of the system once we get past the 18-month window. Success once off the ground, according to the document, is “consumer uptake and use of open banking services.” This period is also meant to allow for evaluation of whether it will be possible to open (no pun intended) up open banking to services beyond simple read functions (i.e. data sharing) into write functions (i.e. editing data on bank servers), which include things such as payments initiation. And the [reason](#) Canada must stick to narrow activities is because we don’t have the regulatory harmonization necessary across our deposit-taking institutions, insurance, and securities, to broaden the services possible under open banking. And, while there is mention of regulatory alignment, it is with respect to setting the common rules, not expanding possible open-banking services – a much more complex task.

For example, our deposit-taking institutions are regulated both federally – in the case of the Big Six banks – and provincially – in the case of credit unions and *caisses populaires*. Let’s say I want to allow a fintech to aggregate my data from my account at a Big Six bank and my account at a credit union, and then invest in securities in both Ontario and Alberta, which have different provincial securities regulators. Are all relevant regulators involved in ensuring this transaction is done appropriately? Who regulates the fintech itself in this case?

Moreover, while the committee’s focus on consumer protection issues, e.g. liability, consumer complaints, accreditation, especially in the design and early implementation phases, is understandable, more will be needed as open banking activities expand to ensure innovation can thrive.

The guiding principle for open banking implementation needs to be constrained [market experimentation](#). There is much new technology with open banking, and all this is being introduced in Canada alongside payments modernization. We want fintechs to start offering new services to consumers in a controlled environment to ensure that the cost of regulation is not too high for new entrants, while at the same time giving confidence to consumers that their data is in safe hands. Rules around accreditation help in this regard, but more complex activities will require more experimentation. Securities regulators in Canada have experience with this already in the form of sandboxes (see, for example, the [OSC’s LaunchPad](#)), where fintechs experiment with new ideas in a controlled setting.

There was much to like in the Final Report, especially a clear starting date. But the government, working with regulators and industry, needs to make clear how innovative experimentation will occur over time, and whether any gains can be made on regulatory harmonization to broaden the activities and accompanying new products Canadians are hoping to enjoy. Eighteen months is plenty of time to think and act on these two concerns.

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