

TORYS

A Conversation on Open Banking

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Launch of the open banking legislative framework

On June 20th 2024, the *Budget Implementation Act, 2024, No. 1* which introduced Canada's consumer-driven banking framework received Royal Assent :

- *Consumer-Driven Banking Act (CDBA)*, and
- Amendments to the *Financial Consumer Agency of Canada Act (FCAC Act)*
- The CDBA elements of governance, scope and process, but other key aspects such as liability and privacy, are expected to be revealed in the *Budget Implementation Act No. 2* to be tabled this Fall.
- The Minister will designate a body to be the technical standards body responsible for establishing the technical standards for the sharing of data by participating entities.

I support open banking too, but this isn't how it works.



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- Large banks will be required to become participating entities.
 - Consumers and small businesses will be able to request that their data relating to financial products and services be shared with participating entities of their choice and ensure that the sharing of this data among participating entities is safe and secure.
 - the Framework will apply to data that relates to deposit accounts, registered and non-registered investment accounts, payment products, lending products and other products or services that may be provided for in the regulations.
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- the Framework will not apply to “derived data”, which refers to data about a consumer, product or service that has been enhanced by a participating entity to significantly increase its usefulness or commercial value;
 - data that is shared between participating entities will be shared in a manner that does not enable the participating entity who receives the data to edit the data on servers of the participating entity who provides the data;
 - FCAC will maintain a public registry of participating entities.
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- The Financial Consumer Agency of Canada mandate is expanded to include the oversight, administration and enforcement of the Open Banking Framework.
 - The FCAC Act establishes an independent “parallel” consumer-driven banking regulator (the senior Deputy Commissioner) within the FCAC structure.
 - Individuals or entities individuals or entities who falsely represent themselves as “participating entities” can be liable to a penalty.
 - Participating entities that do not comply with the Framework can also be subject to a penalty.

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- Account aggregation: use an API to allow customers to get an overview of their accounts and financial information.
 - Personal finance management: APIs will again facilitate budget management.
 - Instant credit risk: lenders can more rapidly review an applicant's credit history by gaining access to instant banking data
 - Subscription management: allowing customers to manage recurring payments to cancel unwanted subscriptions.
 - Opening of new accounts: speeding up the process of account opening as information can more readily be accessed.
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The existing Bank Act provision that prohibits banks from sharing customer information with insurance companies, agents or brokers for the business of insurance will not be impacted by the CDBA's provisions.

Section 6:

“Nothing in this Act affects any restriction imposed under the Bank Act on banks with respect to the sharing of information about a consumer with an insurance company, agent or broker for the business of insurance.”

- We are not there yet....



