



Written Submission for the Pre-Budget
Consultations in Advance of the Upcoming
Federal Budget



By: The Canadian Lenders Association

List of Recommendations

- ❖ **Recommendation 1:** That the government should, in accordance with the Advisory Committee on Open Banking’s recommendation,¹ move forward quickly to implement a hybrid, made-in Canada system of consumer-directed finance.
- ❖ **Recommendation 2:** That the government should amend the Canadian Payments Act to ensure RPAA-regulated fintechs are eligible to benefit from Payments Canada’s Real-Time Rail.
- ❖ **Recommendation 3:** That the government should strive to attain harmonization in the consumer protection legislation across all Canadian provinces.
- ❖ **Recommendation 4:** That the government should include language in Budget 2022 that accurately defines the fintech lending sector, therefore differentiating it from payday lending.

¹ Advisory Committee on Open Banking, *Final Report*, 2021, pp. 24.

Introduction

The [Canadian Lenders Association](#) (CLA) supports the growth of companies that are in the business of lending, or providing other means of credit, to small businesses and individuals. We represent over 170 companies across Canada. Our members are fintech innovators and our founding members include some of the leading financial technology companies in Canada. The CLA fintech members effectively and responsibly use innovative underwriting technology and practices to fulfill a demand for underserved Canadians. The CLA supports innovation across the home, auto, consumer and commercial lending sectors and works with the entire ecosystem to promote transparency and foster responsible and ethical lending practices.

Detailed Recommendations

Recommendation 1: The government should take all necessary steps to expeditiously implement a consumer-directed finance (CDF) regime in Canada.

Canada can learn from the example of the United Kingdom in its rollout of CDF systems, in which certain financial accounts were excluded from the system leading to inadequate efficacy and confusion about limitations. Instead of following along this path, Canada can choose a more expansive scope for its covered accounts. Further, to avoid ex post facto changes, a regulatory sandbox should be made to allow for the incorporation of elements that may arise with future innovations in the lending ecosystem. Ultimately, the objective of CDF in Canada should be to place more power in the hands of consumers, in order to allow them to use their own information during financial transactions at the third parties of their choosing.

Recommendation 2: Fintechs regulated under the Retail Payments Activities Act (RPAA) should be eligible, under the Canadian Payments Act, to have direct access to national payments systems; in particular, Payments Canada's Real-Time Rail.

Payments Canada plans to launch the RTR toward the end of 2022. But until regulatory reforms are finalized, nonbanks (including fintech lenders) will not have direct access to the RTR. This situation greatly risks stifling innovation, since fintechs have much to offer in optimizing the real-time payments sector. It is critical that fintechs be allowed access to the payments infrastructure that the Canadian economy operates on to foster continued competition with the goal of offering more expansive, faster and better services to customers.

Recommendation 3: There should be harmonization across all Canadian jurisdictions with regards to consumer protection measures and APR thresholds.

As the Ontario Ministry of Government and Consumer Protection drafts proposals for improved regulations of high-cost credit, it is important to be mindful of pre-existing regulations in other provinces. When drafting new legislation for core consumer protections such as rate caps, licensing measures, and disclosure requirements, the federal government should strive for consistency between all jurisdictions. Legislative consistency between provinces decreases the number of regulatory obstacles for businesses operating in multiple jurisdictions. The federal government may look to Alberta as a province that has managed to set very effective [consumer protection measures](#); including: an equitable APR threshold (i.e 32 per cent), a streamlined corporate licensing regime (i.e mandating that every lending company holds a license to authorize itself and its branches to undertake operations) and a cooling off period for consumers (i.e offering borrowers a two-day cancellation period after entering a new loan agreement). The harmonization of consumer protection measures across Canadian jurisdictions will enable fintech lenders to operate efficiently and effectively which in turn will allow for the better servicing of borrowers across the country.

Recommendation 4: The CLA recommends that in the 2022 Budget, accurate terms are used to define the fintech lending sector as a dominant form of reliable lending rather than an “alternative” option.

It is essential that the Canadian government uses terms that accurately reflect the fintech lending sector. CLA members represent a contiguous spectrum of lending options that provide essential credit to millions of Canadian including many unbanked and underbanked borrowers. Several members of the CLA use new financial technologies and non-traditional business models to provide credit to over 8.6MM Canadians who do not qualify for prime financing. For this reason, we refer to our lenders as fintech lenders. Many of our lenders offer loans to individuals who are new to credit, have little credit history or are temporarily going through difficulties financially but are likely to repay their debts. Our lenders seek to provide credit to “invisible primes” that can be found in our fast-changing workforce, that include gig drivers, influencers and an army of Zoom-based workers. Fintech lenders effectively and responsibly use innovative underwriting technology and practices to fulfill a demand for underserved Canadians. In this regard, we are not an alternative form of credit but, in many cases, the future of how Canadian borrowers are more effectively and timely served.

Conclusion

It is critical that the government understands the distinctive nature of the fintech lending sector, as it seeks to transition to a CDF system in Canada. The CLA deeply supports the move towards more open access to data across financial institutions, which will allow consumers to make their own choices and foster greater competition within the lending space. This submission (i) advocates for the effective implementation of a CDF regime in Canada, (ii) advocates for fintechs regulated under the RPAA to have access to Canada's Real-Time Rail (iii) recommends the harmonization and alignment of statutes, regulations, and APR thresholds between provinces, and (iv) recommends that the 2022 Budget uses accurate terms to define the fintech lending sector, delineating it from "alternative."

On behalf of the CLA and its membership, we would like to extend our gratitude to the Canadian government for the opportunity to provide a submission to the federal pre-budget consultations.