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Re: Consultation on Strengthening Competition in the Financial Sector

FAIR Canada is pleased to provide comments in response to the above-referenced Consultation.

FAIR Canada is a national, independent, non-profit organization dedicated to being a catalyst for the advancement of the rights of investors and financial consumers in Canada. We advance our mission through outreach and education, public policy submissions to governments and regulators, and proactive identification of emerging issues. As part of our commitment to be a trusted, independent voice on issues that affect retail investors, we conduct research to hear directly from investors about their experiences and concerns. FAIR Canada has a reputation for independence, thoughtful public policy commentary, and repeatedly advancing the interests of retail investors and financial consumers.[1]

The Lack of Competition is Harmful

FAIR Canada supports the Department of Finance's (DoF) efforts to strengthen competition in the financial sector and address market concentration, barriers to entry and expansion issues.

Financial consumers expect the Canadian marketplace for financial services and products to be fair, open and competitive. They also expect a regulatory system that promotes competition and delivers the best possible products and services to enhance their financial well-being and help fund their retirement years.

Unfortunately, the decline of Canada's competitive intensity has been a significant concern. Last fall, the Competition Bureau published the findings of a study about competitiveness in Canada over the last two

[1] Visit www.faircanada.ca for more information.

decades. It showed that concentration had increased in the most concentrated industries and noted that if a market is more concentrated, it may be easier for a firm to increase its prices.[2] The study also found that there has been a decline in competitive intensity in Canada – how hard businesses feel they need to work to outperform their competitors.[3] When competitive intensity is low, businesses are less likely to lower prices or innovate.[4]

The outcome for both consumers and businesses is poor. They have seen fewer of the benefits a more competitive economy offers, such as lower prices, greater choice, more innovation, and better-quality products.[5]

In reviewing Royal Bank of Canada's proposed acquisition of HSBC Bank Canada, the Competition Bureau noted that the five largest banks account for the vast majority of banking transactions and assets in Canada.[6] It also found that there are high barriers to entry and expansion in many financial services markets, and that conditions in some markets may facilitate coordinated behaviour among competitors.[7]

Similarly, the International Monetary Fund's 2019 review of Canada's financial system concluded that it is highly concentrated. The six largest banks and Québec's major credit cooperative group accounted for about 90% of deposit-taking sector assets.[8] Moreover, it found that the major banks' subsidiaries were among the leading securities market intermediaries and asset managers in Canada.[9]

This degree of concentration in our capital markets is unhealthy and harmful to Canadian retail investors and businesses. Our comments focus on question 6 – promoting competition in our capital markets by incentivizing or requiring large banks to offer third-party investment fund products and services.

Restricting Access to Third-party Mutual Funds

We support efforts to require or incentivize large banks to offer third-party products, particularly when it comes to mutual funds.

Unfortunately, several banks have chosen to restrict their mutual fund product shelves to proprietary products, limiting options for bank branch customers. These actions have heightened concerns that the lack of competition may lead to inferior products and services for Canadian retail investors.

The banks' decision was troubling, in part, because it went against the spirit and intent of the Client Focused Reforms (CFRs). An initiative of the Canadian Securities Administrators (CSA), the CFRs were meant to put the client's interests first in their dealings with investment firms. Disappointingly, the banks

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[2] Competition Bureau, Competition in Canada from 2000 to 2020: An Economy at a Crossroads, October 19, 2023, p. 13 – 14.
[3] Ibid., p. 2.
[4] Ibid., p. 7.
[5] Ibid., p. 2 and 6.
[6] Report to the Minister of Finance Regarding the Proposed Acquisition of HSBC Bank Canada by Royal Bank of Canada.
[7] Ibid.
[8] International Monetary Fund, Canada: Financial System Stability Assessment, June 24, 2019, p. 10.
[9] Ibid.

chose to prioritize their own interests over those of their clients. Rather than train their representatives to understand third-party mutual funds, they simply decided to restrict their clients' options to lower compliance costs. Their decision further reduced choice for consumers and entrenched the banks' dominant market share for mutual funds.

Research in 2020 by the Mutual Fund Dealers' Association (now part of the Canadian Investment Regulatory Organization (CIRO)) found that Canadian investors held approximately $1.7 trillion in mutual funds.[10] Deposit-taking institutions controlled about 70% of the distribution of these mutual funds and almost 60% of the management of the total mutual fund assets under administration.[11] FAIR Canada's own research showed that about 60% of investors surveyed own mutual funds, with almost 70% of those having purchased them through a bank branch.[12]

Other governments have raised concerns about the banks' actions. Specifically, the Ontario Minister of Finance directed the Ontario Securities Commission (OSC) to investigate banks' measures to restrict their shelf space. The Minister noted that this would narrow investment products offered to investors and undermine the intent of the CFRs.[13]

Given the banks' dominant position in respect of mutual funds, their decision has a disproportionate impact on the fund industry and Canadian investors. As such, we fully support requiring or incentivizing banks to offer third-party mutual funds.

We encourage the DoF to collaborate with securities regulators on this issue. The OSC recently announced it intends to further investigate, with CIRO and other members of the CSA, how banks and other registrants approach their shelf composition and their decision to rely on predominantly proprietary products.[14] We would welcome a collaborative approach that prioritizes consumers' interests.

Finally, one potential solution may lie in the government's efforts to adopt an open banking system (also called consumer-driven banking). To empower consumers in the face of large banks that have limited their choices, the government should find ways to facilitate the ability of customers to switch financial institutions. This would include eliminating the challenges consumers often confront when transferring accounts or funds to another financial institution.

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Thank you for considering our comments on this important issue. We welcome any further opportunities to advance efforts that improve outcomes for consumers. We intend to post our submission on the FAIR Canada website and have no concerns with the DoF publishing it on its website. We would be pleased to

[10] Mutual Fund Dealers Association Client Research Report 2022, p. 17.
[11] Ibid., p.14.
[12] FAIR Canada Investor Survey, December 2022, p. 19.
[13] Letter of Direction to the OSC from the Minister of Finance, November 2021.
[14] OSC Notice 11-798 – Statement of Priorities – Request for Comments Regarding Statement of Priorities for Fiscal Year 2024-2025, p. 10.

discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at jp.bureaud@faircanada.ca or Tasmin, Policy Counsel, at tasmin.waley@faircanada.ca.

Sincerely,

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President, CEO and Executive Director
FAIR Canada | Canadian Foundation for Advancement of Investor Rights