June 4, 2024

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Re: Issues and Discussion Paper – Best Practices for the Responsible Use of AI 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 known for independent and thoughtful commentary on public policy matters. Our work includes advancing the rights of investors and financial consumers in Canada through:

- Informed policy submissions to governments and regulators
- Relevant research focused on retail investors
- Public outreach, collaboration, and education
- Proactive identification of emerging issues.[1]

A. FAIR Canada Supports the AMF's Framework

We support the AMF's leadership in developing a framework to address the responsible use of AI by financial institutions, including internally focused AI. Since 2016, the AMF has been involved in projects relating to the financial sector's digital transformation. In November 2021, the AMF published a paper on AI[2] (the 2021 AI Paper) and signed the Montréal Declaration for Responsible AI Development.[3] The discussion paper continues this critical work by proposing 30 best practices for responsibly using AI.

FAIR Canada fully supports the proposed best practices and believes they highlight the key issues with AI. These practices are essential in helping to minimize unintended consequences as AI is used in different businesses and sectors. They will be especially helpful for organizations in the early stages of using AI in their businesses. For organizations that are further along, the framework is a useful reminder of the many risks AI raises and how to help mitigate them.

We agree with the AMF's grouping of the best practices into clear themes. We particularly support the practices regarding consumer protection and transparency. These include:

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[1] Visit www.faircanada.ca for more information.
[2] AMF, Artificial Intelligence in Finance - Recommendations for its Responsible Use, November 2021.
[3] Montréal Declaration for a Responsible Development of Artificial Intelligence, 2018.

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- using AI in consumers' best interests
- treating consumers fairly
- increasing consumer autonomy
- disclosing information about a firm's use of AI and
- explaining the factors that led to an AI's decision.

The astonishing pace of AI development and adoption underscores the need for a framework to guide market participants. The global market size for the sale of AI technologies, products and services was estimated at USD $196.63 billion in 2023 and is expected to reach USD $1,811.75 billion in 2030.[4] This represents a staggering 36.6% compound annual growth rate.[5] It reflects both business investment in AI and the adoption of AI across different sectors.

Research also shows that organizations are increasingly adopting AI. Between 2017 and 2022, AI adoption more than doubled. In 2017, 20% of organizations surveyed reported adopting AI in at least one business area. In 2022, that figure increased to 50%.[6]

Perhaps the most striking example of the rapid pace of AI adoption is ChatGPT. Reports estimate that the generative AI tool reached 100 million users just two months after its launch, making it the fastest-adopted consumer application in history.[7]

This data highlights the importance of establishing clear principles and suggested best practices to help public companies and financial institutions navigate this rapidly evolving technology. As the discussion paper recognizes, AI could cause material harm to financial consumers, such as denying a financial product due to biases in the AI. To help avoid unintended negative outcomes and consumer harm, establishing a clear framework for the responsible use of AI is essential.

The discussion paper initiates an important dialogue with firms and other stakeholders about the issues they should consider as they develop and use AI. It is vital to address AI now: delaying this conversation could result in AI advancements outpacing our ability to establish proper practices and safeguards. This could have dire consequences, such as widespread data breaches (because AI relies heavily on data) and sophisticated, AI-powered market manipulation schemes that could destabilize financial markets.

We are pleased that the AMF has started this discussion and encourage other regulators and governments to contribute to this dialogue and collaborate on this pressing issue. In particular, we would appreciate hearing how the AMF's framework fits in with any work the Canadian Securities Administrators (CSA) are doing to address AI in the capital markets. We would welcome a coordinated approach to AI among CSA members.

Finally, we urge the AMF, other regulators and governments to be bold and proactive in their approach to AI. We appreciate that the AMF does not intend its framework to create new obligations. However, given AI's extensive use and the serious concerns it raises, we would support a more assertive response from regulators and governments that imposes specific, concrete requirements. A bolder approach will help

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[4] Grand View Research, Inc., Artificial Intelligence Market Size, Share & Trends Report.
[5] Ibid.
[6] McKinsey & Company, The State of AI in 2022 — and a Half Decade in Review, December 6, 2022.
[7] Reuters, ChatGPT Sets Record for Fastest-growing User Base - Analyst Note, February 2, 2023.

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better maintain the stability of the financial system and protect consumers while allowing stakeholders to harness the benefits of AI effectively.

In the balance of this letter, we encourage the AMF to:

- Maintain a consumer-focused approach to AI
- Focus on managing the risks of AI
- Work with other regulators and governments to develop a harmonized approach to the use of AI in financial markets.

B. Maintain a Consumer-Focused Approach to AI

We appreciate that several of the proposed best practices relate to consumer protection and transparency for the public. We encourage the AMF to maintain its focus on consumer views and concerns as it refines its AI framework.

It is essential to consider consumer perspectives to increase their confidence in AI in financial markets. Research shows that many consumers worry about AI or do not understand how it is used. A study of consumer attitudes towards AI across six countries found that over 70% of respondents harbour fear of AI.[8] The study also revealed that many consumers are unaware that they interact with AI-assisted devices. Only 34% of respondents thought they had recently interacted with AI; however, when asked about the technologies they use daily, 84% had recently used at least one AI-powered service or device.[9]

In another study of attitudes towards AI, Canadian respondents were most concerned that AI tools lack the emotion needed to make good decisions (75%) and/or are susceptible to fraud or hacking (72%).[10] Similarly, research on Canadians' views on AI found that privacy, security and hacking were key concerns, but the number one worry was job loss / AI replacing humans.[11]

This research underscores the importance of gathering consumer perspectives about AI to inform the AMF's AI framework. In preparing its 2021 AI Paper, the AMF recognized that the literature and reports on AI often do not sufficiently consider consumers' expectations or interests.[12] As such, the AMF consulted with consumers to give them a voice. We appreciate the AMF's efforts in this regard and encourage further research that explores consumer views and addresses them in the framework. This will help build consumer trust in how the industry uses AI in financial markets.

In addition to the AI framework, FAIR Canada recommends that the AMF consider how to foster AI innovation that benefits consumers. This includes supporting AI use cases based on the best practices that help investors. Use cases tend to focus on applications that benefit firms and less so on enhancing the client experience. Although the Ontario Securities Commission's report on AI found that firms use AI in customer service (e.g., chatbots), the three main reasons they employ AI are to improve efficiency,

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[8] Pegasystems Inc., What Consumers Really Think About AI: A Global Study, p. 5.

[9] Ibid., p. 7.

[10] Leger Marketing Inc., AI Tools and Politics, February 23, 2023, p. 20.

[11] Innovation, Science and Economic Development Canada, Views of Canadians on Artificial Intelligence: Final Report, May 23, 2021.

[12] 2021 AI Paper, *supra* note 2, p. 77.

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generate revenue, and mitigate risks.[13] We encourage the AMF and other regulators to consider how to support AI with a clear consumer benefit. For example, the AMF's fintech lab or the CSA's Financial Innovation Hub could facilitate an AI-assisted service that helps ordinary Canadians receive sound, low-cost investment advice.

C. AI Presents Tremendous Opportunities, but Focus on Managing the Risks

AI-driven innovations offer many benefits for financial market participants. For instance, AI can:

- Quickly analyze large amounts of data to help firms assess and manage risk
- Automate repetitive processes, which can help increase efficiency and reduce costs
- Deliver personalized services tailored to individual customer needs.

However, AI also comes with numerous risks, some of which are highlighted in the paper. For example,

- AI-powered digital engagement practices such as gamification can lead consumers to act in ways that are not in their best interests
- Because AI relies heavily on data, if the data is compromised through a breach, it can make identity theft or other fraud more likely.

We support the AMF's attempts to deepen its understanding of the risks of AI and urge the AMF to focus on mitigating these risks. Given the sheer speed of AI development, risk mitigation, rather than the possibility of hindering innovation, should be the paramount concern.

Research shows North America's top five financial institutions filed 94% of AI-related patents between 2017 and 2021.[14] In addition, they published 67% of the AI research papers between 2017 and 2023.[15] Experts predict that financial institutions will keep increasing their AI spending, doubling expenses between 2023 and 2027 and surpassing $400 billion.[16] Clearly, when it comes to AI, the train has left the station. Regulators' key concern should be developing appropriate guardrails to keep the train on track, not stifling innovation.

A key risk with AI that regulators should pay attention to is systemic risk. Gary Gensler, Chair of the U.S. Securities and Exchange Commission, worries that AI could be the next major risk to the financial system.[17] AI is often called a "black box" because it is difficult to understand its decision-making processes. This lack of transparency can hinder regulators' ability to monitor and mitigate risks. As more institutions rely on AI, the interconnectedness of AI systems could amplify systemic risks. A failure in one AI system could cascade through linked networks, affecting several market participants simultaneously. We encourage the AMF and other regulators to focus on risks such as these rather than the possibility of impeding innovation.

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[13] Ontario Securities Commission, Artificial Intelligence in Capital Markets – Exploring Use Cases in Ontario, October 2023, p. 20.
[14] Evident Insights Ltd., The Evident AI Innovation Report, July 2023, p. 2.
[15] Ibid.
[16] Jeff Kearns, International Monetary Fund, AI's Reverberations Across Finance, December 2023.
[17] The New York Times, The SEC's Chief is Worried About AI, August 7, 2023.

D. Harmonize the Approach to AI in Financial Markets

AI is a global phenomenon that transcends national borders, with the US, China and the UK leading AI research.[18] Financial markets operate globally, and technology has increased their connectivity. This means it is critical that the AMF work with other regulators and governments, both domestically and abroad, to harmonize the approach to AI in financial markets. This will help to ensure:

- clarity in how AI is governed across different regions and avoid the confusion that could arise from varied regulations in different countries
- consumers receive adequate, consistent levels of protection regardless of where the AI originates or is used
- effective oversight and risk management of AI
- consistency for AI developers and users so they can more easily understand their responsibilities and rights concerning AI.

International bodies such as the Financial Stability Board and the International Organization of Securities Commissions (IOSCO) are actively addressing AI in financial markets. We are pleased that the AMF is deeply involved in IOSCO's two-year policy initiative to develop a shared understanding among its members of the risks of AI. We support cross-border initiatives such as these and encourage the AMF and other Canadian regulators and governments to participate in international efforts where possible.

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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 AMF publishing it on its website. We would be pleased to discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at jp.bureaud@faircanada.ca or Tasmin Waley, Policy Counsel, at tasmin.waley@faircanada.ca.

Sincerely,

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

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[18] Techopedia, Top 10 Countries Leading in AI Research & Technology in 2024, April 9, 2024.

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