



Opening Statement
to the House of Commons Standing
Committee on Finance by the
Canadian Bankers Association

*Bill C-37 – An Act to amend the law
governing financial institutions and to
provide for related and consequential
matters*

Ottawa

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CANADIAN BANKERS ASSOCIATION

Building a Better Understanding

Opening Statement by the Canadian Bankers Association

Mr. Chair and Members of the Committee, thank you for the opportunity to contribute to your review of Bill C-37, the amendments to the *Bank Act* and other federal financial services statutes. My name is Terry Campbell and I am Vice-President of Policy at the Canadian Bankers Association.

The banking industry believes strongly in the importance of ensuring that the legislative and regulatory framework is reviewed regularly to keep it up-to-date with technological developments, to eliminate obsolete provisions which no longer reflect sector realities, and to make it as efficient as possible for the benefit of Canadian consumers and the industry's competitiveness.

Canada's banks and other financial institutions operate in an environment of rapidly increasing regulatory burden, particularly in light of the explosion of international regulation which impacts the regulatory environment here in Canada. Since this environment affects the ability of institutions to innovate and serve their customers, it is critical that policy-makers and legislators here in Canada ensure that the legislative framework provides as much flexibility as possible and avoids imposing unnecessary or prescriptive measures.

With these principles in mind, we were deeply disappointed that the government did not adopt our proposals for changes to the insurance rules. In our view, the facts of the case – the benefits to consumers of removing out-of-date restrictions and the positive experiences in other jurisdictions that do not have these restrictions – all tell a good, common-sense public policy story.

Nevertheless, the government has made it clear that changes will not be made to the insurance rules, and so we are turning our attention to the piece of legislation at hand, Bill C-37.

As you know, the bill is focused on technical matters and that is the focus of our commentary to you today. Describing these matters as technical, however, does not mean that they are not important for consumers or the efficient operation of the marketplace. Indeed, in some key areas the government has taken positive steps in the direction of modernizing the framework.

Cheque imaging

One such step that we would like to highlight is the government's proposal to amend the *Bills of Exchange Act* to allow for the introduction of electronic cheque imaging. While Canada has one of the most highly efficient cheque-clearing systems in the world, it is still largely based on the physical clearing of paper

cheques. Cheques drawn on one bank and cashed or deposited at another must be physically transported between banks and processing centres – sometimes right across the country – before they can be cleared. The proposed amendments, however, would allow financial institutions to use electronic images of cheques – in effect, rather than having to physically transport pieces of paper, images of the cheque could be sent electronically.

Making an already-efficient system even more efficient will speed up the cheque clearing process, reduce the amount of time that funds are held, and will reduce risk – and all of this will bring real benefit to consumers. In fact, the banking industry has been working with the government on this, and has agreed to reduce the maximum period for the very small number of cheques that actually have holds from ten business days to *seven business days* by April, and reduce it further to *four business days* upon full implementation of the Canadian Payments Association's cheque imaging system.

Foreign bank entry

Another positive step in Bill C-37 is the proposal to streamline the foreign bank entry regime. We have a highly competitive financial services marketplace in Canada, with some 50 foreign bank subsidiaries and foreign bank branches competing to provide services to individual and business consumers.

While Canada's market is open to the entry of foreign banks, the actual structure of the legislation is highly complex, cumbersome, and difficult to navigate. The rules apply both to real foreign banks as well as "near banks", that is, companies that are not banks in their own country and that want to undertake activities in Canada that normally would not be regulated. The result of trying to deal with both types of entities is a convoluted set of approval procedures for "near banks" that do not seem to be necessary. Although the details will be set out in the regulations, it appears that Bill C-37 helps streamline the system by focusing the rules on real foreign banks wishing to enter Canada.

Registered plans

While we think that Bill C-37 does take positive steps, there are some areas where we feel some targeted changes would improve the bill. For example, in section 31 the government is proposing to extend the current disclosure requirements to deposit-type registered plans, such as RRSPs. We understand what the government is trying to achieve here, but we think that the actual drafting of the bill is simply unworkable. The bill does not adequately distinguish among registered plans, deposit accounts, and deposit products, and does not adequately take into account that registered plans often contain products that are not federally-regulated or are offered by institutions that are not federally-regulated. In short, we think that the current drafting would actually frustrate the government's policy intents and confuse customers.

We suggest that this is a provision that needs further thinking. It is a highly technical area and we are offering to work with the government and to explore ways that these technical issues can be addressed.

Bank holding companies

A further point we would like to raise concerns bank holding companies. As you know, in the 2001 round of reform banks were allowed to structure themselves as holding companies (as banks in other countries around the world are allowed to do). This option held out the promise of greater flexibility and a more targeted and streamlined regulatory system.

Unfortunately, while the power to create bank holding companies was provided in 2001, other rules in the *Bank Act* make it very difficult for banks to convert to this structure and actually add regulation rather than streamlining it. The practical result is that six years after the 2001 reforms the holding company model is still not an option that banks can use. In effect, these rules say this: a bank can enter into transactions, like offering loans or guarantees, to subsidiaries of the bank without restrictions. But, if those same subsidiaries become sister companies of the bank under a bank holding company, then restrictions on those transactions between the bank and its sister companies now must be imposed, even though no new risk has entered into the system.

We are working with the government and with OSFI to sort through these issues, but more work is needed. Given your interests in the efficient operations of the financial system, we would encourage the Committee in its report to urge the government to take steps to ensure that the holding company model is a workable option for this industry.

Conclusion

Mr. Chair and Members of the Committee, thank you very much for the opportunity to provide our thoughts. In summary, while we have some improvements to the bill that we encourage you to consider, we feel that this is a technical bill that makes some useful improvements for the benefit of consumers and the efficiency of the system. Of course, the goal of making the regulatory system as efficient and effective as possible, and as supportive of innovation and international competitiveness as possible, is an on-going task. Bill C-37 is an important step in this process, but of course we look forward to continuing to work with the government and with members of this committee on these important goals. We look forward to your questions.