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**Re: Potential Policy Measures to Support a Strong and Growing Economy:
Positioning Canada's Financial Sector for the Future**

We would like to thank the Department of Finance for the opportunity to participate in the second consultation under the 2019 review of Canada's federal financial sector legislative and regulatory framework. In our initial submission to this process we offered the view that the current legislative and regulatory framework is serving Canadians well in ensuring stability, efficiency and utility while allowing Canadians to access the products they need in a competitive environment. The second paper released as part of this process, *Potential Policy Measures to Support a Strong and Growing Economy: Positioning Canada's Financial Sector for the Future* (the "consultation paper"), raises a number of policy questions regarding innovation. We support increased innovation in the financial services sector to better meet consumer needs. However, proposed innovations must recognize the success of the public policies the federal government has pursued which have greatly benefited consumers and contributed to financial stability.

The Great-West Life Assurance Company (Great-West Life) has been serving Canadians for over 125 years and has as its corporate goal improving the physical, mental and financial well-being of Canadians. Operating in every province and territory with over 10,000 employees and 20,000 distribution partners in Canada, and approximately 22,000 employees worldwide, Great-West is a leading Canadian insurer with approximately \$1.3 trillion in assets under administration. Together with its subsidiaries London Life Insurance Company and The Canada Life Assurance Company, Great-West Life serves the financial security needs of more than 13 million people across Canada and holds Canadian investments of approximately \$25 billion in private debt, commercial and residential mortgages.

The consultation paper sets out a series of questions that encompass both policy matters and more technical questions. Please find below our responses to those questions that are relevant to our organization.

The Department is seeking views on whether to clarify and modernize the type of information and technology activities that federally regulated financial institutions are permitted to undertake in-house, while maintaining the long-standing prohibition on commercial activities. In this context, the Department is seeking views on appropriate statutory language.

The *Insurance Companies Act* (ICA) allows insurance companies as part of their main business to engage in activities that generally appertain to the business of providing financial services. This has consistently been interpreted broadly and has allowed the industry to continue to meet the life and health insurance needs of Canadians. This flexibility will become increasingly important as the business of creating and marketing insurance products becomes ever more technologically dependent.

The existing provisions of ICA s. 441.(1) recognize that information technology products and services can play a role in the provision of financial services. Section 441.(1)(d) and (d.1) empower an insurance company to partake in a number of enumerated activities and provide a number of enumerated products and services upon the approval or consent of the Minister. In light of the increasing use of technology in financial services and the opportunities presented by fintech, it may be appropriate to revisit the continuing necessity for Ministerial approval or consent contained in the provisions of this section that relate to technology matters.

The Department is seeking views on whether to provide federally regulated financial institutions with additional flexibility to make non-controlling investments in fintechs and the corresponding authority to make referrals, subject to appropriate consumer protection, prudential and commercial activities limitations. Views related to the outsourcing framework, which is prudential in nature, should be directed to the Office of the Superintendent of Financial Institutions (OSFI) for consideration.

We are supportive of allowing federally regulated financial institutions additional flexibility to make non-controlling investments in fintechs. While fintech startups often face challenges raising capital, current investment limits on financial institutions discourage investment from the very entities that are best-placed to collaborate with nascent financial technology firms. Additional capital in the ecosystem would benefit everyone including, startups, incumbents and especially consumers as more investment would allow innovative products to reach more customers and to reach them more quickly.

With regard to referrals, it will be essential to ensure that the foundational elements of the financial services framework referred to on page 4 of the consultation paper, including the separation between banking and insurance activities, remain intact.

The Department is seeking views on whether to undertake a series of targeted refinements to streamline and promote a smooth entry and exit process. For example:

- **The number of officers a newly incorporated federally regulated financial institution may remunerate could be increased to better meet OSFI's prudential expectations around designated officers; and**
- **The Superintendent could be provided with the authority to extend the period to issue an Order to Commence and Carry on Business in exceptional circumstances.**

Any changes to streamline financial institution exit and entry should be just that, technical amendments to ease regulatory burden. Prudential standards and consumer protections should not be eroded.

The Department intends to examine the merits of open banking. This would include consideration of how other jurisdictions are implementing open banking and the potential benefits and risks for Canadians.

The Department is also seeking views on other specific adjustments to the federal financial sector framework that could further support competition and innovation.

Great-West Life believes in the importance of enabling customers to control their financial information in the context of policy that supports a strong and stable financial institutions framework. Open banking may present opportunities to this end. However, we are of the view that consultation and review is required to ensure that open banking will be beneficial to consumers and we applaud the government for taking a thoughtful, considered approach.

As the government considers open banking in the Canadian context, it will be important to ensure that the unique characteristics that have made the Canadian financial services system one of the strongest in the world are maintained. For instance, the foundational elements of the financial services framework referred to on page 4 of the consultation paper, including the separation between banking and insurance activities, should remain intact under any open banking regime.

The Department is seeking views on whether to provide federally regulated life and health insurers with additional investment powers in infrastructure. The Department is also seeking views on the conditions that should be applied to additional infrastructure investment powers of life and health insurers so as to protect policyholders and maintain the long-standing limitation on commercial investments.

Additional investment powers in infrastructure would increase the life and health insurance sector's ability to invest in Canada's infrastructure needs without weakening prudential standards or policy holder protections. GWL takes a broad view of infrastructure as an asset class and looks forward to continued dialogue on the parameters of potential changes in this area. We share the government's goal of facilitating infrastructure investment by life insurers while maintaining the strength and soundness of the sector. A capital regime that recognizes the inherent strengths of infrastructure investments is also an essential element in this regard.

The Department is seeking views on whether to implement a "comply or explain" model to promote the participation of women on boards of directors and in senior management of federally regulated financial institutions.

The Department is seeking views on whether to establish annual elections for directors with fixed, one-year terms for all federally regulated financial institutions. For small institutions, the Department is considering whether to provide a two-year transition period and seeking views on the unique implications for these institutions.

The Department is seeking views on whether to mandate individual director elections for all federally regulated financial institutions. For small institutions, the Department is considering whether to provide a two-year transition period and is seeking views on the unique implications for these institutions.

The Department is seeking views on how a majority voting standard could work in an uncontested election for directors of federally regulated financial institutions, while ensuring minimum disruptions to the operations of a board and continued stability in the case of a failed election of a candidate.

The Department is seeking views on whether to permit the use of the "notice and access" approach for all federally regulated financial institutions. For small institutions, the Department is seeking views on whether this approach would be beneficial.

A number of questions raised in the consultation paper address issues of corporate governance. We think it appropriate to address these together. We are generally supportive of the proposals, but would like to offer some cautions and caveats.

Promoting Diversity on Boards

Our company believes in the benefits of greater diversity on boards and in senior management and has adopted policies to this end. However, the government should be mindful of existing requirements such as those of the Canadian Securities Administrators applicable to listed issuers and avoid creating additional regulatory burden where an issue has already been addressed.

Distributing Meeting Materials

With regard to the “notice and access” approach, we see merit in the proposal as it would provide added flexibility and potential cost savings. It would also be consistent with trends toward increased use of technology for shareholder/policyholder relations/communications and the increasing emphasis on corporate sustainability.

Finally, Canada has been well-served by a principles-based approach to corporate governance. We would urge the government to maintain the primacy of a principles-based approach and resist formulating rules that are overly prescriptive.

The Department is seeking views on possible enhancements to the life insurance resolution framework.

Since the decision in *Canada (Attorney General) v. Reliance Insurance Company*, 2008 CanLII 8250 (ON SC), the industry has made a number of representations to government concerning set-off rights under the *Winding-Up and Restructuring Act*. We remain concerned that the law as it currently stands gives rise to legal uncertainty as to the intended statutory result, inhibits the issuance of funds withheld reinsurance policies, and runs counter to policy objectives that underlie protections afforded to contractual netting arrangements in similar contexts under other statutes governing insolvencies. We believe this review provides an opportunity to resolve this anomaly at law and would welcome further dialogue on this matter.

The Department is seeking views on whether to reflect OSFI’s current practice to publish on its website basic information on all federally regulated financial institutions in the financial institutions statutes.

Great-West Life is supportive of amending the financial institutions statutes to reflect OSFI’s current practice.

The Department is seeking views on whether to broaden the list of approvals that require advance publication in the *Canada Gazette* (e.g., financial establishment in Canada). Notices would call upon objections from the public. This potential change would inform Canadians of transactions that could be of public interest and provide them with an opportunity to object.

Broadening the list of approvals that require advanced publication in the *Canada Gazette* would, in our view, unnecessarily delay and interfere with business operations to the detriment of shareholders and policyholders. Therefore, we are not supportive of an expansion to the list of approvals that would require advanced publication in the *Canada Gazette*. It is our view that the existing requirements

specified in the ICA, being the current list of transactions requiring Ministerial or Superintendent approval, in addition to ICA requirements for the approval of customers, policyholders and/or shareholders for certain transactions, are sufficient for the protection of the public interest.

The Department is seeking views on whether to allow property and casualty insurers and marine insurers to assume the periodic payment obligations associated with three-party structured settlement agreements. This potential change would provide greater regulatory consistency and would facilitate the reinsurance of three-party structured settlement agreements.

Structured settlement agreements are effectively annuities which are a life insurance product and the life insurance sector is well-positioned to continue to serve this consumer need. However, if it is determined that property and casualty insurers and marine insurers should be allowed to assume payment obligations under a structured settlement agreement, prudential and capital requirements should mirror those of life insurers with respect to annuities.

The Department is seeking views on whether to exempt persons who already control a federally regulated financial institution from having to seek Ministerial approval for indirect increases in their share ownership.

Great-West Life is supportive of the proposal. As there is no change in control under these scenarios, the current requirement for approval creates an unnecessary regulatory burden where there has been no change in risk.

The Department is seeking views on the appropriate conditions for increasing electronic participation in meetings so long as access to a physical meeting in Canada is provided.

The Department is seeking views on whether to clarify the rules regarding advance voting and how this may impact current practices, including determining record dates and notice of meetings.

Our company is generally supportive of reforms to encourage greater shareholder participation. We would suggest that any changes in this area be in the nature of facilitating and allowing, not mandating electronic meetings and advance voting.

We would also like greater clarity as to what is meant by advance voting? The proxy process essentially already provides a mechanism for shareholders and policyholders to vote in advance of meetings. Is voting by proxy a form of advance voting?

The Department is seeking views on expanding the scope of the definition of “related party” (i.e., persons who are in positions of influence over a federally regulated financial institution). Specifically, the Department is considering potential changes to the financial institutions statutes in order to include, as related parties of a federally regulated financial institution:

- **A person who holds a non-controlling significant interest in an entity that controls a federally regulated financial institution. This potential change would also apply to spouses, common-law partners, children under 18 years of age of that person, and entities controlled by the person or family members;**

We are not supportive of an expanded related-party regime as proposed above. GWL is of the view that in the life and health insurance context, the proposed expanded group of related parties could not reasonably be expected to influence a life insurer. Further, administering the proposed expanded requirements may not be practical as it would involve the creation and monitoring of an ever-changing

list of individuals the identities and whereabouts of which may be beyond the reasonable knowledge of the financial institution. Such an expansion would add a significant burden to the management of these requirements with no discernable improvement to oversight or stability.

The Department is seeking views on whether to realign the scope of Superintendent approvals to better match the administrative burden to prudential risks through the following potential changes:

- **Establishing a materiality threshold for Superintendent approval of the acquisition of unregulated entities, up to 2 per cent of the consolidated assets of the acquirer;**
- **Eliminating Superintendent approval where a federally regulated financial institution acquires control of a limited partnership investment fund (that is not a mutual fund entity or a closed-end fund) only because it controls the general partner of that partnership. This potential change would recognize that limited partners, and not general partners, are exposed to a fund's market or credit risk;**

We are in favour of the proposed changes. The current provisions often create regulatory burden for financial institutions and impose resource demands on OSFI in the absence of any increase in risk.

The above is predicated on an understanding that the 2 per cent threshold referenced would create an exemption to the existing approvals process for acquisitions that represent less than 2 per cent of the consolidated assets of the acquirer and would not create an additional requirement for acquisitions larger than 2 per cent of consolidated assets.

The Department is seeking views on the merits of removing the principal and primary tests, and requiring these entities (mutual fund distribution entities and "real property brokerage entities) to exclusively engage in authorized activities, consistent with the rules for other unregulated entities.

With regard to the definition of "Mutual Fund Distribution Entity" found at s. 490(1) of the ICA, we would suggest that any deletion of the word "principal" be accompanied by revised language to make clear that the activities such an entity would be able to engage in include the sale of any product permitted to be sold by mutual fund dealers under applicable provincial securities laws and rules. Otherwise, mutual fund dealers owned by insurance companies would be forced to offer a more limited shelf of products than mutual fund dealers owned by other entities.

The Department is seeking views on whether to clarify that when a financial institution reclassifies an investment, it would be deemed to be acquiring the investment at the time it originally made the acquisition.

We understand that the proposal is intended to prevent a situation whereby an investment that cannot be properly considered a permitted investment can be held beyond the 13-years allowed under the *Specialized Financing (Life Companies) Regulations*. We have no issues with the proposal so long as the ability to reclassify temporary investments as permitted investments that may be held indefinitely is maintained. Such reclassifications are legitimate and may arise for instance after a merger or acquisition or realization on security when certain assets may be held as temporary investments pending reclassification as a permitted investment.

The Department is seeking views on whether to eliminate indeterminate extensions for these investments (i.e., temporary investments, loan workouts, realization of a security interest).

We agree that the situations in which the Minister or Superintendent is called upon to exercise this discretion should be rare. However, we believe there is value in retaining the current flexibility and discretion held by the Minister and Superintendent. If it becomes impossible to reclassify an investment as a permitted investment, tying the Minister's or Superintendent's hands could result in a forced liquidation in a potentially illiquid market and not allowing orderly disposition of the asset and realization of its potential value. This would not be in the interests of shareholders, policyholders or financial stability.

Cyber Risk

The consultation paper contains a section describing the government's goals and priorities in the area of cyber risk. There is no specific proposal or question put forward on this topic, but we feel that the issue is of such importance that we would like to offer the following comments.

We agree with the view that cyber security risk is one of the top priorities and risks facing the financial services industry. We are supportive of the efforts to create a new cyber security strategy that is forward-looking, enduring and responsive, and would welcome the opportunity to review and provide input.

We are also supportive of efforts to make Canada a global leader in the provision of cutting-edge cyber security technology and the promotion of safe and secure services to the global marketplace. For key proposals that are put forward to deliver upon this vision (e.g. 'clean-pipe', etc.), we strongly support a model where industry consultation is solicited to ensure that any such proposals are sound, have a high probability of success, and do not add new and undesirable operational, technological and reputational risks.

We also encourage the Department to continue to work closely with OSFI, Public Safety Canada, other government agencies, law enforcement, financial institutions and the telecom sector to ensure strong alignment and coordination of regulatory and supervisory practices.

Further Consultations

We look forward to future opportunities to participate in this process.

Yours,



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