



March 12, 2020

Delivered By Email: OPC-CPVPconsult1@priv.gc.ca

Office of the Privacy Commissioner of Canada

Dear Sirs and Mesdames:

RE: Consultation on the OPC (Office of the Privacy Commissioner of Canada)'s Proposals for ensuring appropriate regulation of artificial intelligence

The Investment Funds Institute of Canada, the Federation of Mutual Fund Dealers, and the Canadian ETF Association (**collectively, “we” or the “associations”**) are writing on behalf of our members regarding the Consultation on the OPC (*Office of the Privacy Commissioner of Canada*)'s *Proposals for ensuring appropriate regulation of artificial intelligence (Consultation)*.

The Consultation seeks to address privacy concerns identified by the Office of the Privacy Commissioner of Canada (**OPC**) relating to the use of artificial intelligence (**AI**), particularly when used to make predictions and decisions affecting individuals. In the OPC's view “AI presents fundamental challenges to all PIPEDA principles” and in the Consultation the OPC has identified several areas where the Personal Information Protection and Electronic Documents Act (**PIPEDA**) could be enhanced.

We agree that the increased use of AI has important implications for Canadians' privacy. We also agree that the privacy implications of AI and related tools such as machine learning and big data analytics need to be thoroughly understood in order to protect privacy rights without stifling innovation. However, we believe that the interaction of AI and PIPEDA should be considered within the broader context of Innovation, Science and Economic Development Canada's (**ISED**) introduction of the Digital Charter and proposed modernization of PIPEDA to address not only AI, but all technological innovations that may impact the privacy rights of Canadians.

Given the breadth and complexity of AI and the nature of the OPC's consultation, a 45 day comment period is not sufficient time to properly assess the eleven proposals set out for consideration or to obtain meaningful input from our members on the potential impact on their businesses. We urge the OPC to provide for a longer consultation period for future consultations to permit stakeholders to fully analyze the proposal and gather meaningful input, and to adopt a transparent process concerning comments received and how they are addressed by the OPC. For reference, we note that securities legislation in Canada requires comment periods to be a minimum of 90 days; however the securities regulators have flexibility to extend the date for more complex consultations. In addition to the legislative requirements for a minimum 90 day comment period, securities legislation also requires all comment letters submitted to be made public and for the regulators to publish their responses to all comments received.

Technology has long brought enormous benefits and profound changes to Canadians. Today, almost every aspect of Canadians' lives are touched by technology. It is critical that the Government of Canada take a holistic and balanced approach to the regulation of technology and its impact on Canadians, including upon their privacy. We believe the ISED's National Digital and Data Consultations and the proposed modernization of PIPEDA are the more appropriate forum in which these complex issues should be considered.

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We look forward to continued engagement with the OPC on these vital topics relating to the privacy of Canadians, and we would be pleased to provide further information or answer any questions you may have. Please feel free to contact any of the undersigned.

Yours sincerely,

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OF CANADA



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